

# 18A:8-43 & 18A:20-4.1 LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2017            **CHAPTER:** 102

**NJSA:** 18A:8-43 & 18A:20-4.1 (Provides for elimination of newly formed non-operating school districts; establishes procedures for eliminating deficit that existed prior to merger; authorizes renting of school building for 10 years.)

**BILL NO:** A4352            (Substituted for S2843)

**SPONSOR(S)** Burzichelli and others

**DATE INTRODUCED:** 12/5/2016

**COMMITTEE:**        **ASSEMBLY:** Appropriations  
                          **SENATE:** Budget & Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**        **ASSEMBLY:** 6/22/2017  
  **SENATE:** 7/4/2017

**DATE OF APPROVAL:** 7/7/2017

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Second Reprint enacted) Yes

**A4352**

**SPONSOR'S STATEMENT:** (Begins on page 3 of introduced bill) Yes

**COMMITTEE STATEMENT:**                        **ASSEMBLY:** Yes

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**S2843**

**SPONSOR'S STATEMENT:** (Begins on page 3 of introduced bill) Yes

**COMMITTEE STATEMENT:**                        **ASSEMBLY:** No

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

RWH/JA

P.L.2017, CHAPTER 102, *approved July 7, 2017*  
Assembly, No. 4352 (*Second Reprint*)

1 AN ACT concerning certain school districts and the rental of school  
2 buildings, and amending P.L.2009, c.78 and N.J.S.18A:20-4.1.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.2009, c.78 (C.18A:8-43) is amended to read  
8 as follows:

9 1. As used in this act:

10 "Non-operating district" means a school district that is not  
11 operating schools **【on the effective date of P.L.2009,**  
12 **c.78 (C.18A:8-43 et al.)】**.

13 (cf: P.L.2009, c.78, s.1)

14

15 <sup>1</sup>**【2.** Section 2 of P.L.2009, c.78 (C.18A:8-44) is amended to  
16 read as follows:

17 2. a. Except as otherwise provided in subsection b. of this  
18 section, the executive county superintendent of schools **【shall】** may  
19 eliminate any non-operating district and merge that district with the  
20 district with which it participates in a sending-receiving  
21 relationship.

22 b. If a non-operating district is in a sending-receiving  
23 relationship with more than one district or is in a sending-receiving  
24 relationship with a district in need of improvement pursuant to the  
25 "No Child Left Behind Act of 2001," Pub.L.107-110, then the  
26 executive county superintendent shall determine with which district  
27 the non-operating district shall be merged. The determination shall  
28 be based on the district that is able to accommodate the merger with  
29 the least disruption to its finances and educational operations. In  
30 making the determination the executive county superintendent shall  
31 examine, but need not be limited to, the following factors: current  
32 sending-receiving relationships; the quality and effectiveness of  
33 educational programming and district operations; proximity of  
34 school districts; transportation costs; school building capacity; and  
35 special education needs.

36 (cf: P.L.2009, c.78, s.2)<sup>1</sup>

37

38 <sup>1</sup>**【3.】** <sup>2</sup>**【2.】** Section 3 of P.L.2009, c.78 (C.18A:8-45) is amended  
39 to read as follows:

**EXPLANATION** – Matter enclosed in bold-faced brackets **【thus】** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted January 30, 2017.

<sup>2</sup>Assembly amendments adopted in accordance with Governor's  
recommendations June 15, 2017.

1       3. a. The annual or special appropriations for a new district  
 2 established pursuant to section 2 of this act, excluding the amounts  
 3 to be raised for interest upon and the redemption of bonds payable  
 4 by the district, shall be apportioned among the constituent districts  
 5 of the new district in the first year of the merger in such manner as  
 6 the commissioner determines to be the least fiscally disruptive,  
 7 notwithstanding the provisions of section 3 of P.L.2007,  
 8 c.62 (C.18A:7F-38). Thereafter the apportionment methodology  
 9 shall be determined pursuant to chapter 13 of Title 18A of the New  
 10 Jersey Statutes; however, if necessary, the commissioner may allow  
 11 a five-year phase-in of the apportionment methodology.

