

18A:7A-3

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 235

NJSA: 18A:7A-3 (Establishes New Jersey Quality Single Accountability Continuum)

BILL NO: S1431 (Substituted for A2643)

SPONSOR(S): Rice and others

DATE INTRODUCED: March 29, 2004

COMMITTEE: **ASSEMBLY:**
SENATE Education; Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 20, 2005

SENATE: March 21, 2005

DATE OF APPROVAL: September 26, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Senate Committee Substitute for S1431 enacted)

S1431

[SPONSOR'S STATEMENT:](#) (Begins on page 48 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes [11-8-2004 \(Education\)](#)
[3-14-2005 \(B & A\)](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

A2643

[SPONSOR'S STATEMENT:](#) (Begins on page 48 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [11-22-2004 \(Education\)](#)
[2-7-2005 \(Approp\)](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: Yes [3-14-2005](#)
[5-16-2005](#)

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

VETO MESSAGE: No

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No

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§36 - C.18A:7A-15.2
§37 - C.18A:7A-53
§38 - T&E
§39 - Note
§40 - Repealer

P.L. 2005, CHAPTER 235, *approved September 26, 2005*
Senate Committee Substitute for
Senate, No. 1431

1 **AN ACT** concerning school district monitoring and amending,
2 supplementing and repealing parts of the statutory law.

3

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

6

7 1. Section 3 of P.L.1975, c.212 (C.18A:7A-3) is amended to read
8 as follows:

9 3. For the purposes of this act, unless the context clearly requires
10 a different meaning:

11 "Administrative order" means a written directive ordering specific
12 corrective action by a district which has shown insufficient
13 [educational progress within a reasonable period of time in meeting
14 goals and standards] compliance with the quality performance
15 indicators.

16 "Highly skilled professional" means a designee of the commissioner
17 deemed to have the skills and experience necessary to assist a school
18 district in improving its effectiveness or to provide oversight in a
19 school district in one or more of the five key components of school
20 district effectiveness.

21 "Joint Committee on the Public Schools" means the committee
22 created pursuant to P.L.1975, c.16 (C.52:9R-1 et seq.).

23 "Targeted assistance" means the assistance provided to a school
24 district in a specific area to support the teaching and learning process
25 and overall district effectiveness.

26 "Technical assistance" means guidance and support provided to a
27 school district to enable the district to meet State and federal policy
28 and regulatory requirements and to ensure the provision of a thorough
29 and efficient education.

30 (cf: P.L.1996, c.138, s.34)

31

32 2. Section 10 of P.L.1975, c.212 (C.18A:7A-10) is amended to
33 read as follows:

34 10. For the purpose of evaluating the thoroughness and efficiency
35 of all the public schools of the State, the commissioner, with the
36 approval of the State board and after review by the Joint Committee
37 on the Public Schools, shall develop and administer [a uniform,
38 Statewide system] the New Jersey Quality Single Accountability

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 Continuum for evaluating the performance of each school. The goal
 2 of the New Jersey Quality Single Accountability Continuum shall be
 3 to ensure that all districts are operating at a high level of performance.
 4 The system shall be based on [such means as the commissioner deems
 5 proper in order to (a) determine pupil status and needs, (b) ensure
 6 pupil progress, and (c) assess the degree to which the thoroughness
 7 and efficiency standards established pursuant to section 4 of P.L.1996,
 8 c.138 (C.18A:7F-4) are being achieved] an assessment of the degree
 9 to which the thoroughness and efficiency standards established
 10 pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4) are being
 11 achieved and an evaluation of school district capacity in the following
 12 five key components of school district effectiveness: instruction and
 13 program; personnel; fiscal management; operations; and governance.
 14 A school district's capacity and effectiveness shall be determined using
 15 quality performance indicators comprised of standards for each of the
 16 five key components of school district effectiveness. The quality
 17 performance indicators shall take into consideration a school district's
 18 performance over time, to the extent feasible. Based on a district's
 19 compliance with the indicators, the commissioner shall assess district
 20 capacity and effectiveness and place the district on a performance
 21 continuum that will determine the type and level of oversight and
 22 technical assistance and support the district receives.

23 (cf: P.L.1996, c.138, s.35)

24

25 3. Section 11 of P.L.1975, c.212 (C.18A:7A-11) is amended to
 26 read as follows:

27 11. Each school district and county vocational school district shall
 28 make an annual report of its progress in [conforming to the standards
 29 for the evaluation of school performance] complying with the quality
 30 performance indicators adopted pursuant to section 10 of P.L.1975,
 31 c.212 (C.18A:7A-10). [Each district's annual report shall include but
 32 not be limited to:

33 a. Demographic data related to each school;

34 b. Results of designated assessment programs, including Statewide
 35 assessment programs established pursuant to law and regulation;

36 c. Information on each school's fiscal operation, including the
 37 budget of each school;

38 d. (Deleted by amendment, P.L.1996, c.138).

39 e. Plans and programs for professional improvement;

40 f. Plans to carry out innovative educational programs designed to
 41 improve the quality of education;

42 g. Recommendations for school improvements during the ensuing
 43 year; and

44 h. Such additional information as may be prescribed by the
 45 commissioner.]

46 The district reports shall be submitted to the commissioner
 47 annually on a date [to be] and in such form as prescribed by the
 48 commissioner, who shall make them the basis for an annual report to

1 the Governor and the Legislature, describing the condition of
2 education in New Jersey, the efforts of New Jersey schools in meeting
3 the standards of a thorough and efficient education, the steps
4 underway to correct deficiencies in school performance, and the
5 progress of New Jersey schools in comparison to other state education
6 systems in the United States.

7 (cf: P.L.2000, c.72, s.31)

8

9 4. Section 14 of P.L.1975, c.212 (C.18A:7A-14) is amended to
10 read as follows:

11 14. a. (1) The commissioner shall review the results of the
12 [evaluations conducted and reports] report submitted pursuant to
13 sections 10 and 11 of P.L.1975, c.212 (C.18A:7A-10 and 18A:7A-11)
14 and after examination of all relevant data, including student assessment
15 data, determine where on the performance continuum the district shall
16 be placed. The commissioner , through collaboration, shall establish
17 a mechanism for parent, school employee and community resident
18 input into the review process. If the commissioner [shall find] finds
19 that a school district or county vocational school district satisfies [the
20 evaluation criteria] 80 percent to 100 percent of the quality
21 performance indicators in each of the five key components of school
22 district effectiveness, the commissioner shall issue to the district a
23 letter of recognition designating the district as a high performing
24 district, provided that the district has submitted to the department a
25 statement of assurance which attests that the contents of the report are
26 valid. The commissioner shall recommend that the State board certify
27 the school district for a period of seven years as providing a thorough
28 and efficient system of education, contingent on continued progress in
29 meeting the [standards] quality performance indicators. [If the
30 commissioner finds that a school district can correct the deficiency or
31 deficiencies without additional diagnostic monitoring or technical
32 assistance, the commissioner may certify the school district with the
33 condition that the district correct the deficiency within a period of time
34 to be determined by the commissioner. If the commissioner shall find
35 that a school district has failed to show sufficient progress toward
36 achieving the thoroughness and efficiency standards established
37 pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4), the
38 commissioner shall advise the local board of education of that
39 determination, and shall direct that the district enter level II
40 monitoring, as defined pursuant to law and regulation. Nothing herein
41 shall preclude the commissioner from taking the steps set forth in
42 section 6 of P.L.1996, c.138 (C.18A:7F-6) upon a finding that the
43 district is failing to meet core curriculum content standards.

44 (2) The board of education of a school district which is directed
45 to enter level II monitoring may appeal that decision to the State
46 Board of Education. The State board may refer the hearing of that
47 appeal to a committee of not less than three of its members, which
48 committee shall hear the appeal and report thereon, recommending its

1 conclusions, to the board and the board shall decide the appeal by
2 resolution in open meeting. A determination of the appeal by the State
3 board shall be considered final.]

4 b. [(1) When a district enters level II monitoring, the
5 commissioner shall establish procedures whereby parents, school
6 employees and community residents may meet with the commissioner
7 or the commissioner's designee to discuss their concerns and the
8 county superintendent shall appoint an external review team whose
9 members shall be qualified by training and experience to examine the
10 conditions in the specific district. In conjunction with the Department
11 of Education, the team, at the direction of the commissioner, shall
12 either examine only those aspects of the district's operations bearing
13 on the areas of deficiency, or shall examine all aspects of the district's
14 operation, including but not limited to education, governance,
15 management and finance. In addition, the team shall examine
16 conditions in the community which may adversely affect the ability of
17 the pupils to learn and the team may recommend measures to mitigate
18 the effects of those conditions. The team shall report its findings and
19 conclusions, including directives to be utilized by the district in the
20 preparation of a corrective action plan to achieve certification and
21 recommendations as to the technical assistance which the district will
22 require in order to effectively implement the corrective action plan, to
23 the commissioner. The commissioner shall direct the district to
24 respond to the report of the external review team in establishing a
25 corrective action plan. The corrective action plan shall be submitted
26 to and approved by the commissioner. The commissioner shall assure
27 that the local district's budget provides the resources necessary to
28 implement the approved plan, including the necessary technical
29 assistance. The entire cost of those activities associated with the
30 review team shall be paid by the Department of Education. The
31 commissioner shall also have the authority to order necessary
32 budgetary reallocations within the district, or such other measures as
33 he deems necessary and appropriate. Further, nothing herein shall
34 preclude the commissioner from taking the steps set forth in section 6
35 of P.L.1996, c.138 (C.18A:7F-6) upon a finding that the district is
36 failing to meet core curriculum content standards.

37 (2) If the commissioner finds that the district is unsuccessful in
38 correcting the deficiencies noted in the evaluation process, the
39 commissioner shall direct that the district enter level III monitoring, as
40 defined pursuant to law and regulation. However, if the commissioner
41 determines that a district is making reasonable progress toward
42 correcting deficiencies, the commissioner may grant an extension for
43 a specific period of time. During this extension the district will remain
44 under level II monitoring. At the end of the extension the
45 commissioner shall determine whether the district is eligible for
46 certification or if the district must be directed to enter level III
47 monitoring.] If a school district satisfies 50 percent to 79 percent of
48 the quality performance indicators, the district shall be considered a

1 moderate performing district. The commissioner shall require the
2 district to develop an improvement plan to address the quality
3 performance indicators with which the district has not complied and
4 to increase district capacity through the provision of technical
5 assistance and other measures designed to meet the district's needs.
6 The improvement plan shall be submitted to and approved by the
7 commissioner. In accordance with the improvement plan, the
8 commissioner shall provide targeted assistance, technical assistance,
9 or both, to the district. If necessary, the commissioner may authorize
10 an in-depth examination of the district to determine the causes for the
11 district's noncompliance with the quality performance indicators.

12 The commissioner shall review the district's progress in
13 implementing the improvement plan not less than every six months. If
14 the commissioner finds, based on those reviews, that after two years
15 the district has not satisfied 80 to 100 percent of the quality
16 performance indicators in each of the five key components of school
17 district effectiveness, the commissioner shall require the district to
18 amend the improvement plan. The amended plan shall be submitted to
19 the commissioner for approval.

20 If a district effectively implements its improvement plan and is able
21 to satisfy 80 to 100 percent of the quality performance indicators in
22 each of the five key components of school district effectiveness
23 through the interventions set forth in this subsection, the commissioner
24 shall issue the district a letter of recognition designating the district as
25 a high performing district. The commissioner shall recommend that
26 the State board certify the school district for a period of seven years
27 as providing a thorough and efficient system of education, contingent
28 on continued progress in meeting the quality performance indicators.
29 If the district has not effectively implemented its improvement plan and
30 has not satisfied 80 to 100 percent of the quality performance
31 indicators in each of the five key components of school district
32 effectiveness through the interventions set forth in this subsection, the
33 commissioner shall issue the district a letter detailing the areas in
34 which the district remains deficient.

35 c. [(1) When a district which has had a comprehensive
36 examination of all aspects of the district's operations by an external
37 review team pursuant to subsection b. of this section is directed to
38 enter level III monitoring the commissioner shall prepare an
39 administrative order directing the corrective actions which shall be
40 taken by the district based upon the findings and conclusions of the
41 level II external review team and the department's monitoring of the
42 level II plan. The commissioner shall insure that technical assistance
43 is provided to the district in order to implement those actions. The
44 commissioner shall also have the power to order necessary budgetary
45 reallocations within the district, or such other measures as the
46 commissioner deems necessary and appropriate. Further, nothing
47 herein shall preclude the commissioner from taking the steps set forth
48 in section 6 of P.L.1996, c.138 (C.18A:7F-6) upon a finding that the

1 district is failing to meet core curriculum content standards.

2 (2) When a district which has not had a comprehensive
3 examination of all aspects of the district's operations by an external
4 review team pursuant to subsection b. of this section is directed to
5 enter level III monitoring, the commissioner shall designate the county
6 superintendent to appoint an external review team whose members
7 shall be qualified by training and experience to examine the conditions
8 in the specific district. In conjunction with the Department of
9 Education, the team shall examine all aspects of the district's
10 operations including but not limited to education, governance,
11 management and finance. The team shall report its findings and
12 conclusions, including directives to be utilized in the preparation of a
13 corrective action plan to achieve certification, to the commissioner.
14 The commissioner shall prepare an administrative order directing the
15 corrective actions which shall be taken by the district based upon the
16 findings and conclusions of the level III external review team and the
17 department's monitoring of the level II plan. The commissioner shall
18 insure that technical assistance is provided to the district in order to
19 implement those actions. The commissioner shall also have the power
20 to order necessary budgetary reallocations within the district, or such
21 other measures as the commissioner deems necessary and appropriate.
22 Further, nothing herein shall preclude the commissioner from taking
23 the steps set forth in section 6 of P.L.1996, c.138 (C.18A:7F-6) upon
24 a finding that the district is not meeting core curriculum content
25 standards.

26 (3) The board of education of a school district which is directed
27 to enter level III monitoring may appeal that decision to the State
28 Board of Education. The State board may refer the hearing of that
29 appeal to a committee of not less than three of its members, which
30 committee shall hear the appeal and report thereon, recommending its
31 conclusions, to the board and the board shall decide the appeal by
32 resolution in open meeting. A determination of the appeal by the State
33 board shall be considered final.

34 (4) If the commissioner finds, based upon the findings and
35 directives of the level II or level III review team and the Department
36 of Education, that conditions within the district may preclude the
37 successful implementation of a corrective action plan or that the
38 district has failed to make reasonable progress in the implementation
39 of a corrective action plan to achieve certification, the commissioner
40 shall direct that a comprehensive compliance investigation be
41 conducted by the Department of Education. If the commissioner
42 directs that a comprehensive compliance investigation be conducted,
43 the commissioner may order any necessary action to insure the security
44 of the books, papers, vouchers and records of the district.] (1) If a
45 school district satisfies less than 50 percent of the quality performance
46 indicators in four or fewer of the five key components of school
47 district effectiveness, the commissioner shall authorize an in-depth
48 evaluation of the district's performance and capacity. Based on the

1 findings and recommendations of that evaluation, the district, in
2 cooperation with the department, shall develop an improvement plan
3 to address the quality performance indicators with which the district
4 has not complied and to increase district capacity through the
5 provision of technical assistance and other measures designed to meet
6 the district's needs. The improvement plan shall be submitted to the
7 commissioner for approval. Upon approval, the commissioner shall
8 provide the district with the technical assistance outlined in the plan
9 and shall assure that the district's budget provides the resources
10 necessary to implement the improvement plan.

11 The commissioner shall review the district's progress in
12 implementing the improvement plan not less than every six months.
13 The reviews shall include an on-site visit. If the commissioner finds,
14 based on those reviews, that after two years the district has not
15 satisfied at least 50% of the quality performance indicators in one or
16 more of the key components of school district effectiveness, the
17 commissioner shall require the district to amend the improvement plan.
18 The amended plan shall be submitted to the commissioner for
19 approval.

20 Nothing in this paragraph shall be construed to prohibit the
21 commissioner or the State board, as applicable, from directing the
22 district to enter partial State intervention prior to the expiration of the
23 two-year period.

24 (2) The district's improvement plan may include the appointment
25 by the commissioner of one or more highly skilled professionals to
26 provide technical assistance to the district in the areas in which it has
27 failed to satisfy the quality performance indicators. Each highly skilled
28 professional shall work collaboratively with the district to increase
29 local capacity in the areas of need identified in the improvement plan.
30 The cost for the salaries of the highly skilled professionals shall be a
31 shared expense of the school district and the State, with the State
32 assuming one-half of the cost of these salaries and the school district
33 being responsible for one-half of the costs.

34 (3) If the district satisfies less than 50% of the quality performance
35 indicators in one of the five key components of school district
36 effectiveness, the commissioner may also order the district to enter
37 partial State intervention. The board of education which is directed to
38 enter partial State intervention may appeal that decision to the State
39 Board of Education. The State board may refer the hearing of that
40 appeal to a committee of not less than three of its members, which
41 committee shall hear the appeal and report thereon, recommending its
42 conclusions, to the board and the board shall decide the appeal by
43 resolution in open meeting. A determination of the appeal by the State
44 board shall be considered final.