12       The amount to be raised for interest upon and the redemption of  
 13 bonds payable by the district for bonds issued prior to and after the  
 14 effective date of this act, shall be apportioned among the constituent  
 15 districts of the new district in such manner as the commissioner  
 16 determines to be the least fiscally disruptive. The commissioner  
 17 may allow a five-year phase-in of the apportionment methodology,  
 18 if necessary.

19       b. In the event that a non-operating school district, or the  
 20 school district with which it will be merged, has a deficit in its  
 21 general fund at the time of the merger, the commissioner shall  
 22 require that the school district incurring the deficit raise a  
 23 supplemental general fund tax levy sufficient to eliminate the  
 24 deficit. Any such supplemental general fund tax levy shall be in  
 25 addition to any increase in the new district's adjusted tax levy  
 26 calculated pursuant to section 3 of P.L.2007, c.62 (C.18A:7F-38).  
 27 The commissioner shall determine if the supplemental general fund  
 28 tax levy will affect only the current year or if it will result in a  
 29 permanent increase in the levy.]<sup>2</sup>

30 (cf: P.L.2009, c.78, s.3)

31

32       <sup>1</sup>[4.] <sup>2</sup>[3.1] <sup>2</sup> N.J.S.18A:20-4.1 is amended to read as follows:

33       18A:20-4.1 The board of education of any Type II school  
 34 district may without authority first obtained from the voters of the  
 35 district:

36       (a) Rent, on a year-to-year basis, or for a term not to exceed **[5]**  
 37 **10** years, in case of emergency, buildings to use for school  
 38 purposes; and

39       (b) Take an option not to exceed 1 year in duration, at a cost not  
 40 to exceed the fair market value of such option, on the purchase of  
 41 any land which the board could lawfully purchase after securing the  
 42 consent of the legal voters to the purchase thereof, but such option  
 43 may be exercised by the board only after authority to purchase the  
 44 property covered by such option has been given at an annual or  
 45 special school election.

46 (cf: P.L.1971, c.300, s.1)

47

48       <sup>1</sup>[5.] <sup>2</sup>[4.1] <sup>3</sup> This act shall take effect immediately.

**A4352 [2R]**

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Provides for elimination of newly formed non-operating school districts; establishes procedures for eliminating deficit that existed prior to merger; authorizes renting of school building for 10 years.

# ASSEMBLY, No. 4352

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED DECEMBER 5, 2016

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**  
**District 3 (Cumberland, Gloucester and Salem)**  
**Assemblyman ADAM J. TALIAFERRO**  
**District 3 (Cumberland, Gloucester and Salem)**

**SYNOPSIS**

Provides for elimination of newly formed non-operating school districts; establishes procedures for eliminating deficit that existed prior to merger; authorizes renting of school building for 10 years.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning certain school districts and the rental of school  
2 buildings, and amending P.L.2009, c.78 and N.J.S.18A:20-4.1.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 1 of P.L.2009, c.78 (C.18A:8-43) is amended to read  
8 as follows:

9 1. As used in this act:

10 "Non-operating district" means a school district that is not  
11 operating schools **【on the effective date of P.L.2009, c.78**  
12 **(C.18A:8-43 et al.)】** .

13 (cf: P.L.2009, c.78, s.1)

14

15 2. Section 2 of P.L.2009, c.78 (C.18A:8-44) is amended to read  
16 as follows:

17 2. a. Except as otherwise provided in subsection b. of this  
18 section, the executive county superintendent of schools **【shall】** may  
19 eliminate any non-operating district and merge that district with the  
20 district with which it participates in a sending-receiving  
21 relationship.

22 b. If a non-operating district is in a sending-receiving  
23 relationship with more than one district or is in a sending-receiving  
24 relationship with a district in need of improvement pursuant to the  
25 "No Child Left Behind Act of 2001," Pub.L.107-110, then the  
26 executive county superintendent shall determine with which district  
27 the non-operating district shall be merged. The determination shall  
28 be based on the district that is able to accommodate the merger with  
29 the least disruption to its finances and educational operations. In  
30 making the determination the executive county superintendent shall  
31 examine, but need not be limited to, the following factors: current  
32 sending-receiving relationships; the quality and effectiveness of  
33 educational programming and district operations; proximity of  
34 school districts; transportation costs; school building capacity; and  
35 special education needs.

36 (cf: P.L.2009, c.78, s.2)

37

38 3. Section 3 of P.L.2009, c.78 (C.18A:8-45) is amended to read  
39 as follows:

40 3. a. The annual or special appropriations for a new district  
41 established pursuant to section 2 of this act, excluding the amounts  
42 to be raised for interest upon and the redemption of bonds payable  
43 by the district, shall be apportioned among the constituent districts  
44 of the new district in the first year of the merger in such manner as  
45 the commissioner determines to be the least fiscally disruptive,

**EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 notwithstanding the provisions of section 3 of P.L.2007, c.62  
2 (C.18A:7F-38). Thereafter the apportionment methodology shall be  
3 determined pursuant to chapter 13 of Title 18A of the New Jersey  
4 Statutes; however, if necessary, the commissioner may allow a five-  
5 year phase-in of the apportionment methodology.

6 The amount to be raised for interest upon and the redemption of  
7 bonds payable by the district for bonds issued prior to and after the  
8 effective date of this act, shall be apportioned among the constituent  
9 districts of the new district in such manner as the commissioner  
10 determines to be the least fiscally disruptive. The commissioner  
11 may allow a five-year phase-in of the apportionment methodology,  
12 if necessary.

13 b. In the event that a non-operating school district, or the  
14 school district with which it will be merged, has a deficit in its  
15 general fund at the time of the merger, the commissioner shall  
16 require that the school district incurring the deficit raise a  
17 supplemental general fund tax levy sufficient to eliminate the  
18 deficit. Any such supplemental general fund tax levy shall be in  
19 addition to any increase in the new district's adjusted tax levy  
20 calculated pursuant to section 3 of P.L.2007, c.62 (C.18A:7F-38).  
21 The commissioner shall determine if the supplemental general fund  
22 tax levy will affect only the current year or if it will result in a  
23 permanent increase in the levy.

24 (cf: P.L.2009, c.78, s.3)

25

26 4. N.J.S.18A:20-4.1 is amended to read as follows:

27 The board of education of any Type II school district may  
28 without authority first obtained from the voters of the district:

29 (a) Rent, on a year-to-year basis, or for a term not to exceed **[5]**  
30 10 years, in case of emergency, buildings to use for school  
31 purposes; and

32 (b) Take an option not to exceed 1 year in duration, at a cost not  
33 to exceed the fair market value of such option, on the purchase of  
34 any land which the board could lawfully purchase after securing the  
35 consent of the legal voters to the purchase thereof, but such option  
36 may be exercised by the board only after authority to purchase the  
37 property covered by such option has been given at an annual or  
38 special school election.

39 (cf: P.L.1971, c.300, s.1)

40

41 5. This act shall take effect immediately.

42

43

44

#### STATEMENT

45

46 This bill provides for the elimination of non-operating school  
47 districts that were established after the effective date of P.L.2009,  
48 c.78. Under that law, the executive county superintendents of



1 schools were required to develop a plan for eliminating the non-  
2 operating school districts in their counties. To date, 14 such school  
3 districts have been eliminated; however, additional districts have  
4 subsequently become non-operating school districts.

5 This bill makes the elimination of a non-operating school district  
6 discretionary, and also specifies that if, at the time of a required  
7 merger, a school district has a deficit in its general fund, then the  
8 Commissioner of Education will require that the district that  
9 incurred the deficit raise a supplemental general fund tax levy to  
10 eliminate the deficit. Any such supplemental tax levy would be in  
11 addition to any increase that is authorized under the tax levy growth  
12 limitation, and the commissioner will determine if the supplemental  
13 levy will only affect the current year or if it will be a permanent  
14 increase.

15 The bill increases the term under which a Type II school district  
16 may rent buildings for school purposes without voter approval.  
17 Under current law, a district may, in the case of emergency, enter an  
18 agreement to rent a building for a term of five years. This bill  
19 increases the maximum term to 10 years.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4352**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 30, 2017

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4352, with committee amendments.

As amended, this bill provides for the elimination of non-operating school districts that were established after the effective date of P.L.2009, c.78. Under that law, the executive county superintendents of schools were required to develop a plan for eliminating the non-operating school districts in their counties. To date, 14 such school districts have been eliminated; however, additional districts have subsequently become non-operating school districts.