45 (4) If the district satisfies less than 50% of the quality performance
46 indicators in two to four of the five key components of school district
47 effectiveness, the commissioner may also order the district board of
48 education to show cause why an administrative order placing the

1 district under partial State intervention should not be implemented.
2 The plenary hearing before a judge of the Office of Administrative
3 Law pursuant to the "Administrative Procedure Act," P.L.1968, c.410
4 (C.52:14B-1 et seq.), upon said order to show cause, shall be
5 conducted on an expedited basis and in the manner prescribed by
6 subdivision B of article 2 of chapter 6 of Title 18A of the New Jersey
7 Statutes. In the proceeding the State shall have the burden of showing
8 that the recommended administrative order is not arbitrary,
9 unreasonable or capricious.

10 If, after a plenary hearing, the commissioner determines that it is
11 necessary to take corrective action, the commissioner shall have the
12 power to order necessary budgetary changes within the district or
13 other measures the commissioner deems appropriate to establish a
14 thorough and efficient system of education.

15 If the board fails to show cause why an administrative order
16 placing the district under partial State intervention should not be
17 implemented, the commissioner shall recommend to the State board
18 that it issue an order placing the district under partial State
19 intervention. Notwithstanding any other provision of law to the
20 contrary and upon its determining that the school district is not
21 providing a thorough and efficient system of education, the State
22 board may place the district under partial State intervention. Nothing
23 herein shall limit the right of any party to appeal the State board's
24 order to the Superior Court.

25 (5) If the position of superintendent of schools is vacant in a
26 district under partial State intervention, the commissioner may appoint
27 a superintendent who shall serve for a period not to exceed two years.

28 (6) In addition to the highly skilled professionals appointed
29 pursuant to paragraph (2) of this subsection to provide technical
30 assistance to the district in implementing its improvement plan, the
31 commissioner, in consultation with the local board of education, may
32 appoint one or more highly skilled professionals in a district under
33 partial State intervention to provide direct oversight in the district
34 regarding the quality performance indicators with which the district
35 has failed to comply. The highly skilled professional shall have
36 authority in the areas of oversight that the commissioner designates.
37 The highly skilled professional shall work collaboratively with the
38 superintendent, the board of education and the employees of the
39 district working in the area of the oversight to address areas identified
40 in the improvement plan. The cost for the salaries of the highly skilled
41 professionals shall be a shared expense of the school district and the
42 State, with the State assuming one-half of the costs of these salaries
43 and the school district being responsible for one-half of the costs.

44 (7) The commissioner may appoint up to three additional members
45 to the board of education of a district under partial State intervention.
46 If the commissioner appoints three additional members pursuant to this
47 paragraph, the commissioner shall appoint one of these additional
48 members from a list of three candidates provided by the local

1 governing body of the municipality in which the school district is
2 located. The commissioner shall make every effort to appoint
3 residents of the district. A board member appointed by the
4 commissioner shall be a nonvoting member of the board and shall
5 have all the other rights, powers and privileges of a member of the
6 board. A board member appointed by the commissioner shall report
7 to the commissioner on the activities of the board of education and
8 shall provide assistance to the board of education on such matters as
9 deemed appropriate by the commissioner, including, but not limited to,
10 the applicable laws and regulations governing specific school board
11 action. A member appointed by the commissioner shall serve for a
12 term of two years. The commissioner shall obtain approval of the
13 State board for any extension of the two-year term. Any vacancy in
14 the membership appointed by the commissioner shall be filled in the
15 same manner as the original appointment.

16 If a board of education is subject to additional appointments
17 pursuant to section 67 of P.L.2002, c.43 (C.52:27BBB-63), then the
18 provisions of this paragraph shall not be applicable during the period
19 in which the board is subject to those appointments.

20 Six months following the district being placed under partial State
21 intervention, the commissioner shall determine, pursuant to criteria
22 promulgated by the State Board of Education, whether or not the
23 board members he has appointed shall become voting members of the
24 board of education. If the commissioner determines that the board
25 members he has appointed shall become voting members, the school
26 district shall have 30 days to appeal the commissioner's determination
27 to the State Board of Education.

28 (8) Based on the district's success in implementing its
29 improvement plan, the commissioner shall make a determination to
30 withdraw from intervention in one or more of the areas that have been
31 under State intervention, to leave one or more areas under State
32 intervention or to recommend to the State Board of Education that the
33 district be placed under full State intervention.

34 If the commissioner determines that the district has successfully
35 implemented the improvement plan, the commissioner shall issue a
36 letter of recognition to the district designating the district as a high
37 performing district and the State shall withdraw from intervention in
38 the district. The commissioner shall recommend that the State board
39 certify the school district for a period of seven years as providing a
40 thorough and efficient system of education, contingent on continued
41 progress in meeting the quality performance indicators.

42 d. [Whenever a district in level II monitoring is directed to
43 establish a corrective action plan or whenever a district in level III
44 monitoring shall be required to implement an approved corrective
45 action plan pursuant to this section, the commissioner shall determine
46 the cost to the district of implementation of those portions of the
47 corrective action plan which are directly responsive to the district's
48 deficiencies as identified in the report of the external review team or,

1 where applicable, by the commissioner. In making this fiscal
2 assessment, the commissioner shall identify those aspects of the
3 corrective action plan which are already contained in the district's
4 current expense budget. Where appropriate, the commissioner shall
5 reallocate funds within the district's budget to support the corrective
6 action plan. Once reallocated, any transfers among line items of the
7 district's budget may occur only with the commissioner's approval.
8 The commissioner shall further determine the amount of additional
9 revenue, if any, needed to implement the corrective action plan and
10 shall recertify a budget for the district.](Deleted by amendment,
11 P.L. ., c.)(now pending before the Legislature as this bill.)

12 e. [A comprehensive compliance investigation shall entail a
13 thorough and detailed examination of a district's educational programs,
14 fiscal practices, governance and management. Based on the
15 investigation, the commissioner shall issue a report which will
16 document any irregularities and list all those aspects of the corrective
17 action plan established pursuant to subsections b. and c. of this section
18 which have not been successfully implemented by the district or the
19 conditions which would preclude the district from successfully
20 implementing a plan. A copy of this report shall be given to the
21 district. The commissioner shall also order the local board to show
22 cause why an administrative order, subject to the provisions of section
23 15 of P.L.1975, c.212 (C.18A:7A-15) and section 1 of P.L.1987,
24 c.399 (C.18A:7A-34) should not be implemented. The plenary hearing
25 before a judge of the Office of Administrative Law, pursuant to the
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.), upon said order to show cause shall be conducted in the manner
28 prescribed by subdivision B of article 2 of chapter 6 of Title 18A of
29 the New Jersey Statutes.

30 In the proceeding the State shall have the burden of showing that
31 the recommended administrative order is not arbitrary, unreasonable
32 or capricious.]

33 (1) If a school district satisfies less than 50 percent of the quality
34 performance indicators in each of the five key components of school
35 district effectiveness, the commissioner shall authorize an in-depth
36 evaluation of the district's performance and capacity. Based on the
37 findings and recommendations of that evaluation, the district, in
38 cooperation with the department, shall develop an improvement plan
39 to address the quality performance indicators with which the district
40 has not complied and to increase district capacity through the
41 provision of technical assistance and other measures designed to meet
42 the district's needs. The improvement plan shall be submitted to the
43 commissioner for approval. Upon approval, the commissioner shall
44 provide the district with the technical assistance outlined in the plan
45 and shall assure that the district's budget provides the resources
46 necessary to implement the improvement plan.

47 The commissioner shall review the district's progress in
48 implementing the improvement plan not less than every six months.

1 The reviews shall include an on-site visit. If the commissioner finds,
2 based on those reviews, that after two years the district has not
3 satisfied at least 50% of the quality performance indicators in one or
4 more of the key components of school district effectiveness, the
5 commissioner shall require the district to amend the improvement plan.
6 The amended plan shall be submitted to the commissioner for
7 approval.

8 Nothing in this paragraph shall be construed to prohibit the State
9 board from directing the district to enter full State intervention prior
10 to the expiration of the two-year period.

11 (2) The district's improvement plan may include the appointment
12 by the commissioner of one or more highly skilled professionals to
13 provide technical assistance to the district in the areas in which it has
14 failed to satisfy the quality performance indicators. Each highly skilled
15 professional shall work collaboratively with the district to increase
16 local capacity in the areas of need identified in the improvement plan.
17 The cost for the salaries of the highly skilled professionals shall be a
18 shared expense of the school district and the State, with the State
19 assuming one-half of the cost of these salaries and the school district
20 being responsible for one-half of the costs.

21 (cf: P.L.1996, c.138, s.37)

22

23 5. Section 15 of P.L.1975, c.212 (C.18A:7A-15) is amended to
24 read as follows:

25 15. [If, after a plenary hearing, the commissioner determines that
26 it is necessary to take corrective action, the commissioner shall have
27 the power to order necessary budgetary changes within the district or
28 other measures the commissioner deems appropriate to establish a
29 thorough and efficient system of education with the exception of the
30 creation of a State-operated school district. The commissioner shall
31 assure that the local district's budget provides the resources necessary
32 to implement the order. If the commissioner determines that the
33 district has failed to take or is unable to take the corrective actions
34 necessary to establish a thorough and efficient system of education, the
35 commissioner shall recommend to the State board that it issue an
36 administrative order creating a State-operated school district.
37 Notwithstanding any other provision of law to the contrary and upon
38 its determining that the school district is not providing a thorough and
39 efficient system of education, the State board may direct the removal
40 of the district board of education and the creation of a State-operated
41 school district whose functions, funding and authority are defined in
42 P.L.1987, c.399 (C.18A:7A-34 et seq.). No order for the creation of
43 a State-operated school district shall issue solely on the basis of a
44 district's failure to correct substandard physical facilities. Nothing
45 herein shall limit the right of any party to appeal the State board's
46 order to the Superior Court.]

47 a. In addition to procedures established pursuant to subsection e.
48 of section 14 of P.L.1975, c.212 (C.18A:7A-14), the commissioner

1 may order the local board to show cause why an administrative order
2 placing the district under full State intervention should not be
3 implemented. The plenary hearing before a judge of the Office of
4 Administrative Law, pursuant to the "Administrative Procedure Act,"
5 P.L.1968, c.410 (C.52:14B-1 et seq.), upon said order to show cause,
6 shall be conducted on an expedited basis and in the manner prescribed
7 by subdivision B of article 2 of chapter 6 of Title 18A of the New
8 Jersey Statutes. In the proceeding the State shall have the burden of
9 showing that the recommended administrative order is not arbitrary,
10 unreasonable or capricious.

11 If, after a plenary hearing, the commissioner determines that it is
12 necessary to take corrective action, the commissioner shall have the
13 power to order necessary budgetary changes within the district or
14 other measures the commissioner deems appropriate to establish a
15 thorough and efficient system of education.

16 If the board fails to show cause why an administrative order
17 placing the district under full State intervention should not be
18 implemented, the commissioner shall recommend to the State board
19 that it issue an order placing the district under full State intervention.
20 Notwithstanding any other provision of law to the contrary and upon
21 its determining that the school district is not providing a thorough and
22 efficient system of education, the State board may place the district
23 under full State intervention. Nothing herein shall limit the right of
24 any party to appeal the State board's order to the Superior Court.

25 b. In districts under full State intervention the State board, upon
26 the recommendation of the commissioner, may appoint a State district
27 superintendent to serve for a period not to exceed three years.

28 c. In addition to the highly skilled professionals appointed
29 pursuant to paragraph (2) of subsection e. of section 14 of P.L.1975,
30 c.212 (C.18A:7A-14), to provide technical assistance to the district in
31 implementing its improvement plan, the commissioner, in consultation
32 with the local board of education, may appoint one or more highly
33 skilled professionals in a district under full State intervention to
34 provide direct oversight in the district regarding the quality
35 performance indicators with which the district has failed to comply.
36 The highly skilled professional shall have authority in the areas of
37 oversight that the commissioner designates. The highly skilled
38 professional shall work collaboratively with the superintendent, the
39 board of education and the employees of the district working in the
40 area of the oversight to address areas identified in the improvement
41 plan. The cost for the salaries of the highly skilled professionals shall
42 be a shared expense of the school district and the State, with the State
43 assuming one-half of the costs of these salaries and the school district
44 being responsible for one-half of the costs.

45 d. If the district has successfully implemented the improvement
46 plan, the commissioner shall issue a letter of recognition to the district
47 designating the district as a high performing district and the State shall
48 withdraw from intervention in the district in accordance with the

1 provisions of section 16 of P.L.1987, c.399 (C.18A:7A-49). The
2 commissioner shall recommend that the State board certify the school
3 district for a period of seven years as providing a thorough and
4 efficient system of education, contingent on continued progress in
5 meeting the quality performance indicators.

6 (cf: P.L.1987, c.398, s.3)

7

8 6. Section 5 of P.L.1987, c.398 (C.18A:7A-15.1) is amended to
9 read as follows:

10 5. Pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15), the
11 State board, upon the recommendation of the commissioner, shall have
12 [full] authority to:

13 a. [remove the district board of education,] approve the
14 appointment by the commissioner of up to three additional members
15 to the school board;

16 b. create a [State-operated] school district [,] under full State
17 intervention; and

18 c. appoint, upon recommendation of the commissioner, a State
19 district superintendent of schools to direct [all] the operations of the
20 district [, including the implementation of the administrative order.
21 The State district superintendent of schools shall have all authority and
22 powers previously vested in the district board of education] in
23 accordance with the improvement plan established pursuant to
24 section 14 of P.L.1975, c.212 (C.18A:7A-14).

25 (cf: P.L.1987, c.398, s.5)

26

27 7. Section 3 of P.L.1987, c.400 (C.18A:7A-31.2) is amended to
28 read as follows:

29 3. Whenever the State Board of Education issues an administrative
30 order establishing a [State-operated] school district under full State
31 intervention pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15),
32 the commissioner shall immediately inform the Joint Committee on the
33 Public Schools of that administrative order, and shall advise the
34 committee as to the causes of the district's failure to achieve
35 [certification through local district initiatives] the requisite
36 compliance with the quality performance indicators.

37 (cf: P.L.1987, c.400, s.3)

38

39 8. Section 4 of P.L.1987, c.400 (C.18A:7A-31.3) is amended to
40 read as follows:

41 4. a. Within six months following the establishment of a
42 [State-operated] school district under full State intervention, the
43 commissioner shall present to the Joint Committee on the Public
44 Schools the [corrective action] improvement plan developed [for] by
45 the district.

46 b. On [a periodic] an annual basis[, but not less than once each
47 year,] the commissioner shall provide a [detailed] report to the

1 committee on the progress made in the implementation of the
2 **[corrective action]** improvement plan and the prospects for the
3 **[return of the district to local control]** State's withdrawal from
4 intervention.

5 c. The Joint Committee on the Public Schools, in cooperation with
6 the commissioner, may develop a plan for monitoring the
7 administration of a **[State-operated]** school district under full State
8 intervention and the implementation of the **[corrective action]**
9 improvement plan. The plan developed by the committee shall include
10 provisions for independent documentation and assessment.

11 (cf: P.L.1987, c.400, s.4)

12

13 9. Section 1 of P.L.1987, c.399 (C.18A:7A-34) is amended to
14 read as follows:

15 1. Whenever the Commissioner of Education shall determine after
16 the issuance of an administrative order that a local school district has
17 failed to assure a thorough and efficient system of education, the State
18 Board of Education may issue an administrative order as set forth in
19 section 15 of P.L.1975, c.212 (C.18A:7A-15) which shall **[remove the**
20 **district board of education and]** create a **[State-operated]** school
21 district under full State intervention. The **[State-operated]** school
22 district under full State intervention shall become effective immediately
23 upon issuance of the administrative order by the State board.

24 (cf: P.L.1987, c.399, s.1)

25

26 10. Section 2 of P.L.1987, c.399 (C.18A:7A-35) is amended to
27 read as follows:

28 2. a. The schools of a **[State-operated]** school district **[shall]**
29 under full State intervention may be conducted by and under the
30 supervision of a State district superintendent of schools appointed by
31 the State board upon recommendation of the commissioner. The
32 individual selected shall be qualified by training and experience for the
33 particular district and shall work collaboratively with any highly skilled
34 professionals appointed by the commissioner, in consultation with the
35 local board of education.

36 The State board may, upon the recommendation of the
37 commissioner, choose to retain the person who holds the position of
38 superintendent of schools in the school district at the time the State
39 board issues the administrative order pursuant to section 15 of
40 P.L.1975, c.212 (C.18A:7A-15). If the State board chooses to retain
41 the superintendent of schools, the person shall comply with the
42 directives of the commissioner or his designee, including any highly
43 skilled professional appointed by the commissioner.

44 b. **[The]** If the State board appoints a State district
45 superintendent the appointment shall be [appointed] for an original
46 term not to exceed **[five]** three years. Notwithstanding any other
47 provision of law, no person so appointed shall acquire tenure nor shall

1 the commissioner, with approval of the State board, be precluded from
2 terminating the superintendent's services pursuant to the terms of the
3 superintendent's individual contract of employment. For the purpose
4 of the New Jersey Tort Claims Act, N.J.S.59:1-1 et seq., the State
5 district superintendent shall be considered a State officer.