This bill specifies that if, at the time of a required merger, a school district has a deficit in its general fund, then the Commissioner of Education will require that the district that incurred the deficit raise a supplemental general fund tax levy to eliminate the deficit. Any such supplemental tax levy would be in addition to any increase that is authorized under the tax levy growth limitation, and the commissioner will determine if the supplemental levy will only affect the current year or if it will be a permanent increase.

The bill increases the term under which a Type II school district may rent buildings for school purposes without voter approval. Under current law, a district may, in the case of emergency, enter an agreement to rent a building for a term of five years. This bill increases the maximum term to 10 years.

#### FISCAL IMPACT:

This bill has not been certified as requiring a fiscal note.

#### COMMITTEE AMENDMENTS:

The amendments omit a provision that would have made the elimination of a non-operating school district discretionary.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 4352**

# **STATE OF NEW JERSEY**

DATED: MAY 16, 2017

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 4352 (1R).

This bill provides for the elimination of non-operating school districts that were established after the effective date of P.L.2009, c.78. Under that law, the executive county superintendents of schools were required to develop a plan for eliminating the non-operating school districts in their counties. To date, 14 such school districts have been eliminated; however, additional districts have subsequently become non-operating school districts.

This bill specifies that if, at the time of a required merger, a school district has a deficit in its general fund, then the Commissioner of Education will require that the district that incurred the deficit raise a supplemental general fund tax levy to eliminate the deficit. Any such supplemental tax levy would be in addition to any increase that is authorized under the tax levy growth limitation, and the commissioner will determine if the supplemental levy will only affect the current year or if it will be a permanent increase.

The bill increases the term under which a Type II school district may rent buildings for school purposes without voter approval. Under current law, a district may, in the case of emergency, enter an agreement to rent a building for a term of five years. This bill increases the maximum term to 10 years.

As reported, this bill is identical to Senate Bill No. 2843, as amended and reported by the committee.

### FISCAL IMPACT:

This bill has not been certified as requiring a fiscal note.

# SENATE, No. 2843

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED DECEMBER 5, 2016

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**SYNOPSIS**

Provides for elimination of newly formed non-operating school districts; establishes procedures for eliminating deficit that existed prior to merger; authorizes renting of school building for 10 years.

**CURRENT VERSION OF TEXT**

As introduced.



S2843 SWEENEY

2

1 AN ACT concerning certain school districts and the rental of school  
2 buildings, and amending P.L.2009, c.78 and N.J.S.18A:20-4.1.

3

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12 **(C.18A:8-43 et al.)】** .

13 (cf: P.L.2009, c.78, s.1)

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19 eliminate any non-operating district and merge that district with the  
20 district with which it participates in a sending-receiving  
21 relationship.

22 b. If a non-operating district is in a sending-receiving  
23 relationship with more than one district or is in a sending-receiving  
24 relationship with a district in need of improvement pursuant to the  
25 "No Child Left Behind Act of 2001," Pub.L.107-110, then the  
26 executive county superintendent shall determine with which district  
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28 be based on the district that is able to accommodate the merger with  
29 the least disruption to its finances and educational operations. In  
30 making the determination the executive county superintendent shall  
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33 educational programming and district operations; proximity of  
34 school districts; transportation costs; school building capacity; and  
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43 by the district, shall be apportioned among the constituent districts  
44 of the new district in the first year of the merger in such manner as  
45 the commissioner determines to be the least fiscally disruptive,  
46 notwithstanding the provisions of section 3 of P.L.2007, c.62

**EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 (C.18A:7F-38). Thereafter the apportionment methodology shall be  
2 determined pursuant to chapter 13 of Title 18A of the New Jersey  
3 Statutes; however, if necessary, the commissioner may allow a five-  
4 year phase-in of the apportionment methodology.