6 c. The salary of the State district superintendent shall be fixed by
7 the commissioner and adjusted from time to time as the commissioner
8 deems appropriate. The cost for said salary and for the salaries of all
9 persons appointed pursuant to this amendatory and supplementary act,
10 except the highly skilled professionals, shall be an expense of the local
11 school district.

12 d. The State district superintendent shall perform **[all the] such**
13 **duties and possess **[all the] such powers [heretofore and hereafter**
14 **assigned in Title 18A of the New Jersey Statutes to central**
15 **administrative and supervisory staff, instructional and noninstructional,**
16 **which shall include but not be limited to the superintendent of schools,**
17 **secretary of the board of education, school business administrator,**
18 **school business manager, and assistants and clerks thereto] as deemed**
19 **appropriate by the commissioner.****

20 e. Except as otherwise provided in this amendatory and
21 supplementary act, the State district superintendent shall have the
22 power to perform all acts and do all things **[consistent with law] that**
23 **the commissioner deems necessary for the proper conduct,**
24 **maintenance and supervision of the schools in the district.**

25 f. The State district superintendent may, if deemed appropriate by
26 the commissioner, make, amend and repeal district rules, policies and
27 guidelines, not inconsistent with law for the proper conduct,
28 maintenance and supervision of the schools in the district.

29 g. The State district superintendent shall provide in each school
30 a mechanism for parent, teacher and community involvement. In
31 addition, the State district superintendent shall provide for at least one
32 public meeting in both the fall and the spring semesters to advise
33 parents and members of the community on the activities within the
34 district and to provide an opportunity for those parents, teachers and
35 community members who wish to be heard. The meetings shall be at
36 such times and places as to ensure maximum public participation.

37 h. The State district superintendent, or such other person as the
38 commissioner shall designate, shall ensure that the district is in
39 compliance with all federal and State laws, rules and regulations
40 relating to equal employment opportunities, affirmative action and
41 minority business opportunities.

42 (cf: P.L.1995, c.179, s.1)

43

44 11. Section 4 of P.L.1987, c.399 (C.18A:7A-37) is amended to
45 read as follows:

46 4. **[Notwithstanding the absence of a board of education, a**
47 **State-operated] A school district placed under full or partial State**

1 intervention shall remain a corporate entity.

2 (cf: P.L.1987, c.399, s.4)

3

4 12. Section 5 of P.L.1987, c.399 (C.18A:7A-38) is amended to
5 read as follows:

6 5. Except as otherwise provided in this amendatory and
7 supplementary act, the State district superintendent in a
8 **[State-operated]** school district **[shall have]** under full State
9 intervention or any other person designated by the commissioner may
10 be given the power to:

11 a. Enforce the rules of the State board; and

12 b. Perform all acts and do all things, consistent with law and the
13 rules of the State board, necessary for the lawful and proper conduct,
14 equipment and maintenance of the public schools of the district.

15 (cf: P.L.1987, c.399, s.5)

16

17 13. Section 6 of P.L.1987, c.399 (C.18A:7A-39) is amended to
18 read as follows:

19 6. a. The State district superintendent **[of a State-operated school**
20 **district]** or any other person designated by the commissioner may in
21 a school district under full State intervention:

22 (1) Sue in the district's corporate name and likewise submit to
23 arbitration and determination disputes and controversies in the manner
24 provided by law;

25 (2) Cause a report of the condition of the public schools and the
26 public school property **[under the superintendent's control]** and an
27 itemized account of the condition of the finances of the district to be
28 printed and published as soon as practicable after the close of each
29 school year; and

30 (3) Cause an exact census to be taken annually of all children
31 residing in the district between the ages of five and 18 years, including
32 such other information as he or she may deem necessary or proper and
33 appoint, for the purpose of taking that census, as many suitable
34 persons as may be necessary to act as enumerators and fix their
35 compensation, which compensation shall be paid as a current expense.

36 b. A **[State-operated]** school district under full State intervention
37 may be sued under its corporate name.

38 c. **[State-operated school]** School districts under full State
39 intervention may join with local boards of education for the purpose
40 of affording the districts those benefits which may accrue pursuant
41 to P.L.1983, c.108 (C.18A:18B-1 et seq.).

42 d. A **[State-operated]** school district under full State intervention
43 shall be subject to all provisions of chapter 19 of Title 18A of the New
44 Jersey Statutes except that all warrants for claims or expenditures
45 approvable by a district board of education or any action required of
46 a district board of education pursuant to chapter 19 **[shall]** may be
47 authorized by the State district superintendent or any other person
48 designated by the commissioner.

1 e. Authority for the implementation of any provision of chapter 20
2 of Title 18A of the New Jersey Statutes relative to the acquisition and
3 disposition of property which requires action by a district board of
4 education [shall] may, in a [State-operated] school district under full
5 State intervention, be exercised by the State district superintendent or
6 any other person designated by the commissioner .

7 f. The authority vested in boards of education by chapter 21 of
8 Title 18A of the New Jersey Statutes [shall] may in a
9 [State-operated] school district under full State intervention be vested
10 in the State district superintendent or any other person designated by
11 the commissioner.

12 g. [State-operated school] School districts under full State
13 intervention shall be subject to all requirements set forth in chapter
14 18A of Title 18A of the New Jersey Statutes except that such
15 determination as may be required of a district board of education by
16 the provisions of said law [shall] may be rendered by the State district
17 superintendent or any other person designated by the commissioner.
18 (cf: P.L.1987, c.399, s.6)

19
20 14. Section 7 of P.L.1987, c.399 (C.18A:7A-40) is amended as
21 follows:

22 7. a. When [the board of education is removed and] a
23 [State-operated] district under full State intervention is established,
24 pursuant to section 1 of [this amendatory and supplementary act]
25 P.L.1987, c.399 (C.18A:7A-34), or when [local control is
26 reestablished] the State withdraws from intervention, pursuant to
27 section 16 of [this amendatory and supplementary act] P.L.1987,
28 c.399 (C.18A:7A-49), collective bargaining agreements entered into
29 by the school district shall remain in force, except where otherwise
30 expressly provided in [this amendatory and supplementary act]
31 P.L.1987, c.399 (C.18A:7A-34 et seq.).

32 b. Except where otherwise expressly provided in [this amendatory
33 and supplementary act] P.L.1987, c.399 (C.18A:7A-34 et seq.), all
34 teaching staff members and other employees of a [State-operated]
35 district under full State intervention shall retain and continue to
36 acquire all rights and privileges acquired pursuant to Title 18A of the
37 New Jersey Statutes. After the [reestablishment of local control in the
38 district] State withdraws from intervention, the board shall preserve
39 and recognize all rights and privileges acquired prior to and during the
40 State [operation of] intervention in the district.

41 (cf: P.L.1987, c.399, s.7)

42
43 15. Section 8 of P.L.1987, c.399 (C.18A:7A-41) is amended to
44 read as follows:

45 8. There [shall] may be established within a [State-operated]
46 school district under full State intervention an internal audit team
47 which shall monitor the business functions of the district and report its

1 findings to [the State district superintendent and] the commissioner
2 and any district personnel deemed appropriate by the commissioner.

3 The cost of providing this internal audit function shall be borne by the
4 State.

5 (cf: P.L.1987, c.399, s.8)

6

7 16. Section 9 of P.L.1987, c.399 (C.18A:7A-42) is amended to
8 read as follows:

9 9. a. In a [State-operated] school district under full State
10 intervention, all officers, employees and consultants, professional and
11 nonprofessional, certified and noncertified, shall be employed or
12 retained, transferred and removed [as provided below] in accordance
13 with the improvement plan which has been approved by the
14 commissioner. In accordance with that plan:

15 (1) The State district superintendent or any other person
16 designated by the commissioner may appoint, transfer and remove
17 clerks, pursuant to the provisions of Title 11A (Civil Service) of the
18 New Jersey Statutes and the provisions of N.J.S.18A:17-1 et seq.

19 (2) The State district superintendent or any other person
20 designated by the commissioner, subject to the approval of the
21 commissioner, shall appoint and set the salaries of such State assistant
22 superintendents as the superintendent shall deem necessary and assign
23 to them their duties and responsibilities. No State assistant
24 superintendent shall acquire tenure, notwithstanding any other
25 provision of law.

26 (3) The State district superintendent of schools or any other
27 person designated by the commissioner shall, subject to the approval
28 of the commissioner or his designee, make all personnel determinations
29 relative to employment, transfer and removal of all officers and
30 employees, professional and nonprofessional, except that the services
31 of the district auditor or auditors and attorney or attorneys shall be
32 immediately terminated by creation of a [State-operated] school
33 district [pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15)]
34 under full State intervention.

35 b. The State district superintendent or any other person designated
36 by the commissioner may delegate to subordinate officers or
37 employees in the district any of [the superintendent's] his powers and
38 duties as [the superintendent] he may deem desirable to be exercised
39 under [the superintendent's] his supervision and direction.

40 (cf: P.L.1987, c.399, s.9)

41

42 17. Section 10 of P.L.1987, c.399 (C.18A:7A-43) is amended to
43 read as follows:

44 10. Except as otherwise provided in this amendatory and
45 supplementary act, any person serving under tenure or permanent civil
46 service status shall retain all tenure rights and may continue to serve
47 in the district pursuant to the provisions of this section. However,
48 they shall perform only such duties as prescribed [or delegated by the

1 State district superintendent] in the improvement plan which has been
2 approved by the commissioner and those duties for which they may be
3 appropriately certified.

4 (cf: P.L.1987, c.399, s.10)

5
6 18. Section 11 of P.L.1987, c.399 (C.18A:7A-44) is amended to
7 read as follows:

8 11. a. Notwithstanding any other provision of law or contract, the
9 positions of the district's chief school administrator and those
10 executive administrators responsible for curriculum, business and
11 finance, and personnel [shall] may be abolished upon creation of the
12 [State-operated] school district under full State intervention. The
13 affected individuals shall be given 60 days' notice of termination or 60
14 days' pay. The notice or payment shall be in lieu of any other claim or
15 recourse against the employing board or the school district based on
16 law or contract. Any individual whose position is abolished by
17 operation of this subsection shall be entitled to assert a claim to any
18 position or to placement upon a preferred eligibility list for any
19 position to which the individual may be entitled by virtue of tenure or
20 seniority within the district. No individual whose position is abolished
21 by operation of this subsection shall retain any right to tenure or
22 seniority in the positions abolished herein.

23 b. Within [one year] 180 days of the establishment of the
24 [State-operated] school district under full State intervention, the State
25 district superintendent [shall] or any other person designated by the
26 commissioner may prepare a reorganization of the district's central
27 administrative and supervisory staff and [shall] may evaluate all
28 individuals employed in central administrative and supervisory staff
29 positions. The State district superintendent [shall] or any other
30 person designated by the commissioner may implement the
31 reorganization on the July 1 next following its preparation, unless
32 otherwise directed by the commissioner. The State district
33 superintendent or any other person designated by the commissioner
34 shall retain the authority to prepare a reorganization and to evaluate
35 all employed individuals after the expiration of the 180-day period.

36 c. Notwithstanding any other provision of law or contract, the
37 positions of the central administrative and supervisory staff,
38 instructional and noninstructional, other than those positions abolished
39 pursuant to subsection a. of this section, [shall] may be abolished
40 upon the reorganization of the [State-operated] staff of the school
41 [district's staff] district under full State intervention. The State
42 district superintendent or any other person designated by the
43 commissioner may hire an individual whose position is so abolished,
44 based upon the evaluation of the individual and the staffing needs of
45 the reorganized district staff. These individuals shall be hired with
46 tenure if they had tenure in their prior position. If they did not have
47 tenure in their prior position, they may obtain tenure pursuant to the

1 provisions of N.J.S.18A:28-6. Individuals hired as State assistant
2 superintendents shall not be hired with tenure and shall not acquire
3 tenure. Employees or officers not hired for the reorganized staff shall
4 be given 60 days' notice of termination or 60 days' pay. The notice or
5 payment shall be in lieu of any other claim or recourse against the
6 employing board or the school district based on law or contract.
7 Notwithstanding this limitation, nothing herein shall preclude an
8 individual from asserting upon separation from service any legal
9 contractual right to health care coverage, annuities, accrued vacation
10 days, accrued sick leave, insurance and approved tuition costs. Any
11 employee whose position is abolished by operation of this subsection
12 shall be entitled to assert a claim to any position or to placement upon
13 a preferred eligibility list for any position to which the employee may
14 be entitled by virtue of tenure or seniority within the district. No
15 employee whose position is abolished by operation of this subsection
16 shall retain any right to tenure or seniority in the positions abolished
17 herein.

18 (cf: P.L.1995, c.179, s.2)

19

20 19. Section 12 of P.L.1987, c.399 (C.18A:7A-45) is amended to
21 read as follows:

22 12. a. The Commissioner of Education shall adopt criteria for the
23 evaluation of building principals and vice-principals in a
24 **[State-operated] school district under full State intervention**.

25 b. Upon appointment, the State district superintendent **[shall] or**
26 **other person designated by the commissioner may** establish an
27 assessment unit **[which shall] to** conduct on-site evaluations of each
28 building principal and vice-principal in accordance with the criteria
29 established by the commissioner and render evaluation reports to the
30 State district superintendent **or any other person designated by the**
31 **commissioner**. No less than three evaluations shall be performed for
32 each building principal and vice-principal within 18 months following
33 the establishment of **[State operation] the school district under full**
34 **State intervention**. All personnel records for building principals and
35 vice-principals prepared before the establishment of the
36 **[State-operated] district under full State intervention** shall be sealed
37 upon issuance of the State Board of Education order establishing the
38 **[State-operated] school district under full State intervention**.

39 c. Notwithstanding any other provision of law or contract, the
40 State district superintendent **or any other person designated by the**
41 **commissioner**, after completion of an assessment cycle of not less than
42 12 months, may dismiss any tenured building principal or
43 vice-principal for inefficiency, incapacity, unbecoming conduct or
44 other just cause as defined by the criteria for principal or vice-principal
45 performance in **[State-operated] districts under full State intervention**
46 established by the commissioner pursuant to subsection a. of this
47 section. Nothing herein shall preclude the dismissal of a tenured
48 building principal or vice-principal prior to the completion of an

1 assessment cycle of not less than 12 months if the basis for the
2 dismissal is incapacity or unbecoming conduct. All dismissals of
3 tenured building principals or vice-principals shall be conducted in
4 accordance with the procedures set forth in sections 10, 11, 13, 14, 16
5 and 17 of chapter 6 of Title 18A of the New Jersey Statutes, except
6 that the State district superintendent or any other person designated
7 by the commissioner shall act as the board of education in all respects.

8 d. The commissioner and the Office of Administrative Law are
9 empowered and directed to take any necessary action to expedite
10 hearings for dismissal of tenured principals or vice-principals,
11 including relaxation of any time requirements established by law or
12 practice. In no event shall a hearing commence later than 45 days
13 after certification of charges. Hearings shall be completed within 45
14 days of commencement. In no event shall a final decision be issued
15 later than 120 days following the certification of charges.

16 e. Evaluations of building principals or vice-principals conducted
17 by district personnel prior to the establishment of the [State-operated]
18 school district under full State intervention shall not be admissible in
19 a tenure hearing for any building principal or vice-principal except in
20 the following circumstances:

21 (1) Evaluations of building principals or vice-principals performed
22 by members of the [State-operated school district's] central
23 administrative and supervisory staff who are hired [by the State
24 district superintendent] to fill one of the positions in the reorganized
25 central office of the [State-operated] district under full State
26 intervention shall be admissible;

27 (2) Evaluations of building principals or vice-principals made by
28 individuals who were no longer employed by the school district as of
29 the date it became a [State-operated] school district under full State
30 intervention shall be admissible only if the evaluation was performed
31 more than five years preceding the date of the establishment of the
32 [State-operated] district under full State intervention.

33 (cf: P.L.1995, c.179, s.3)

34
35 20. Section 13 of P.L.1987, c.399 (C.18A:7A-46) is amended to
36 read as follows:

37 13. a. [State-operated school] School districts under full State
38 intervention shall be created only as provided pursuant to section 15
39 of P.L.1975, c.212 (C.18A:7A-15).

40 b. [State-operated school] School districts [shall] under full
41 State intervention may be conducted by and under the supervision of
42 a State district superintendent appointed by the State Board of
43 Education upon recommendation of the commissioner.

44 (cf: P.L.1987, c.399, s.13)

45
46 21. Section 1 of P.L.1991, c.139 (C.18A:7A-46.1) is amended to
47 read as follows:

48 1. a. In any [State-operated] school district under full State

1 intervention created pursuant to the provisions of P.L.1975, c.212
2 (C.18A:7A-1 et seq.) there [~~shall~~] may be established a Capital
3 Project Control Board, hereinafter the board, [~~which shall~~] to be
4 responsible for the review of any capital project proposed by the State
5 district superintendent or a person designated by the commissioner,
6 provided that the State district superintendent or person designated by
7 the commissioner proposes that the capital project be financed in
8 whole or in part by school bonds or notes, or through a lease purchase
9 agreement pursuant to subsection f. of N.J.S.18A:20-4.2. The board
10 shall also be responsible for the certification to the State district
11 superintendent of schools or person designated by the Commissioner
12 of Education and the [~~Commissioner of Education~~] commissioner of
13 the necessity for the capital project and the certification of the
14 appropriation to be made by the governing body of the municipality.

15 b. The board shall consist of five voting members. One member
16 shall be appointed by the Commissioner of Education and two
17 members shall be appointed by the chief executive officer with the
18 consent of a majority of the full membership of the local governing
19 body of the municipality or municipalities in which the school district
20 is located. If the school district is comprised of two municipalities,
21 each municipality shall be entitled to one member, appointed by the
22 executive officer with the consent of the governing body. If the school
23 district is comprised of more than two municipalities, each of the two
24 municipalities with the largest population according to the most recent
25 federal decennial census shall be entitled to one member, appointed by
26 the executive officer with the consent of the governing body.
27 However, if a local governing body fails to agree upon the selection of
28 either board member appointed by an executive officer, then the
29 Commissioner of Education shall make the appointment. One member
30 shall be appointed by the Director of the Division of Local
31 Government Services in the Department of Community Affairs who
32 shall have experience in the area of local finance and capital projects.
33 The fifth member shall be the State district superintendent of schools
34 or any other person designated by the commissioner who shall serve
35 ex-officio and shall act as chairperson of the board. The board
36 members, except for the State district superintendent or the person
37 designated by the commissioner, shall each serve for a term of one
38 year commencing on July 1 of each year and expiring on June 30 of the
39 following year. Any vacancy in the membership of the board shall be
40 filled for the unexpired term in the manner provided by the original
41 appointment. Members of the board may be employees of the State or
42 any subdivision thereof. All members of the board shall serve without
43 compensation.

44 c. The board shall meet from time to time upon the request of the
45 State district superintendent or person designated by the
46 commissioner. All meetings of the board shall be conducted pursuant
47 to the provisions of the "Open Public Meetings Act," P.L.1975, c.231
48 (C.10:4-6 et seq.). The State district superintendent, or [~~his~~

1 designee] the person designated by the commissioner, shall be charged
2 with the responsibility of preparing a transcript of the proceedings and
3 all votes shall be recorded in writing.

4 (cf: P.L.2000, c.72, s.32)

5

6 22. Section 2 of P.L.1991, c.139 (C.18A:7A-46.2) is amended to
7 read as follows:

8 2. ~~[The]~~ In the event that a capital projects review board is
9 established pursuant to section 1 of P.L.1991, c.139 (C.18A:7A-46.1)
10 the board shall hear the recommendation of the State district
11 superintendent or the person designated by the commissioner
12 concerning any proposed capital project, which is to be financed in
13 whole or in part by school bonds or notes, or through a lease purchase
14 agreement pursuant to subsection f. of N.J.S.18A:20-4.2, and shall
15 undertake all actions necessary to review the proposed capital project
16 to determine whether the project will assist the ~~[State-operated]~~
17 school district under full State intervention in providing a thorough
18 and efficient system of education in that district. In making this
19 determination it may take into consideration factors such as the
20 conditions in the school district, any applicable educational goals, the
21 objectives and standards established by the State, the need for the
22 capital project, the reasonableness of the amount to be expended for
23 the capital project, the estimated time for the undertaking and
24 completion of the capital project, and any other factors which the
25 board may deem necessary including the relationship of the capital
26 project to the long-term capital budget or plan of the school district
27 and the fiscal implications thereof.

28 Following its review and within 60 days of the date on which the
29 State district superintendent or the person designated by the
30 commissioner submits the recommendation to the board, the board
31 shall adopt a resolution as to whether the ~~[State-operated]~~ school
32 district under full State intervention should undertake the capital
33 project and providing its reasons therefor. The board shall adopt a
34 resolution indicating the necessity for the capital project and shall also
35 fix and determine by resolution the amount necessary to be raised
36 locally for the capital project. If the board fails to act within 60 days
37 of the submission date, the State district superintendent or the person
38 designated by the commissioner shall submit the recommendation to
39 the commissioner who shall approve or disapprove the capital project.
40 If the board makes a decision which is contrary to the recommendation
41 of the superintendent or the person designated by the commissioner,
42 the superintendent or the person designated by the commissioner may,
43 within 30 days from the date of the board's action, submit the matter
44 to the commissioner for final decision. If the commissioner determines
45 that a capital project should be undertaken, the commissioner shall so
46 notify the board and shall indicate the amount necessary to be raised
47 locally for the capital project. Upon notification, the board shall adopt
48 a resolution indicating the necessity for the capital project and shall

1 also fix and determine by resolution the amount necessary for the
2 capital project as indicated by the commissioner. Certified copies of
3 any resolution requesting the authorization and issuance of bonds and
4 notes or the authorization of a lease purchase agreement shall be
5 delivered to the State district superintendent or the person designated
6 by the Commissioner of Education, the Commissioner of Education,
7 the Director of the Division of Local Government Services in the
8 Department of Community Affairs and the governing body of the
9 municipality or municipalities in which the school district is located.
10 The board shall not approve or recommend any capital project which
11 is inconsistent with the provisions of N.J.S.18A:21-1.

12 (cf: P.L.2000, c.72, s.33)

13

14 23. Section 3 of P.L.1991, c.139 (C.18A:7A-46.3) is amended to
15 read as follows:

16 3. Notwithstanding the provisions of any law to the contrary, the
17 cost of any capital project authorized pursuant to this act which is to
18 be funded by bonds or notes and certified by the board to the State
19 district superintendent or the person designated by the commissioner,
20 the Commissioner of Education, the Director of the Division of Local
21 Government Services in the Department of Community Affairs and the
22 governing body of the municipality or municipalities in which the
23 school district is located shall be financed by the issuance of school
24 bonds or notes pursuant to the provisions of chapter 24 of Title 18A
25 of the New Jersey Statutes and the "Local Bond Law" (N.J.S.40A:2-1
26 et seq.) and the notes, school bonds or other obligations shall be
27 authorized, issued, sold and delivered in the manner prescribed by the
28 "Local Bond Law" (N.J.S.40A:2-1 et seq.).

29 (cf: P.L.2000, c.72, s.34)

30

31 24. Section 4 of P.L.1991, c.139 (C.18A:7A-46.4) is amended to
32 read as follows:

33 4. Any authorization of notes or bonds effective prior to the date
34 of the appointment of the State district superintendent or the person
35 designated by the commissioner shall be issued in the manner
36 prescribed by the "Local Bond Law," (N.J.S.40A:2-1 et seq.).

37 (cf: P.L.1991, c.139, s.4)

38

39 25. Section 6 of P.L.1991, c.139 (C.18A:7A-46.6) is amended to
40 read as follows:

41 6. The debt service on bonds, notes and other obligations
42 authorized pursuant to **[this act]** P.L.1991, c.139 (C.18A:7A-46.1 et
43 seq.) shall be appropriated and made part of the municipal budget and
44 raised through the annual municipal tax levy. However, all debt
45 service payments shall be included in the budget of the
46 **[State-operated]** school district under full State intervention as the
47 sum necessary for interest and debt redemption charges and shall be
48 eligible for State education aid in the year in which the appropriation

1 and expenditure are made.

2 (cf: P.L.1991, c.139, s.6)

3

4 26. Section 14 of P.L.1987, c.399 (C.18A:7A-47) is amended to
5 read as follows:

6 14. [Within 60 days, the commissioner shall establish a board of
7 education consisting of not more than 15 persons from among the
8 residents of the district. The membership of the board shall be
9 representative of the community's racial and ethnic balance. Previous
10 members of the board of education shall not be precluded from
11 consideration for membership on this board. Of the 15 members, 13
12 shall be appointed by the commissioner and two shall be appointed by
13 the local governing body of the municipality in which the school
14 district is located. If the school district includes more than one
15 municipality, then the governing body of each constituent municipality
16 shall have one appointment to the board and the number of
17 appointments by the commissioner shall be reduced accordingly. If the
18 local governing body fails to agree upon the selection of board
19 members within 60 days of the establishment of the State-operated
20 school district, then the commissioner may make the additional two
21 appointments. Any vacancies on the board shall be filled by the
22 appropriate appointing authority within 45 days of the occurrence of
23 the vacancy. All individuals appointed to the board shall meet all of
24 the statutory requirements for membership on a board of education
25 and shall be required to attend all meetings of the board, all meetings
26 of standing board committees to which the member is appointed, and
27 all in-service training sessions provided for board members. Any
28 member of the board who, during the course of any school year, fails
29 to attend eighty percent of all meetings of the board and of standing
30 board committees and in-service training sessions shall be removed
31 upon recommendation of the State district superintendent to the
32 appropriate appointing authority. Members of the board of education
33 shall serve for two-year terms, unless removed from the board as
34 provided herein. The board shall meet as soon as may be possible
35 after its appointment and shall select a chairman and a vice-chairman
36 from among its members.]

37 a. The State board shall retain the board of education in place at
38 the time that the State board issues the administrative order creating
39 the school district under full State intervention. With the State board's
40 approval the commissioner may appoint up to three additional
41 nonvoting members to the board of education. If the commissioner
42 appoints three additional members pursuant to this subsection, the
43 commissioner shall appoint one of these additional members from a list
44 of three candidates provided by the local governing body of the
45 municipality in which the school district is located. The commissioner
46 shall make every effort to appoint residents of the district. The board
47 of education shall have only those rights, powers and privileges of an
48 advisory board. The members appointed by the commissioner shall

1 serve for a term of two years. The commissioner shall obtain approval
2 of the State board for any extension of the two-year term. Any
3 vacancy in the membership appointed by the commissioner shall be
4 filled in the same manner as the original appointment.

5 Six months following the district being placed under full State
6 intervention, the commissioner shall determine, pursuant to criteria
7 promulgated by the State Board of Education, whether or not the
8 board members he has appointed shall become voting members of the
9 advisory board of education. If the commissioner determines that the
10 board members he has appointed shall become voting members, the
11 school district shall have 30 days to appeal the commissioner's
12 determination to the State Board of Education.

13 b. The State district superintendent [shall meet with the board of
14 education at least once in each month and] or the person designated
15 by the commissioner may meet [more] with the board as frequently as
16 necessary for the effective operation of the school district. The
17 meetings of the board shall be convened and scheduled at the direction
18 of the State district superintendent or the person designated by the
19 commissioner, and the State district superintendent or the person
20 designated by the commissioner shall determine the agenda. At the
21 meetings, the State district superintendent or the person designated by
22 the commissioner shall report to the board on all actions taken and on
23 pending actions in a timely fashion, and provide an opportunity for a
24 full discussion by the board and by the public of those actions.
25 Meetings shall be conducted pursuant to the provisions of the "Open
26 Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). On a
27 regular basis, but no less than twice each year, the board of education
28 shall report in writing directly to the State district superintendent or
29 the person designated by the commissioner concerning its assessment
30 of the progress of the district. Copies of the report shall be forwarded
31 to the commissioner and the State board. The State district
32 superintendent or the person designated by the commissioner shall
33 make such clerical and other resources available as are necessary for
34 the effective operation of the board of education.

35 c. The commissioner, in consultation with the New Jersey School
36 Boards Association, shall provide the members of the board of
37 education with appropriate in-service training in school matters.

38 (cf: P.L.1995, c.179, s.4)

39
40 27. Section 16 of P.L.1987, c.399 (C.18A:7A-49) is amended to
41 read as follows:

42 16. a. [The State district superintendent shall annually provide to
43 the commissioner an assessment of the progress of the district toward
44 meeting the requirements necessary for State certification. In addition,
45 the commissioner shall ensure that the district is regularly monitored
46 by the Department of Education in the manner provided for all school
47 districts in level III monitoring pursuant to section 14 of P.L.1975,
48 c.212 (C.18A:7A-14).] A school district under full State intervention

1 shall make an annual report of its progress in complying with the
2 quality performance indicators adopted pursuant to section 10 of
3 P.L.1975, c.212 (C.18A:7A-10). The commissioner shall formally
4 report to the State board and to the Governor and the Legislature on
5 the district's progress.

6 b. Based upon the annual [assessment] report of progress [and
7 the district's having received State certification], but not sooner than
8 [five] three years after the establishment of the [State-operated]
9 school district under full State intervention, the commissioner may
10 recommend [to the State board that local control be reestablished]
11 that the State board place the school district under partial State
12 intervention or elsewhere on the performance continuum. If the State
13 board so determines, [local control shall be reestablished] the school
14 district shall be placed under partial State intervention or designated
15 as a high performing or moderate performing district effective on the
16 July 1 next ensuing.

17 c. [Upon the reestablishment of local control, the board of
18 education shall assume full responsibility for the operation of the
19 school district; however, the State district superintendent and those
20 members of the superintendent's staff appointed by operation of these
21 laws relating to State-operated school districts shall continue to serve
22 for a one-year transition period upon conclusion of which their term
23 of service shall expire without prejudice to the right of the district
24 board of education to reappoint any or all such persons to similar
25 positions within the district. During the transition period, the State
26 district superintendent may place matters before the board for a vote.
27 The board of education shall act upon all such matters brought before
28 it by the State district superintendent] In the event that the State
29 board, upon the recommendation of the commissioner, has appointed
30 a State district superintendent in a district under full State intervention
31 and if the district is placed under partial State intervention or is
32 designated as a high performing or moderate performing district, then
33 the board of education shall be permitted to extend the contract of the
34 superintendent who holds the position at the time that the district is
35 placed under partial State intervention or is designated a high
36 performing or moderate performing district, provide 18-months notice
37 to the superintendent to modify the contract, or allow the contract in
38 effect to expire with the appropriate statutory notice pursuant to
39 subsection b. of section 4 of P.L.1991, c.267 (C.18A:17-20.1).

40 d. Not more than one year following the [reestablishment of local
41 control] placement of the district under partial State intervention or
42 designation as a high performing or moderate performing district, the
43 board shall call a special election for purposes of placing the question
44 of classification status before the voters of the district, which election
45 shall be conducted in accordance with the provisions of Title 19 of the
46 Revised Statutes concerning school elections.

47 e. If the voters of the district shall elect to become a type I
48 district, it shall be governed by the provisions of chapter 9 of Title

1 18A of the New Jersey Statutes relating to type I districts after
2 January 31 next ensuing, unless the district is established in a city of
3 the first class, in which case it shall be governed after June 30 next
4 ensuing. The members of the district board of education at the time
5 of said election shall continue in office until expiration of their
6 respective terms and the qualification in office of their successors.

7 f. If the voters of the district shall so select that the district shall
8 become a type II district, it shall be governed by the provisions of
9 chapter 9 of Title 18A relating to type II districts and the members of
10 the board of education at the time of said election shall remain and
11 continue in office until the expiration of their respective terms and the
12 qualification of their respective successors.

13 g. If the commissioner cannot recommend that [local control be
14 reestablished in a district five years after the establishment of a
15 State-operated] the school district under full State intervention be
16 placed under partial State intervention within three years, then the
17 commissioner shall provide a comprehensive report to the State board
18 and to the Governor and the Legislature, including a detailed analysis
19 of the causes for the failure of the district to [achieve certification]
20 comply with the quality performance indicators and an assessment of
21 the amount of time necessary for the continuation of the
22 [State-operated] school district under full State intervention. On the
23 basis of that report the State board shall determine whether to
24 continue the [State-operated] school district under full State
25 intervention or return the district to [local control pursuant to this
26 section] partial State intervention.

27 (cf: P.L.1995, c.278, s.25)

28

29 28. Section 17 of P.L.1987, c.399 (C.18A:7A-50) is amended to
30 read as follows:

31 17. The State district superintendent [of a State-operated school
32 district] or the person designated by the commissioner in a school
33 district under full State intervention shall develop a budget on or
34 before March 22 and shall present this budget to the board of
35 education to elicit the board's comments and recommendations. This
36 budget shall conform in all respects with the requirements of chapter
37 22 of Title 18A of the New Jersey Statutes and shall be subject to the
38 limitations on spending by local school districts otherwise required by
39 P.L.1996, c.138 (C.18A:7F-1 et al.).

40 (cf: P.L.1996, c.138, s.39)

41

42 29. Section 18 of P.L.1987, c.399 (C.18A:7A-51) is amended to
43 read as follows:

44 18. Upon the preparation of its budget, the State district
45 superintendent or the person designated by the commissioner shall fix
46 a date, place and time for the holding of a public hearing upon the
47 budget and the amounts of money necessary to be appropriated for the
48 use of the public schools for the ensuing school year, and the various

1 items and purposes for which the same are to be appropriated, which
2 hearing shall be held between March 22 and March 29. Notice of the
3 hearing, contents of the notice and the format and purpose of the
4 hearing shall be as provided in N.J.S.18A:22-11, N.J.S.18A:22-12 and
5 N.J.S.18A:22-13.

6 (cf: P.L.1995, c.278, s.40)

7

8 30. Section 19 of P.L.1987, c.399 (C.18A:7A-52) is amended to
9 read as follows:

10 19. a. After the public hearing provided for by section 18 of
11 P.L.1987, c.399 (C.18A:7A-51) but not later than April 8, the State
12 district superintendent or the person designated by the commissioner
13 shall fix and determine the amount of money necessary to be
14 appropriated for the ensuing school year and shall certify the amounts
15 to be raised by special district tax for school purposes as well as the
16 sum necessary for interest and debt redemption, if any, to the county
17 board of taxation and the amount or amounts so certified shall be
18 included in the taxes assessed, levied and collected in the municipality
19 or municipalities comprising the district. The State district
20 superintendent or the person designated by the commissioner shall
21 follow the procedures established pursuant to section 5 of P.L.1996,
22 c.138 (C.18A:7F-5).