5 The amount to be raised for interest upon and the redemption of  
6 bonds payable by the district for bonds issued prior to and after the  
7 effective date of this act, shall be apportioned among the constituent  
8 districts of the new district in such manner as the commissioner  
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12 b. In the event that a non-operating school district, or the  
13 school district with which it will be merged, has a deficit in its  
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15 require that the school district incurring the deficit raise a  
16 supplemental general fund tax levy sufficient to eliminate the  
17 deficit. Any such supplemental general fund tax levy shall be in  
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23 (cf: P.L.2009, c.78, s.3)

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25 4. N.J.S.18A:20-4.1 is amended to read as follows:

26 18A:20-4.1 The board of education of any Type II school  
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28 district:

29 (a) Rent, on a year-to-year basis, or for a term not to exceed **[5]**  
30 10 years, in case of emergency, buildings to use for school  
31 purposes; and

32 (b) Take an option not to exceed 1 year in duration, at a cost not  
33 to exceed the fair market value of such option, on the purchase of  
34 any land which the board could lawfully purchase after securing the  
35 consent of the legal voters to the purchase thereof, but such option  
36 may be exercised by the board only after authority to purchase the  
37 property covered by such option has been given at an annual or  
38 special school election.

39 (cf: P.L.1971, c.300, s.1)

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41 5. This act shall take effect immediately.

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STATEMENT

45

46 This bill provides for the elimination of non-operating school  
47 districts that were established after the effective date of P.L.2009,  
48 c.78. Under that law, the executive county superintendents of  
49 schools were required to develop a plan for eliminating the non-

**S2843 SWEENEY**

1 operating school districts in their counties. To date, 14 such school  
2 districts have been eliminated; however, additional districts have  
3 subsequently become non-operating school districts.

4 This bill makes the elimination of a non-operating school district  
5 discretionary, and also specifies that if, at the time of a required  
6 merger, a school district has a deficit in its general fund, then the  
7 Commissioner of Education will require that the district that  
8 incurred the deficit raise a supplemental general fund tax levy to  
9 eliminate the deficit. Any such supplemental tax levy would be in  
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14 The bill increases the term under which a Type II school district  
15 may rent buildings for school purposes without voter approval.  
16 Under current law, a district may, in the case of emergency, enter an  
17 agreement to rent a building for a term of five years. This bill  
18 increases the maximum term to 10 years.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2843**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 16, 2017

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2843, with committee amendments.

As amended, this bill provides for the elimination of non-operating school districts that were established after the effective date of P.L.2009, c.78. Under that law, the executive county superintendents of schools were required to develop a plan for eliminating the non-operating school districts in their counties. To date, 14 such school districts have been eliminated; however, additional districts have subsequently become non-operating school districts.

This bill specifies that if, at the time of a required merger, a school district has a deficit in its general fund, then the Commissioner of Education will require that the district that incurred the deficit raise a supplemental general fund tax levy to eliminate the deficit. Any such supplemental tax levy would be in addition to any increase that is authorized under the tax levy growth limitation, and the commissioner will determine if the supplemental levy will only affect the current year or if it will be a permanent increase.

The bill increases the term under which a Type II school district may rent buildings for school purposes without voter approval. Under current law, a district may, in the case of emergency, enter an agreement to rent a building for a term of five years. This bill increases the maximum term to 10 years.

As amended and reported, this bill is identical to Assembly Bill No. 4352 (1R), as also reported by the committee.

#### COMMITTEE AMENDMENTS:

The amendments omit a provision of the bill that would have made the elimination of a non-operating school district discretionary for the executive county superintendent of schools.

#### FISCAL IMPACT:

This bill has not been certified as requiring a fiscal note.



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## Governor Christie Takes Action On Pending Legislation

Friday, July 7, 2017 Tags: [Bill Action](#)



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**Trenton, NJ** - Governor Chris Christie today announced that he has taken action on the following pending legislation:

**BILL SIGNINGS:**

**S-956wGR/A-2202 (Gordon, Bateman/Eustace, Zwicker, O'Scanlon, Downey, Wisniewski, Pinkin)** – Authorizes special emergency appropriations for the payment of certain expenses incurred by municipalities to implement a municipal consolidation

**A-4352wGR/S-2843 (Burzichelli, Taliaferro/Sweeney)** – Provides for elimination of newly formed non-operating school districts; establishes procedures for eliminating deficit that existed prior to merger; authorizes renting of school building for 10 years

###

**Press Contact:**  
Brian Murray  
609-777-2600



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