23 b. (Deleted by amendment, P.L.1996, c.138).

24 c. (Deleted by amendment, P.L.1996, c.138).

25 (cf: P.L.1996, c.138, s.40)

26

27 31. Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended to read
28 as follows:

29 3. As used in sections 1 through 30 and 57 through 71 of this act,
30 unless the context clearly requires a different meaning:

31 "Abbott district" means an Abbott district as defined in section 3
32 of P.L.1996, c.138 (C.18A:7F-3);

33 "Area cost allowance" means \$138 per square foot for the school
34 year 2000-2001 and shall be inflated by an appropriate cost index for
35 the 2001-2002 school year. For the 2002-2003 school year and
36 subsequent school years, the area cost allowance shall be as
37 established in the biennial Report on the Cost of Providing a Thorough
38 and Efficient Education and inflated by an appropriate cost index for
39 the second year to which the report applies. The area cost allowance
40 used in determining preliminary eligible costs of school facilities
41 projects shall be that of the year of application for approval of the
42 project;

43 "Authority" means the New Jersey Economic Development
44 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

45 "Community provider" means a private entity which has contracted
46 to provide early childhood education programs for an ECPA district
47 and which (a) is licensed by the Department of Human Services to
48 provide day care services pursuant to P.L.1983, c.492 (C.30:5B-1 et

1 seq.); and (b) is a tax exempt nonprofit organization;

2 "Community early childhood education facilities project" means a
3 school facilities project consisting of facilities in which early childhood
4 education programs are provided to 3 or 4-year old children under
5 contract with the ECPA district but which are owned and operated by
6 a community provider;

7 "Commissioner" means the Commissioner of Education;

8 "Core curriculum content standards" means the standards
9 established pursuant to the provisions of subsection a. of section 4 of
10 P.L.1996, c.138 (C.18A:7F-4);

11 "Cost index" means the average annual increase, expressed as a
12 decimal, in actual construction cost factors for the New York City and
13 Philadelphia areas during the second fiscal year preceding the budget
14 year as determined pursuant to regulations promulgated by the
15 authority pursuant to section 26 of this act;

16 "Debt service" means and includes payments of principal and
17 interest upon school bonds issued to finance the acquisition of school
18 sites and the purchase or construction of school facilities, additions to
19 school facilities, or the reconstruction, remodeling, alteration,
20 modernization, renovation or repair of school facilities, including
21 furnishings, equipment, architect fees and the costs of issuance of such
22 obligations and shall include payments of principal and interest upon
23 school bonds heretofore issued to fund or refund such obligations, and
24 upon municipal bonds and other obligations which the commissioner
25 approves as having been issued for such purposes. Debt service
26 pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.),
27 P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177
28 (C.18A:58-33.2 et seq.) is excluded;

29 "Demonstration project" means a school facilities project selected
30 by the State Treasurer for construction by a redevelopment entity
31 pursuant to section 6 of this act;

32 "District" means a local or regional school district established
33 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey
34 Statutes, a county special services school district established pursuant
35 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a
36 county vocational school district established pursuant to article 3 of
37 chapter 54 of Title 18A of the New Jersey Statutes, and a
38 State-operated school district established pursuant to P.L.1987, c.399
39 (C.18A:7A-34 et seq.);

40 "District aid percentage" means the number expressed as a
41 percentage derived from dividing the district's core curriculum
42 standards aid calculated pursuant to section 15 of P.L.1996, c.138
43 (C.18A:7F-15) as of the date of the commissioner's determination of
44 preliminary eligible costs by the district's T & E budget calculated
45 pursuant to subsection d. of section 13 of P.L.1996, c.138
46 (C.18A:7F-13) as of the date of the commissioner's determination of
47 preliminary eligible costs;

48 "ECPA district" means a district that qualifies for early childhood

1 program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16);

2 "Excess costs" means the additional costs, if any, which shall be
3 borne by the district, of a school facilities project which result from
4 design factors that are not required to meet the facilities efficiency
5 standards and not approved pursuant to paragraph (1) of subsection
6 g. of section 5 of this act or are not authorized as community design
7 features included in final eligible costs pursuant to subsection c. of
8 section 6 of this act;

9 "Facilities efficiency standards" means the standards developed by
10 the commissioner pursuant to subsection h. of section 4 of this act;

11 "Final eligible costs" means for school facilities projects to be
12 constructed by the authority, the final eligible costs of the school
13 facilities project as determined by the commissioner, in consultation
14 with the authority, pursuant to section 5 of this act; for demonstration
15 projects, the final eligible costs of the project as determined by the
16 commissioner and reviewed by the authority which may include the
17 cost of community design features determined by the commissioner to
18 be an integral part of the school facility and which do not exceed the
19 facilities efficiency standards, and which were reviewed by the
20 authority and approved by the State Treasurer pursuant to section 6
21 of this act; and for districts whose district aid percentage is less than
22 55% and which elect not to have the authority construct a school
23 facilities project, final eligible costs as determined pursuant to
24 paragraph (1) of subsection h. of section 5 of this act;

25 "FTE" means a full-time equivalent student which shall be
26 calculated as follows: in districts that qualify for early childhood
27 program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16),
28 each student in grades kindergarten through 12 shall be counted at
29 100% of the actual count of students, and each preschool student
30 approved by the commissioner to be served in the district shall be
31 counted at 50% or 100% of the actual count of preschool students for
32 an approved half-day or full-day program, respectively; in districts that
33 do not qualify for early childhood program aid pursuant to section 16
34 of P.L.1996, c.138 (C.18A:7F-16), each student in grades 1 through
35 12 shall be counted at 100% of the actual count of students, in the
36 case of districts which operate a half-day kindergarten program each
37 kindergarten student shall be counted at 50% of the actual count of
38 kindergarten students, in the case of districts which operate a full-day
39 kindergarten program or which currently operate a half-day
40 kindergarten program but propose to build facilities to house a full-day
41 kindergarten program each kindergarten student shall be counted at
42 100% of the actual count of kindergarten students, and preschool
43 students shall not be counted. In addition, each preschool
44 handicapped child who is entitled to receive a full-time program
45 pursuant to N.J.S.18A:46-6 shall be counted at 100% of the actual
46 count of these students in the district;

47 "Functional capacity" means the number of students that can be
48 housed in a building in order to have sufficient space for it to be

1 educationally adequate for the delivery of programs and services
2 necessary for student achievement of the core curriculum content
3 standards. Functional capacity is determined by dividing the existing
4 gross square footage of a school building by the minimum area
5 allowance per FTE student pursuant to subsection b. of section 8 of
6 this act for the grade level students contained therein. The difference
7 between the projected enrollment determined pursuant to subsection
8 a. of section 8 of this act and the functional capacity is the unhoused
9 students that are the basis upon which the additional costs of space to
10 provide educationally adequate facilities for the entire projected
11 enrollment are determined. The existing gross square footage for the
12 purposes of defining functional capacity is exclusive of existing spaces
13 that are not contained in the facilities efficiency standards but which
14 are used to deliver programs and services aligned to the core
15 curriculum content standards, used to provide support services directly
16 to students, or other existing spaces that the district can demonstrate
17 would be structurally or fiscally impractical to convert to other uses
18 contained in the facilities efficiency standards;

19 "Lease purchase payment" means and includes payment of principal
20 and interest for lease purchase agreements in excess of five years
21 approved pursuant to subsection f. of N.J.S.18A:20-4.2 prior to the
22 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) to finance the
23 purchase or construction of school facilities, additions to school
24 facilities, or the reconstruction, remodeling, alteration, modernization,
25 renovation or repair of school facilities, including furnishings,
26 equipment, architect fees and issuance costs. Approved lease purchase
27 agreements in excess of five years shall be accorded the same
28 accounting treatment as school bonds;

29 ["Level II district" means a district which is directed by the
30 commissioner to enter level II monitoring pursuant to the provisions
31 of section 14 of P.L.1975, c.212 (C.18A:7A-14);]

32 "Local share" means, in the case of a school facilities project to be
33 constructed by the authority, the total costs less the State share as
34 determined pursuant to section 5 of this act; in the case of a
35 demonstration project, the total costs less the State share as
36 determined pursuant to sections 5 and 6 of this act; and in the case of
37 a school facilities project not to be constructed by the authority, but
38 which shall be financed pursuant to section 15 of this act, the total
39 costs less the State share as determined pursuant to that section;

40 "Local unit" means a county, municipality, board of education or
41 any other political subdivision or instrumentality authorized to
42 construct, operate and maintain a school facilities project and to
43 borrow money for those purposes pursuant to law;

44 "Local unit obligations" means bonds, notes, refunding bonds,
45 refunding notes, lease obligations and all other obligations of a local
46 unit which are issued or entered into for the purpose of paying for all
47 or a portion of the costs of a school facilities project, including
48 moneys payable to the authority;

1 "Long-range facilities plan" means the plan required to be
2 submitted to the commissioner by a district pursuant to section 4 of
3 this act;

4 "Maintenance" means expenditures which are approved for repairs
5 and replacements for the purpose of keeping a school facility open and
6 safe for use or in its original condition, including repairs and
7 replacements to a school facility's heating, lighting, ventilation,
8 security and other fixtures to keep the facility or fixtures in effective
9 working condition. Maintenance shall not include contracted custodial
10 or janitorial services, expenditures for the cleaning of a school facility
11 or its fixtures, the care and upkeep of grounds or parking lots, and the
12 cleaning of, or repairs and replacements to, movable furnishings or
13 equipment, or other expenditures which are not required to maintain
14 the original condition over the school facility's useful life. Approved
15 maintenance expenditures shall be as determined by the commissioner
16 pursuant to regulations to be adopted by the commissioner pursuant
17 to section 26 of this act;

18 "Other allowable costs" means the costs of site development,
19 acquisition of land or other real property interests necessary to
20 effectuate the school facilities project, fees for the services of design
21 professionals, including architects, engineers, construction managers
22 and other design professionals, legal fees, financing costs and the
23 administrative costs of the authority or the district incurred in
24 connection with the school facilities project;

25 "Preliminary eligible costs" means the initial eligible costs of a
26 school facilities project as calculated pursuant to the formulas set forth
27 in section 7 of this act which shall be deemed to include the costs of
28 construction and other allowable costs;

29 "Redevelopment entity" means a redevelopment entity authorized
30 by a municipal governing body to implement plans and carry out
31 redevelopment projects in the municipality pursuant to the "Local
32 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
33 seq.);

34 "Report on the Cost of Providing a Thorough and Efficient
35 Education" or "Report" means the report issued by the commissioner
36 pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4);

37 "School bonds" means, in the case of a school facilities project
38 which is to be constructed by the authority, a redevelopment entity,
39 or a district under section 15 of this act, bonds, notes or other
40 obligations issued by a district to finance the local share; and, in the
41 case of a school facilities project which is not to be constructed by the
42 authority or a redevelopment entity, or financed under section 15 of
43 this act, bonds, notes or other obligations issued by a district to
44 finance the total costs;

45 "School enrollment" means the number of FTE students other than
46 evening school students, including post-graduate students and
47 post-secondary vocational students, who, on the last school day prior
48 to October 16 of the current school year, are recorded in the registers

1 of the school;

2 "School facility" means and includes any structure, building or
3 facility used wholly or in part for academic purposes by a district, but
4 shall exclude athletic stadiums, grandstands, and any structure,
5 building or facility used solely for school administration;

6 "School facilities project" means the acquisition, demolition,
7 construction, improvement, repair, alteration, modernization,
8 renovation, reconstruction or maintenance of all or any part of a
9 school facility or of any other personal property necessary for, or
10 ancillary to, any school facility, and shall include fixtures, furnishings
11 and equipment, and shall also include, but is not limited to, site
12 acquisition, site development, the services of design professionals,
13 such as engineers and architects, construction management, legal
14 services, financing costs and administrative costs and expenses
15 incurred in connection with the project;

16 "Special education services pupil" means a pupil receiving specific
17 services pursuant to chapter 46 of Title 18A of the New Jersey
18 Statutes;

19 "State aid" means State municipal aid and State school aid;

20 "State debt service aid" means for school bonds issued for school
21 facilities projects approved by the commissioner after the effective
22 date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect not
23 to have the authority or a redevelopment entity construct the project
24 or which elect not to finance the project under section 15 of this act,
25 the amount of State aid determined pursuant to section 9 of this act;
26 and for school bonds or certificates of participation issued for school
27 facilities projects approved by the commissioner prior to the effective
28 date of P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid
29 determined pursuant to section 10 of this act;

30 "State municipal aid" means business personal property tax
31 replacement revenues, State urban aid and State revenue sharing, as
32 these terms are defined in section 2 of P.L.1976, c.38 (C.40A:3-3), or
33 other similar forms of State aid payable to the local unit and to the
34 extent permitted by federal law, federal moneys appropriated or
35 apportioned to the municipality or county by the State;

36 "State school aid" means the funds made available to school
37 districts pursuant to sections 15 and 17 of P.L.1996, c.138
38 (C.18A:7F-15 and 17);

39 "State share" means the State's proportionate share of the final
40 eligible costs of a school facilities project to be constructed by the
41 authority as determined pursuant to section 5 of this act; in the case of
42 a demonstration project, the State's proportionate share of the final
43 eligible costs of the project as determined pursuant to sections 5 and
44 6 of this act; and in the case of a school facilities project to be financed
45 pursuant to section 15 of this act, the State share as determined
46 pursuant to that section;

47 "Total costs" means, in the case of a school facilities project which
48 is to be constructed by the authority or a redevelopment entity or

1 financed pursuant to section 15 of this act, the final eligible costs plus
2 excess costs if any; and in the case of a school facilities project which
3 is not to be constructed by the authority or a redevelopment entity or
4 financed pursuant to section 15 of this act, the total cost of the project
5 as determined by the district.

6 (cf: P.L.2000, c.72, s.3)

7

8 32. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to read
9 as follows:

10 5. a. The authority shall construct and finance the school facilities
11 projects of Abbott districts, districts in level II [districts] monitoring
12 pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) as of the
13 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), and districts with
14 a district aid percentage equal to or greater than 55%.

15 b. Any district whose district aid percentage is less than 55% may
16 elect to have the authority undertake the construction of a school
17 facilities project in the district and the State share shall be determined
18 pursuant to this section. In the event that the district elects not to
19 have the authority undertake the construction of the project, State
20 support for the project shall be determined pursuant to section 9 or
21 section 15 of this act, as applicable.

22 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the
23 contrary, the procedures for obtaining approval of a school facilities
24 project shall be as set forth in this act; provided that any district whose
25 district aid percentage is less than 55%, which elects not to have the
26 authority or a redevelopment entity undertake the construction of the
27 project, shall also be required to comply with the provisions of
28 N.J.S.18A:18A-16.

29 d. Any district seeking to initiate a school facilities project shall
30 apply to the commissioner for approval of the project. The application
31 shall, at a minimum, contain the following information: a description
32 of the school facilities project; a schematic drawing of the project or,
33 at the option of the district, preliminary plans and specifications; a
34 delineation and description of each of the functional components of the
35 project; the number of unhoused students to be housed in the project;
36 the area allowances per FTE student as calculated pursuant to section
37 8 of this act; and the estimated cost to complete the project as
38 determined by the district.

39 e. The commissioner shall review each proposed school facilities
40 project to determine whether it is consistent with the district's
41 long-range facilities plan and whether it complies with the facilities
42 efficiency standards and the area allowances per FTE student derived
43 from those standards. The commissioner shall make a decision on a
44 district's application within 90 days from the date he determines that
45 the application is fully and accurately completed and that all
46 information necessary for a decision has been filed by the district, or
47 from the date of the last revision made by the district. If the
48 commissioner is not able to make a decision within 90 days, he shall

1 notify the district in writing explaining the reason for the delay and
2 indicating the date on which a decision on the project will be made,
3 provided that the date shall not be later than 60 days from the
4 expiration of the original 90 days set forth in this subsection. If the
5 decision is not made by the subsequent date indicated by the
6 commissioner, then the project shall be deemed approved and the
7 preliminary eligible costs for new construction shall be calculated by
8 using the proposed square footage of the building as the approved area
9 for unhoused students.

10 f. If the commissioner determines that the school facilities project
11 complies with the facilities efficiency standards and the district's
12 long-range facilities plan and does not exceed the area allowance per
13 FTE student derived from those standards, the commissioner shall
14 calculate the preliminary eligible costs of the project pursuant to the
15 formulas set forth in section 7 of this act; except that in the case of a
16 county special services school district or a county vocational school
17 district, the commissioner shall calculate the preliminary eligible costs
18 to equal the amount determined by the board of school estimate and
19 approved by the board of chosen freeholders pursuant to section 14 of
20 P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate.

21 g. If the commissioner determines that the school facilities project
22 is inconsistent with the facilities efficiency standards or exceeds the
23 area allowances per FTE student derived from those standards, the
24 commissioner shall notify the district.

25 (1) The commissioner shall approve area allowances in excess of
26 the area allowances per FTE student derived from the facilities
27 efficiency standards if the board of education or State district
28 superintendent, as appropriate, demonstrates that school facilities
29 needs related to required programs cannot be addressed within the
30 facilities efficiency standards and that all other proposed spaces are
31 consistent with those standards. The commissioner shall approve area
32 allowances in excess of the area allowances per FTE student derived
33 from the facilities efficiency standards if the additional area allowances
34 are necessary to accommodate centralized facilities to be shared
35 among two or more school buildings within the district and the
36 centralized facilities represent a more cost effective alternative.

37 (2) The commissioner may waive a facilities efficiency standard if
38 the board of education or State district superintendent, as appropriate,
39 demonstrates to the commissioner's satisfaction that the waiver will
40 not adversely affect the educational adequacy of the school facility,
41 including the ability to deliver the programs and services necessary to
42 enable all students to achieve the core curriculum content standards.

43 (3) To house the district's central administration, a district may
44 request an adjustment to the approved areas for unhoused students of
45 2.17 square feet for each FTE student in the projected total district
46 school enrollment if the proposed administrative offices will be housed
47 in a school facility and the district demonstrates either that the existing
48 central administrative offices are obsolete or that it is more practical

1 to convert those offices to instructional space. To the extent that
2 existing administrative space will continue to be used for
3 administrative purposes, the space shall be included in the formulas set
4 forth in section 7 of this act.

5 If the commissioner approves excess facilities efficiency standards
6 or additional area allowances pursuant to paragraph (1), (2), or (3) of
7 this subsection, the commissioner shall calculate the preliminary
8 eligible costs based upon the additional area allowances or excess
9 facilities efficiency standards pursuant to the formulas set forth in
10 section 7 of this act. In the event that the commissioner does not
11 approve the excess facilities efficiency standards or additional area
12 allowances, the district may either: modify its submission so that the
13 school facilities project meets the facilities efficiency standards; or pay
14 for the excess costs.

15 (4) The commissioner shall approve spaces in excess of, or
16 inconsistent with, the facilities efficiency standards, hereinafter
17 referred to as nonconforming spaces, upon a determination by the
18 district that the spaces are necessary to comply with State or federal
19 law concerning individuals with disabilities. A district may apply for
20 additional State aid for nonconforming spaces that will permit pupils
21 with disabilities to be educated to the greatest extent possible in the
22 same buildings or classes with their nondisabled peers. The
23 nonconforming spaces may: (a) allow for the return of pupils with
24 disabilities from private facilities; (b) permit the retention of pupils
25 with disabilities who would otherwise be placed in private facilities; (c)
26 provide space for regional programs in a host school building that
27 houses both disabled and nondisabled pupils; and (d) provide space for
28 the coordination of regional programs by a county special services
29 school district, educational services commission, jointure commission,
30 or other agency authorized by law to provide regional educational
31 services in a school building that houses both disabled and nondisabled
32 pupils. A district's State support ratio shall be adjusted to equal the
33 lesser of the sum of its district aid percentage as defined in section 3
34 of this act plus 0.25, or 100% for any nonconforming spaces approved
35 by the commissioner pursuant to this paragraph.

36 h. Upon approval of a school facilities project and determination
37 of the preliminary eligible costs:

38 (1) In the case of a district whose district aid percentage is less
39 than 55% and which has elected not to have the authority undertake
40 the construction of the school facilities project, the commissioner shall
41 notify the district whether the school facilities project is approved and,
42 if so approved, the preliminary eligible costs and the excess costs, if
43 any. Following the determination of preliminary eligible costs and the
44 notification of project approval, the district may appeal to the
45 commissioner for an increase in those costs if the detailed plans and
46 specifications completed by a design professional for the school
47 facilities project indicate that the cost of constructing that portion of
48 the project which is consistent with the facilities efficiency standards

1 and does not exceed the area allowances per FTE student exceeds the
2 preliminary eligible costs as determined by the commissioner for the
3 project by 10% or more. The district shall file its appeal within 30
4 days of the preparation of the plans and specifications. If the district
5 chooses not to file an appeal, then the final eligible costs shall equal
6 the preliminary eligible costs.

7 The appeal shall outline the reasons why the preliminary eligible
8 costs calculated for the project are inadequate and estimate the amount
9 of the adjustment which needs to be made to the preliminary eligible
10 costs. The commissioner shall forward the appeal information to the
11 authority for its review and recommendation. If the additional costs
12 are the result of factors that are within the control of the district or are
13 the result of design factors that are not required to meet the facilities
14 efficiency standards, the authority shall recommend to the
15 commissioner that the preliminary eligible costs be accepted as the
16 final eligible costs. If the authority determines the additional costs are
17 not within the control of the district or are the result of design factors
18 required to meet the facilities efficiency standards, the authority shall
19 recommend to the commissioner a final eligible cost based on its
20 experience for districts with similar characteristics, provided that,
21 notwithstanding anything to the contrary, the commissioner shall not
22 approve an adjustment to the preliminary eligible costs which exceeds
23 10% of the preliminary eligible costs. The commissioner shall make
24 a determination on the appeal within 30 days of its receipt. If the
25 commissioner does not approve an adjustment to the school facilities
26 project's preliminary eligible costs, the commissioner shall issue his
27 findings in writing on the reasons for the denial and on why the
28 preliminary eligible costs as originally calculated are sufficient.

29 (2) In all other cases, the commissioner shall promptly prepare and
30 submit to the authority a preliminary project report which shall consist,
31 at a minimum, of the following information: a complete description of
32 the school facilities project; the actual location of the project; the total
33 square footage of the project together with a breakdown of total
34 square footage by functional component; the preliminary eligible costs
35 of the project; the project's priority ranking determined pursuant to
36 subsection m. of this section; any other factors to be considered by the
37 authority in undertaking the project; and the name and address of the
38 person from the district to contact in regard to the project.

39 i. Upon receipt by the authority of the preliminary project report,
40 the authority, upon consultation with the district, shall prepare detailed
41 plans and specifications and schedules which contain the authority's
42 estimated cost and schedule to complete the school facilities project.
43 The authority shall transmit to the commissioner the authority's
44 recommendations in regard to the project which shall, at a minimum,
45 contain the detailed plans and specifications; whether the school
46 facilities project can be completed within the preliminary eligible costs;
47 and any other factors which the authority determines should be
48 considered by the commissioner.

1 (1) In the event that the authority determines that the school
2 facilities project can be completed within the preliminary eligible costs:
3 the final eligible costs shall be deemed to equal the preliminary eligible
4 costs; the commissioner shall be deemed to have given final approval
5 to the project; and the preliminary project report shall be deemed to be
6 the final project report delivered to the authority pursuant to
7 subsection j. of this section.

8 (2) In the event that the authority determines that the school
9 facilities project cannot be completed within the preliminary eligible
10 costs, prior to the submission of the authority's recommendations to
11 the commissioner, the authority shall, in consultation with the district
12 and the commissioner, determine whether changes can be made in the
13 project which will result in a reduction in costs while at the same time
14 meeting the facilities efficiency standards approved by the
15 commissioner.

16 (a) If the authority determines that changes in the school facilities
17 project are possible so that the project can be accomplished within the
18 scope of the preliminary eligible costs while still meeting the facilities
19 efficiency standards, the authority shall so advise the commissioner,
20 whereupon the commissioner shall: calculate the final eligible costs to
21 equal the preliminary eligible costs; give final approval to the project
22 with the changes noted; and issue a final project report to the authority
23 pursuant to subsection j. of this section.

24 (b) If the authority determines that it is not possible to make
25 changes in the school facilities project so that it can be completed
26 within the preliminary eligible costs either because the additional costs
27 are the result of factors outside the control of the district or the
28 additional costs are required to meet the facilities efficiency standards,
29 the authority shall recommend to the commissioner that the
30 preliminary eligible costs be increased accordingly, whereupon the
31 commissioner shall: calculate the final eligible costs to equal the sum
32 of the preliminary eligible costs plus the increase recommended by the
33 authority; give final approval to the project; and issue a final project
34 report to the authority pursuant to subsection j. of this section.

35 (c) If the additional costs are the result of factors that are within
36 the control of the district or are the result of design factors that are
37 not required to meet the facilities efficiency standards or approved
38 pursuant to paragraph (1) of subsection g. of this section, the authority
39 shall recommend to the commissioner that the preliminary eligible
40 costs be accepted, whereupon the commissioner shall: calculate the
41 final eligible costs to equal the preliminary eligible costs and specify
42 the excess costs which are to be borne by the district; give final
43 approval to the school facilities project; and issue a final project report
44 to the authority pursuant to subsection j. of this section; provided that
45 the commissioner may approve final eligible costs which are in excess
46 of the preliminary eligible costs if, in his judgment, the action is
47 necessary to meet the educational needs of the district.

48 (d) For a school facilities project constructed by the authority, the

1 authority shall be responsible for any costs of construction, but only
2 from the proceeds of bonds issued by the authority pursuant to this
3 act, which exceed the amount originally projected by the authority and
4 approved for financing by the authority, provided that the excess is the
5 result of an underestimate of labor or materials costs by the authority.
6 After receipt by the authority of the final project report, the district
7 shall be responsible only for the costs associated with changes, if any,
8 made at the request of the district to the scope of the school facilities
9 project.

10 j. The authority shall not commence the acquisition or
11 construction of a school facilities project unless the commissioner
12 transmits to the authority a final project report and the district
13 complies with the approval requirements for the local share, if any,
14 pursuant to section 11 of this act. The final project report shall
15 contain all of the information contained in the preliminary project
16 report and, in addition, shall contain: the final eligible costs; the excess
17 costs, if any; the total costs which equals the final eligible costs plus
18 excess costs, if any; the State share; and the local share.

19 k. For the Abbott districts, the State share shall be 100% of the
20 final eligible costs. For all other districts, the State share shall be an
21 amount equal to 115% of the district aid percentage; except that the
22 State share shall not be less than 40% of the final eligible costs.

23 If any district which is included in district factor group A or B,
24 other than an Abbott district, is having difficulty financing the local
25 share of a school facilities project, the district may apply to the
26 commissioner to receive 100% State support for the project and the
27 commissioner may request the approval of the Legislature to increase
28 the State share of the project to 100%.

29 l. The local share for school facilities projects constructed by the
30 authority or a redevelopment entity shall equal the final eligible costs
31 plus any excess costs less the State share.

32 m. The commissioner shall establish, in consultation with the
33 Abbott districts, a priority ranking of all school facilities projects in the
34 Abbott districts based upon his determination of critical need, and shall
35 establish priority categories for all school facilities projects in
36 non-Abbott districts. The commissioner shall rank projects from Tier
37 I to Tier IV in terms of critical need according to the following
38 prioritization:

39 Tier I: health and safety, including electrical system upgrades;
40 required early childhood education programs; unhoused students/class
41 size reduction as required to meet the standards of the
42 "Comprehensive Educational Improvement and Financing Act of
43 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.);

44 Tier II: educational adequacy - specialized instructional spaces,
45 media centers, cafeteriums, and other non-general classroom spaces
46 contained in the facilities efficiency standards; special education spaces
47 to achieve the least restrictive environment;

48 Tier III: technology projects; regionalization or consolidation

1 projects;

2 Tier IV: other local objectives.

3 n. The provisions of the "Public School Contracts Law,"
4 N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities
5 project constructed by a district but shall not be applicable to projects
6 constructed by the authority or a redevelopment entity pursuant to the
7 provisions of this act.

8 o. In the event that a district whose district aid percentage is less
9 than 55% elects not to have the authority undertake construction of a
10 school facilities project, any proceeds of school bonds issued by the
11 district for the purpose of funding the project which remain unspent
12 upon completion of the project shall be used by the district to reduce
13 the outstanding principal amount of the school bonds.

14 p. Upon completion by the authority of a school facilities project,
15 if the cost of construction and completion of the project is less than
16 the total costs, the district shall be entitled to receive a portion of the
17 local share based on a pro rata share of the difference based on the
18 ratio of the State share to the local share.

19 q. The authority shall determine the cause of any costs of
20 construction which exceed the amount originally projected by the
21 authority and approved for financing by the authority.

22 r. In the event that a district has engaged architectural services to
23 prepare the documents required for initial proposal of a school
24 facilities project, the district shall, if permitted by the terms of the
25 district's contract for architectural services, and at the option of the
26 authority assign the contract for architectural services to the authority
27 if the authority determines that the assignment would be in the best
28 interest of the school facilities project.

29 s. Notwithstanding anything to the contrary contained in
30 P.L.2000, c.72 (C.18A:7G-1 et al.), an ECPA district, at its option,
31 may provide in its long-range facilities plan submitted pursuant to
32 section 4 of this act, for one or more community early childhood
33 education facilities projects. If the district has requested designation
34 of a demonstration project pursuant to section 6 of this act and is
35 eligible to submit a plan for a community early childhood education
36 facilities project pursuant to this section, the district shall be permitted
37 to include the community early childhood education facilities project
38 as part of the demonstration project.

39 (1) An ECPA district seeking to initiate a community early
40 childhood education facilities project shall apply to the commissioner
41 for approval of the project. The application shall, at a minimum,
42 contain the following information: the name of the community
43 provider; evidence that the community provider is licensed by the
44 Department of Human Services pursuant to P.L.1983, c.492
45 (C.30:5B-1 et seq.) and is a tax exempt nonprofit organization;
46 evidence that the community provider is or shall provide early
47 childhood education programs for the district; a description of the
48 community early childhood education facilities project; a schematic

1 drawing of the project, or at the option of the district, preliminary
2 plans and specifications; a delineation and description of each of the
3 functional components of the project; identification of those portions
4 of the proposed project which shall be devoted in whole or in part to
5 the provision of early childhood education programs to 3 or 4-year old
6 children from the ECPA district; the estimated cost to complete the
7 project as determined by the district in consultation with the
8 community provider; and whether the facility provides services other
9 than early childhood education programs for 3 and 4-year old children,
10 pursuant to a contract with the ECPA district.

11 (2) The commissioner shall review the proposed early childhood
12 education facilities project to determine whether it is consistent with
13 the district's long-range facilities plan, whether it will provide a facility
14 which is structurally adequate and safe and capable of providing a
15 program which will enable preschool children being served pursuant
16 to the ECPA district's approved early childhood education operational
17 plan to meet the standards for early childhood education programs
18 established by the department and whether there is a need for
19 increased capacity or to rehabilitate existing space to meet these
20 standards. Only those facilities which are used for 3 or 4-year old
21 children pursuant to a contract with the ECPA district shall be eligible
22 for approval, provided that facilities which are jointly used by 3 or
23 4-year old children from the ECPA district and from other districts
24 shall also be eligible for approval.

25 (3) If the commissioner approves the project, the commissioner
26 shall determine, in consultation with the authority, the cost to
27 complete the approved project, which shall be the reasonable,
28 estimated cost of the renovation or new construction necessary to
29 provide a facility which is structurally adequate and safe and capable
30 of providing a program which will enable preschool children being
31 served pursuant to the ECPA district's approved early childhood
32 education operation plan to meet the standards for early childhood
33 education programs established by the department. For projects
34 initiated by an Abbott district, the State support shall be 100% of such
35 reasonable, estimated cost. For projects initiated by an ECPA district
36 that is not an Abbott district, the State support shall be an amount
37 equal to 115% of the district aid percentage of that ECPA district, of
38 such reasonable, estimated cost, except that the State support shall not
39 be less than 40% of such reasonable, estimated cost. The
40 commissioner shall issue a final project report to the authority which
41 shall contain a complete description of the project, the actual location
42 of the project, the total square footage of the project together with a
43 breakdown of total square footage by functional component; any other
44 factors to be considered by the authority in undertaking the project;
45 the names and addresses of the people to contact from the district and
46 the community provider; the amount of State support for the project;
47 and the amount of local support required from the community provider
48 to pay for costs, if any, of the project which have not been approved

1 by the commissioner for State support.

2 (4) Upon submission to the authority of a final project report, the
3 authority shall undertake the financing, acquisition, construction and
4 all other appropriate actions necessary to complete the community
5 early childhood education facilities project, provided, that if there is
6 local support required for the project, such actions shall not commence
7 until the authority receives the local support from the community
8 provider. The authority may, in its discretion, and upon consultation
9 with the commissioner, authorize a community provider to undertake
10 the acquisition, construction and all other appropriate action necessary
11 to complete the project, in which case the authority shall not provide
12 State support until the community provider provides the local support,
13 if any.

14 (5) In order to implement the arrangements established for
15 community early childhood education facilities projects, the authority
16 shall enter into an agreement with the district, the commissioner and
17 the community provider containing the terms and conditions
18 determined by the parties to be necessary to effectuate the project.

19 (6) The authority shall require as a condition of providing State
20 support for any community early childhood education facilities project
21 that the State support must be repaid by the community provider in the
22 event that (a) the commissioner determines that the project is no
23 longer being used for the purposes for which it was intended; or (b)
24 the project is sold, leased or otherwise conveyed to an individual or
25 organization that does not have tax exempt nonprofit or government
26 status.

27 (cf: P.L.2000, c.72, s.5)

28

29 33. Section 14 of P.L.2000, c.72 (C.18A:7G-14) is amended to
30 read as follows:

31 14. Notwithstanding any other provisions of law to the contrary:

32 a. The authority shall have the power, pursuant to the provisions
33 of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and
34 refunding bonds, incur indebtedness and borrow money secured, in
35 whole or in part, by moneys received pursuant to sections 17, 18 and
36 19 of this act for the purposes of: financing all or a portion of the
37 costs of school facilities projects and any costs related to the issuance
38 thereof, including, but not limited to, the administrative, insurance,
39 operating and other expenses of the authority to undertake the
40 financing, design, construction and maintenance of school facilities
41 projects; lending moneys to local units to pay the costs of all or a
42 portion of school facilities projects and any costs related to the
43 issuance thereof; funding the grants to be made pursuant to section 15
44 of this act; and financing the acquisition of school facilities projects to
45 permit the refinancing of debt by the district pursuant to section 16 of
46 this act. The aggregate principal amount of the bonds, notes or other
47 obligations issued by the facilities authority shall not exceed:
48 \$100,000,000 for the State share of costs for county vocational

1 school district school facilities projects; \$6,000,000,000 for the State
2 share of costs for Abbott district school facilities projects; and
3 \$2,500,000,000 for the State share of costs for school facilities
4 projects in all other districts. This limitation shall not include any
5 bonds, notes or other obligations issued for refunding purposes.

6 The authority may establish reserve funds to further secure bonds
7 and refunding bonds issued pursuant to this section and may issue
8 bonds to pay for the administrative, insurance and operating costs of
9 the authority in carrying out the provisions of this act. In addition to
10 its bonds and refunding bonds, the authority shall have the power to
11 issue subordinated indebtedness, which shall be subordinate in lien to
12 the lien of any or all of its bonds or refunding bonds as the authority
13 may determine.

14 b. The authority shall issue the bonds or refunding bonds in such
15 manner as it shall determine in accordance with the provisions of this
16 act and P.L.1974, c.80 (C.34:1B-1 et seq.); provided that
17 notwithstanding any other law to the contrary, no resolution adopted
18 by the authority authorizing the issuance of bonds or refunding bonds
19 pursuant to this section shall be adopted or otherwise made effective
20 without the approval in writing of the State Treasurer; and refunding
21 bonds issued to refund bonds issued pursuant to this section shall be
22 issued on such terms and conditions as may be determined by the
23 authority and the State Treasurer. The authority may, in any
24 resolution authorizing the issuance of bonds or refunding bonds issued
25 pursuant to this section, pledge the contract with the State Treasurer
26 provided for pursuant to section 18 of this act, or any part thereof, or
27 may pledge all or any part of the repayments of loans made to local
28 units pursuant to section 19 of this act for the payment or redemption
29 of the bonds or refunding bonds, and covenant as to the use and
30 disposition of money available to the authority for payment of the
31 bonds and refunding bonds. All costs associated with the issuance of
32 bonds and refunding bonds by the authority for the purposes set forth
33 in this act may be paid by the authority from amounts it receives from
34 the proceeds of the bonds or refunding bonds, and from amounts it
35 receives pursuant to sections 17, 18, and 19 of this act. The costs may
36 include, but shall not be limited to, any costs relating to the issuance
37 of the bonds or refunding bonds, administrative costs of the authority
38 attributable to the making and administering of loans and grants to
39 fund school facilities projects, and costs attributable to the agreements
40 entered into pursuant to subsection d. of this section.

41 c. Each issue of bonds or refunding bonds of the authority shall be
42 special obligations of the authority payable out of particular revenues,
43 receipts or funds, subject only to any agreements with the holders of
44 bonds or refunding bonds, and may be secured by other sources of
45 revenue, including, but not limited to, one or more of the following:

46 (1) Pledge of the revenues and other receipts to be derived from
47 the payment of local unit obligations and any other payment made to
48 the authority pursuant to agreements with any local unit, or a pledge

- 1 or assignment of any local unit obligations, and the rights and interest
2 of the authority therein;
- 3 (2) Pledge of rentals, receipts and other revenues to be derived
4 from leases or other contractual arrangements with any person or
5 entity, public or private, including one or more local units, or a pledge
6 or assignment of those leases or other contractual arrangements and
7 the rights and interests of the authority therein;
- 8 (3) Pledge of all moneys, funds, accounts, securities and other
9 funds, including the proceeds of the bonds;
- 10 (4) Pledge of the receipts to be derived from payments of State aid
11 to the authority pursuant to section 21 of this act;
- 12 (5) Pledge of the contract or contracts with the State Treasurer
13 pursuant to section 18 of this act;
- 14 (6) Pledge of any sums remitted to the local unit by donation from
15 any person or entity, public or private, subject to the approval of the
16 State Treasurer;
- 17 (7) A mortgage on all or any part of the property, real or personal,
18 comprising a school facilities project then owned or thereafter to be
19 acquired, or a pledge or assignment of mortgages made to the
20 authority by any person or entity, public or private, including one or
21 more local units and rights and interests of the authority therein; and
- 22 (8) The receipt of any grants, reimbursements or other payments
23 from the federal government.
- 24 d. The resolution authorizing the issuance of bonds or refunding
25 bonds pursuant to this section may also provide for the authority to
26 enter into any revolving credit agreement, agreement establishing a
27 line of credit or letter of credit, reimbursement agreement, interest rate
28 exchange agreement, currency exchange agreement, interest rate floor
29 or cap, options, puts or calls to hedge payment, currency, rate, spread
30 or similar exposure or similar agreements, float agreements, forward
31 agreements, insurance contracts, surety bonds, commitments to
32 purchase or sell bonds, purchase or sale agreements, or commitments
33 or other contracts or agreements and other security agreements
34 approved by the authority in connection with the issuance of the bonds
35 or refunding bonds pursuant to this section. In addition, the authority
36 may, in anticipation of the issuance of the bonds or the receipt of
37 appropriations, grants, reimbursements or other funds, including,
38 without limitation, grants from the federal government for school
39 facilities projects, issue notes, the principal of or interest on which, or
40 both, shall be payable out of the proceeds of notes, bonds or other
41 obligations of the authority or appropriations, grants, reimbursements
42 or other funds or revenues of the authority.
- 43 e. The authority is authorized to engage, subject to the approval
44 of the State Treasurer and in such manner as the State Treasurer shall
45 determine, the services of financial advisors and experts, placement
46 agents, underwriters, appraisers, and other advisors, consultants and
47 agents as may be necessary to effectuate the financing of school
48 facilities projects.

1 f. Bonds and refunding bonds issued by the authority pursuant to
2 this section shall be special and limited obligations of the authority
3 payable from, and secured by, funds and moneys determined by the
4 authority in accordance with this section. Notwithstanding any other
5 provision of law or agreement to the contrary, any bonds and
6 refunding bonds issued by the authority pursuant to this section shall
7 not be secured by the same property as bonds and refunding bonds
8 issued by the authority to finance projects other than school facilities
9 projects. Neither the members of the authority nor any other person
10 executing the bonds or refunding bonds shall be personally liable with
11 respect to payment of interest and principal on these bonds or
12 refunding bonds. Bonds or refunding bonds issued pursuant to this
13 section shall not be a debt or liability of the State or any agency or
14 instrumentality thereof, except as otherwise provided by this
15 subsection, either legal, moral or otherwise, and nothing contained in
16 this act shall be construed to authorize the authority to incur any
17 indebtedness on behalf of or in any way to obligate the State or any
18 political subdivision thereof, and all bonds and refunding bonds issued
19 by the authority shall contain a statement to that effect on their face.

20 g. The State hereby pledges and covenants with the holders of any
21 bonds or refunding bonds issued pursuant to this act that it will not
22 limit or alter the rights or powers vested in the authority by this act,
23 nor limit or alter the rights or powers of the State Treasurer in any
24 manner which would jeopardize the interest of the holders or any
25 trustee of the holders, or inhibit or prevent performance or fulfillment
26 by the authority or the State Treasurer with respect to the terms of any
27 agreement made with the holders of the bonds or refunding bonds or
28 agreements made pursuant to subsection d. of this section; except that
29 the failure of the Legislature to appropriate moneys for any purpose
30 of this act shall not be deemed a violation of this section.

31 h. The authority may charge to and collect from local units,
32 districts, the State and any other person, any fees and charges in
33 connection with the authority's actions undertaken with respect to
34 school facilities projects, including, but not limited to, fees and charges
35 for the authority's administrative, organization, insurance, operating
36 and other expenses incident to the financing, planning, design,
37 construction management, acquisition, construction, completion and
38 placing into service and maintenance of school facilities projects.
39 Notwithstanding any provision of this act to the contrary, no district
40 in Level II [district] monitoring pursuant to section 14 of P.L.1975,
41 c.212 (C.18A:7A-14) as of the effective date of P.L.2000, c.72
42 (C.18A:7G-1 et al.), or a district whose district aid percentage is
43 greater than or equal to 55% but less than 100% shall be responsible
44 for the payment of any fees and charges related to the authority's
45 operating expenses.

46 (cf: P.L.2000, c.72, s.14)

47

48 34. Section 2 of P.L.1979, c.294 (C.18A:22-8.1) is amended to

1 read as follows:

2 2. Except as otherwise provided pursuant to this section,
3 whenever a school district desires to transfer amounts among line
4 items and program categories, the transfers shall be by resolution of
5 the board of education approved by a two-thirds affirmative vote of
6 the authorized membership of the board; however, a board may, by
7 resolution, designate the chief school administrator to approve such
8 transfers as are necessary between meetings of the board. Transfers
9 approved by the chief school administrator shall be reported to the
10 board, ratified and duly recorded in the minutes at a subsequent
11 meeting of the board, but not less than monthly. Transfers of surplus
12 amounts or any other unbudgeted or underbudgeted revenue to line
13 items and program categories shall require the approval of the
14 Commissioner of Education and shall only be approved between April
15 1 and June 30 for line items and program categories necessary to
16 achieve the thoroughness standards established pursuant to subsection
17 a. of section 4 of P.L.1996, c.138 (C18A:7F-4); except that upon a
18 two-thirds affirmative vote of the authorized membership of a board
19 of education, the board may petition the commissioner for authority to
20 transfer such revenue prior to April 1 due to an emergent circumstance
21 and the commissioner may authorize the transfer if he determines that
22 the transfer is necessary to meet such emergency. Transfers from any
23 general fund appropriation account that, on a cumulative basis, exceed
24 10% of the amount of the account included in the school district's
25 budget as certified for taxes shall require the approval of the
26 commissioner. In a school district wherein the Commissioner of
27 Education has directed [a comprehensive compliance investigation]
28 an in-depth evaluation pursuant to subsection e. of section 14 of
29 P.L.1975, c.212 (C.18A:7A-14), the board of education shall obtain
30 the written approval of the county superintendent of schools prior to
31 implementing any board authorized transfer of funds.
32 (cf: P.L.2004, c.73, s.6)

33
34 35. Section 67 of P.L.2002, c.43 (C.52:27BBB-63) is amended to
35 read as follows:

36 67. a. The membership of the board of education serving in a
37 school district which is contiguous with a qualified municipality and
38 which is subject to level II monitoring or level III monitoring pursuant
39 to section 14 of P.L.1975, c.212 (C.18A:7A-14) prior to the effective
40 date of P.L. , c. (now pending before the Legislature as this bill)
41 shall be increased as set forth in this section in order to ensure the
42 State's and the municipality's ability to participate in the activities of
43 the board. The membership of the board of education serving in a
44 school district which is contiguous with a qualified municipality so
45 designated after the effective date of P.L. , c. (now pending before
46 the Legislature as this bill) and which is directed to enter partial State
47 intervention pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14)
48 shall be increased as set forth in this section in order to ensure the

1 State's and the municipality's ability to participate in the activities of
2 the board. Board members appointed by the Governor or mayor shall
3 be voting members of the board and shall have all the rights, powers
4 and privileges of a member of the board. Members appointed by the
5 Governor or mayor shall serve at the pleasure of the Governor or
6 mayor, as appropriate. Any vacancy in the membership appointed by
7 the Governor or mayor shall be filled in the same manner as the
8 original appointment, but for the unexpired term only. The first
9 members appointed by the Governor shall serve for a term
10 commencing upon appointment and qualification and ending three
11 years from the date that the number of members of the board returns
12 to the number on the board prior to the designation of the qualified
13 municipality. Members appointed thereafter shall serve for a term of
14 three years as provided in this section.

15 In order to ensure substantial local representation on any such
16 board, in no case shall the number of the positions appointed by the
17 mayor and elected by the voters, combined, constitute less than a
18 majority of the total positions on the board. This section shall not
19 apply to State-operated school districts established pursuant to
20 P.L.1987, c.399 (C.18A:7A-34 et seq.) prior to the effective date of
21 P.L. , c. (now pending before the Legislature as this bill) or a
22 district under full State intervention established pursuant to P.L.1987,
23 c.399 (C.18A:7A-34 et seq.) after the effective date of P.L. ,
24 c. (now pending before the Legislature as this bill).

25 b. The membership of a type I board of education in a qualified
26 municipality consisting of five members shall be temporarily increased
27 to include two additional members to be appointed by the Governor
28 upon receipt of notification by the Commissioner of Education
29 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of
30 three years, as set forth in subsection a. of this section. The first two
31 positions on the board, the terms of which expire after the designation
32 of a qualified municipality, shall be abolished upon expiration of their
33 terms and shall not be filled by mayoral appointments so that the total
34 membership of the board returns to five members. The Governor shall
35 continue to make appointments to fill the positions held by the
36 gubernatorial appointees, when their terms expire or when a vacancy
37 occurs, until after the tenth year following the designation of the
38 qualified municipality. Beginning in the first year following the tenth
39 year after the designation of the qualified municipality, vacancies
40 resulting from the expiration of a term, or for any other reason, in any
41 position on the board filled by gubernatorial appointment shall be filled
42 in the same manner as provided before the designation of the qualified
43 municipality.

44 c. The membership of a type I board of education in a qualified
45 municipality consisting of seven members shall be temporarily
46 increased to include three additional members to be appointed by the
47 Governor upon receipt of notification by the Commissioner of
48 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)

1 for a term of three years, as set forth in subsection a. of this section.
2 The first three positions on the board, the terms of which expire after
3 the designation of a qualified municipality, shall be abolished upon
4 expiration of their terms and shall not be filled by mayoral
5 appointments so that the total membership of the board returns to
6 seven members. The Governor shall continue to make appointments
7 to fill the positions held by gubernatorial appointees, when their terms
8 expire or when a vacancy occurs, until after the tenth year following
9 the designation of the qualified municipality. Beginning in the first
10 year following the tenth year after the designation of the qualified
11 municipality, vacancies resulting from the expiration of a term, or for
12 any other reason, in any position on the board filled by gubernatorial
13 appointment shall be filled in the same manner as provided before the
14 designation of the qualified municipality.

15 d. The membership of a type I board of education in a qualified
16 municipality consisting of nine members shall be temporarily increased
17 to include three additional members to be appointed by the Governor
18 upon receipt of notification by the Commissioner of Education
19 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of
20 three years as set forth in subsection a. of this section. The first three
21 positions on the board, the terms of which expire after the designation
22 of a qualified municipality, shall be abolished upon expiration of their
23 terms and shall not be filled by mayoral appointments so that the total
24 membership of the board returns to nine members. The Governor shall
25 continue to make appointments to fill the positions held by
26 gubernatorial appointees, when their terms expire or when a vacancy
27 occurs, until after the tenth year following the designation of the
28 qualified municipality. Beginning in the first year following the tenth
29 year after the designation of the qualified municipality, vacancies
30 resulting from the expiration of a term, or for any other reason, in any
31 position on the board filled by gubernatorial appointment shall be filled
32 in the same manner as provided before the designation of the qualified
33 municipality.

34 e. The membership of a type II board of education in a qualified
35 municipality consisting of three members shall be temporarily
36 increased to include one additional member to be appointed by the
37 Governor upon receipt of notification by the Commissioner of
38 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)
39 for a term of three years as set forth in subsection a. of this section.
40 The first position on the board, the term of which expires after the
41 designation of a qualified municipality, shall be abolished upon
42 expiration of its term and shall not be filled in the same manner as
43 provided before the designation of the qualified municipality so that
44 the total membership of the board returns to three members. The
45 Governor shall continue to make appointments to fill the position held
46 by a gubernatorial appointee when the term expires or when a vacancy
47 occurs, until after the tenth year following the designation of the
48 qualified municipality. Beginning in the first year following the tenth

1 year after the designation of the qualified municipality, a vacancy
2 resulting from the expiration of the term in the position on the board
3 filled by gubernatorial appointment shall be filled in the same manner
4 as provided before the designation of the qualified municipality.

5 The second position on the board, the term of which expires after
6 the designation of a qualified municipality, shall be abolished upon
7 expiration of its term and shall not be filled in the same manner as
8 provided before the designation of the qualified municipality. Instead,
9 the vacancy shall be filled by a mayoral appointment as described in
10 subsection a. of this section so that the total membership of the board
11 remains at three. Mayoral appointees shall serve for a term of three
12 years. The mayor shall continue to make appointments to fill the
13 position held by a mayoral appointee when the term expires or when
14 a vacancy occurs, until after the tenth year following the designation
15 of the qualified municipality. Beginning in the first year following the
16 tenth year after the designation of the qualified municipality, a vacancy
17 resulting from the expiration of the term in the position on the board
18 filled by mayoral appointment shall be filled in the same manner as
19 provided before the designation of the qualified municipality.

20 f. The membership of a type II board of education in a qualified
21 municipality consisting of five members shall be temporarily increased
22 to include two additional members to be appointed by the Governor
23 upon receipt of notification by the Commissioner of Education
24 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of
25 three years as set forth in subsection a. of this section. The first two
26 positions on the board, the terms of which expire after the designation
27 of a qualified municipality, shall be abolished upon expiration of their
28 terms and shall not be filled in the same manner as provided before the
29 designation of the qualified municipality so that the total membership
30 of the board returns to five members. The Governor shall continue to
31 make appointments to fill the positions held by gubernatorial
32 appointees when the terms expire or when a vacancy occurs, until after
33 the tenth year following the designation of the qualified municipality.
34 Beginning in the first year following the tenth year after the
35 designation of the qualified municipality, vacancies resulting from the
36 expiration of a term in any position on the board filled by gubernatorial
37 appointment shall be filled in the same manner as provided before the
38 designation of the qualified municipality.

39 The third position on the board, the term of which expires after the
40 designation of a qualified municipality, shall be abolished upon
41 expiration of its term and shall not be filled in the same manner as
42 provided before the designation of the qualified municipality. Instead,
43 the vacancy shall be filled by a mayoral appointment as described in
44 subsection a. of this section so that the total membership of the board
45 remains at five. Mayoral appointees shall serve for a term of three
46 years. The mayor shall continue to make appointments to fill the
47 position held by a mayoral appointee when the term expires or when
48 a vacancy occurs, until after the tenth year following the designation

1 of the qualified municipality. Beginning in the first year following the
2 tenth year after the designation of the qualified municipality, a vacancy
3 resulting from the expiration of the term in the position on the board
4 filled by mayoral appointment shall be filled in the same manner as
5 provided before the designation of the qualified municipality.

6 g. The membership of a type II board of education in a qualified
7 municipality consisting of seven members shall be temporarily
8 increased to include three additional members to be appointed by the
9 Governor upon receipt of notification by the Commissioner of
10 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)
11 for a term of three years as set forth in subsection a. of this section.
12 The first three positions on the board, the terms of which expire after
13 the designation of a qualified municipality, shall be abolished upon
14 expiration of their terms and shall not be filled in the same manner as
15 provided before the designation of the qualified municipality so that
16 the total membership of the board returns to seven members. The
17 Governor shall continue to make appointments to fill the positions held
18 by gubernatorial appointees when the terms expire or when a vacancy
19 occurs, until after the tenth year following the designation of the
20 qualified municipality. Beginning in the first year following the tenth
21 year after the designation of the qualified municipality, vacancies
22 resulting from the expiration of a term in any position on the board
23 filled by gubernatorial appointment shall be filled in the same manner
24 as provided before the designation of the qualified municipality.

25 The fourth and fifth positions on the board, the terms of which
26 expire after the designation of a qualified municipality, shall be
27 abolished upon expiration of their terms and shall not be filled in the
28 same manner as provided before the designation of the qualified
29 municipality. Instead, the vacancies shall be filled by mayoral
30 appointments as described in subsection a. of this section so that the
31 total membership of the board remains at seven. Mayoral appointees
32 shall serve for a term of three years. The mayor shall continue to
33 make appointments to fill the positions held by mayoral appointees
34 when the terms expire or when a vacancy occurs, until after the tenth
35 year following the designation of the qualified municipality. Beginning
36 in the first year following the tenth year after the designation of the
37 qualified municipality, vacancies resulting from the expiration of a
38 term in any position on the board filled by mayoral appointment shall
39 be filled in the same manner as provided before the designation of the
40 qualified municipality.

41 h. The membership of a type II board of education in a qualified
42 municipality consisting of nine members shall be temporarily increased
43 to include three additional members to be appointed by the Governor
44 upon receipt of notification by the Commissioner of Education
45 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of
46 three years as set forth in subsection a. of this section. The first three
47 positions on the board, the terms of which expire after the designation
48 of a qualified municipality, shall be abolished upon expiration of their

1 terms and shall not be filled in the same manner as provided before the
2 designation of the qualified municipality so that the total membership
3 of the board returns to nine members. The Governor shall continue to
4 make appointments to fill the positions held by gubernatorial
5 appointees when the terms expire or when a vacancy occurs, until after
6 the tenth year following the designation of the qualified municipality.
7 Beginning in the first year following the tenth year after the
8 designation of the qualified municipality, vacancies resulting from the
9 expiration of a term in any position on the board filled by gubernatorial
10 appointment shall be filled in the same manner as provided before the
11 designation of the qualified municipality.

12 The fourth, fifth and sixth positions on the board, the terms of
13 which expire after the designation of a qualified municipality, shall be
14 abolished upon expiration of their terms and shall not be filled in the
15 same manner as provided before the designation of the qualified
16 municipality. Instead, the vacancies shall be filled by mayoral
17 appointment as described in subsection a. of this section so that the
18 total membership of the board remains at nine. Mayoral appointees
19 shall serve for a term of three years. The mayor shall continue to
20 make appointments to fill the positions held by mayoral appointees
21 when the terms expire or when a vacancy occurs, until after the tenth
22 year following the designation of the qualified municipality. Beginning
23 in the first year following the tenth year after the designation of the
24 qualified municipality, vacancies resulting from the expiration of a
25 term in any position on the board filled by mayoral appointment shall
26 be filled in the same manner as provided before the designation of the
27 qualified municipality.

28 i. At all times the board of education and its membership shall
29 comply with the requirements of the "Open Public Meetings Act,"
30 P.L.1975, c.231 (C.10:4-6 et seq.) and the "School Ethics Act,"
31 P.L.1991, c.393 (C.18A:12-21 et seq.), and meet the requirements and
32 qualifications for board membership established pursuant to chapter 12
33 of Title 18A of the New Jersey Statutes.

34 (cf: P.L.2002, c.108, s.13)

35

36 36. (New section) If the State board, upon the recommendation
37 of the commissioner, decides not to appoint a State district
38 superintendent in a school district under full State intervention, then
39 the commissioner shall designate a person who may exercise the
40 powers and authorities set forth in chapter 7A of Title 18A of the
41 New Jersey Statutes in accordance with the improvement plan.

42

43 37. (New section) a. A district which has been certified as a
44 Level I district by the State Board of Education as of the effective date
45 of this act, shall, in accordance with a schedule established by the
46 commissioner, be evaluated by the commissioner in the five key
47 components of school district effectiveness as set forth in section 10
48 of P.L.1975, c.212 (C.18A:7A-10). Based on a district's compliance

1 with the quality performance indicators, the commissioner shall assess
2 district effectiveness and place the district on the performance
3 continuum.

4 b. A State-operated district or a district which has been certified
5 as a Level II or a Level III district by the State Board of Education as
6 of the effective date of this act, shall be evaluated by a team of highly
7 skilled professionals in the five key components of school district
8 effectiveness as set forth in section 10 of P.L.1975, c.212 (C.18A:7A-
9 10). The evaluation shall be completed within 45 days of the date on
10 which rules promulgated by the State Board of Education pursuant to
11 section 39 of this act become effective. The commissioner shall
12 establish a process for the receipt of comments from the public during
13 the evaluation. The commissioner shall provide a report of the
14 evaluation to the district within 15 days of the completion of the
15 evaluation. The report shall contain the commissioner's determination
16 of the district's placement on the performance continuum. The district
17 shall have 30 days from the date of receipt of the report to appeal the
18 placement decision to the commissioner. The commissioner shall
19 make a recommendation to the State Board of Education if the
20 recommendation is to place the district under partial or full State
21 intervention. The commissioner and State board shall take whatever
22 action is appropriate based on the district's placement on the
23 performance continuum.

24 c. If a State-operated school district evaluated pursuant to
25 subsection b. of this section successfully meets the quality performance
26 indicators for the governance component of school district
27 effectiveness, then three years following the State's withdrawal from
28 intervention, the board of education shall call a special election for
29 purposes of placing the question of classification status before the
30 voters of the district, which election shall be conducted in accordance
31 with the provisions of Title 19 of the Revised Statutes concerning
32 school elections.

33 If the voters of the district elect to become a type I district, it shall
34 be governed by the provisions of chapter 9 of Title 18A of the New
35 Jersey Statutes relating to type I districts after January 31 next
36 ensuing, unless the district is established in a city of the first class, in
37 which case it shall be governed after June 30 next ensuing. The
38 members of the district board of education at the time of said election
39 shall continue in office until expiration of their respective terms and
40 the qualification in office of their successors.

41 If the voters of the district elect to become a type II district, it shall
42 be governed by the provisions of chapter 9 of Title 18A relating to
43 type II districts and the members of the board of education at the time
44 of said election shall remain and continue in office until the expiration
45 of their respective terms and the qualification of their respective
46 successors.

47 d. The board of education of a State-operated school district that
48 successfully meets the quality performance indicators for the

1 governance component of school district effectiveness shall be
2 permitted to extend the contract of the superintendent who holds the
3 position at the time of the evaluation conducted pursuant to subsection
4 b. of this section, provide 18-months notice to the superintendent to
5 modify the contract, or allow the contract in effect to expire with the
6 appropriate statutory notice pursuant to subsection b. of section 4 of
7 P.L.1991, c.267 (C.18A:17-20.1).

8
9 38. (New section) Within one year of the effective date of P.L.,
10 c. (C.) (now pending before the Legislature as this bill), the
11 Commissioner of Education shall submit a report to the Joint
12 Committee on the Public Schools concerning the Department of
13 Education's progress in implementing the New Jersey Quality Single
14 Accountability Continuum and the capacity of the Department of
15 Education to provide the necessary technical assistance and support to
16 school districts in implementing required improvement plans. The
17 report shall outline the needs of the department for any additional
18 resources that may be required based on the department's experience
19 in implementing the accountability system.

20
21 39. The State Board of Education shall promulgate rules pursuant
22 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
23 et seq.), to effectuate the provisions of this act.

24
25 40. The following sections are hereby repealed:

26 Section 1 of P.L.1991, c.3 (C.18A:7A-14.1);

27 P.L.1997, c.432 (C.18A:7A-14.3 et seq.);

28 Section 2 of P.L.1987, c.400 (C.18A:7A-31.1);

29 Section 5 of P.L.1987, c.400 (C.18A:7A-31.4);

30 Section 15 of P.L.1987, c.399 (C.18A:7A-48).

31
32 41. This act shall take effect immediately.

33
34
35
36
37 Establishes New Jersey Quality Single Accountability Continuum (NJ
38 QSAC), a new State monitoring system for public school districts.

SENATE, No. 1431

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MARCH 29, 2004

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

Co-Sponsored by:

Senator Turner

SYNOPSIS

Establishes New Jersey Quality Single Accountability Continuum (NJ QSAC), a new State monitoring system for public school districts.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/9/2004)

1 AN ACT concerning school district monitoring and amending and
2 supplementing chapter 7A of Title 18A of the New Jersey Statutes.

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

6
7 1. Section 3 of P.L.1975, c.212 (C.18A:7A-3) is amended to read
8 as follows:

9 3. For the purposes of this act, unless the context clearly requires
10 a different meaning:

11 "Administrative order" means a written directive ordering specific
12 corrective action by a district which has shown insufficient
13 [educational progress within a reasonable period of time in meeting
14 goals and standards] compliance with the quality performance
15 indicators.

16 "Joint Committee on the Public Schools" means the committee
17 created pursuant to P.L.1975, c.16 (C.52:9R-1 et seq.).

18 "Targeted assistance" means the assistance provided to a school
19 district in a specific area to support the teaching and learning process
20 and overall district effectiveness.

21 "Technical assistance" means guidance and support provided to a
22 school district to enable the district to meet State and federal policy
23 and regulatory requirements and to ensure the provision of a thorough
24 and efficient education.

25 (cf: P.L.1996, c.138, s.34)

26
27 2. Section 10 of P.L.1975, c.212 (C.18A:7A-10) is amended to
28 read as follows:

29 10. For the purpose of evaluating the thoroughness and efficiency
30 of all the public schools of the State, the commissioner, with the
31 approval of the State board and after review by the Joint Committee
32 on the Public Schools, shall develop and administer [a uniform,
33 Statewide system] the New Jersey Quality Single Accountability
34 Continuum for evaluating the performance of each school. The system
35 shall be based on [such means as the commissioner deems proper in
36 order to (a) determine pupil status and needs, (b) ensure pupil
37 progress, and (c) assess the degree to which the thoroughness and
38 efficiency standards established pursuant to section 4 of P.L.1996,
39 c.138 (C.18A:7F-4) are being achieved] an evaluation of the
40 following five key components of school district effectiveness:
41 instructional and program; personnel; fiscal management; operations;
42 and governance. A school district's effectiveness shall be determined

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 using quality performance indicators comprised of standards for each
2 of the five key components of school district effectiveness. Based on
3 a district's compliance with the indicators, the commissioner shall
4 assess district effectiveness and place the district on a performance
5 continuum that will determine the type and level of oversight and
6 technical assistance and support the district receives.

7 (cf: P.L.1996, c.138, s.35)

8

9 3. Section 11 of P.L.1975, c.212 (C.18A:7A-11) is amended to
10 read as follows:

11 11. Each school district and county vocational school district shall
12 make an annual report of its progress in [conforming to the standards
13 for the evaluation of school performance] complying with the quality
14 performance indicators adopted pursuant to section 10 of P.L.1975,
15 c.212 (C.18A:7A-10). [Each district's annual report shall include but
16 not be limited to:

17 a. Demographic data related to each school;

18 b. Results of designated assessment programs, including Statewide
19 assessment programs established pursuant to law and regulation;

20 c. Information on each school's fiscal operation, including the
21 budget of each school;

22 d. (Deleted by amendment, P.L.1996, c.138).

23 e. Plans and programs for professional improvement;

24 f. Plans to carry out innovative educational programs designed to
25 improve the quality of education;

26 g. Recommendations for school improvements during the ensuing
27 year; and

28 h. Such additional information as may be prescribed by the
29 commissioner.]

30 The district reports shall be submitted to the commissioner annually
31 on a date [to be] and in such form as prescribed by the commissioner,
32 who shall make them the basis for an annual report to the Governor
33 and the Legislature, describing the condition of education in New
34 Jersey, the efforts of New Jersey schools in meeting the standards of
35 a thorough and efficient education, the steps underway to correct
36 deficiencies in school performance, and the progress of New Jersey
37 schools in comparison to other state education systems in the United
38 States.

39 (cf: P.L.2000, c.72, s.31)

40

41 4. Section 14 of P.L.1975, c.212 (C.18A:7A-14) is amended to
42 read as follows:

43 14. a. (1) The commissioner shall review the results of the
44 [evaluations conducted and reports] report submitted pursuant to
45 sections 10 and 11 of P.L.1975, c.212 (C.18A:7A-10 and 18A:7A-11)
46 and determine where on the performance continuum the district shall

1 be placed. The commissioner shall establish a mechanism for parent,
2 school employee and community resident input into the review
3 process. If the commissioner [~~shall find~~] finds that a school district
4 or county vocational school district [~~satisfies the evaluation criteria~~]
5 is 80 percent to 100 percent compliant with the quality performance
6 indicators, the commissioner shall issue to the district a letter of
7 recognition designating the district as a high performing district,
8 provided that the district has submitted to the department a statement
9 of assurance which attests that the contents of the report are valid.
10 The commissioner shall recommend that the State board certify the
11 school district for a period of seven years as providing a thorough and
12 efficient system of education, contingent on continued progress in
13 meeting the [~~standards~~] quality performance indicators. [If the
14 commissioner finds that a school district can correct the deficiency or
15 deficiencies without additional diagnostic monitoring or technical
16 assistance, the commissioner may certify the school district with the
17 condition that the district correct the deficiency within a period of time
18 to be determined by the commissioner. If the commissioner shall find
19 that a school district has failed to show sufficient progress toward
20 achieving the thoroughness and efficiency standards established
21 pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4), the
22 commissioner shall advise the local board of education of that
23 determination, and shall direct that the district enter level II
24 monitoring, as defined pursuant to law and regulation. Nothing herein
25 shall preclude the commissioner from taking the steps set forth in
26 section 6 of P.L.1996, c.138 (C.18A:7F-6) upon a finding that the
27 district is failing to meet core curriculum content standards.

28 (2) The board of education of a school district which is directed to
29 enter level II monitoring may appeal that decision to the State Board
30 of Education. The State board may refer the hearing of that appeal to
31 a committee of not less than three of its members, which committee
32 shall hear the appeal and report thereon, recommending its
33 conclusions, to the board and the board shall decide the appeal by
34 resolution in open meeting. A determination of the appeal by the State
35 board shall be considered final.]

36 b. [(1) When a district enters level II monitoring, the commissioner
37 shall establish procedures whereby parents, school employees and
38 community residents may meet with the commissioner or the
39 commissioner's designee to discuss their concerns and the county
40 superintendent shall appoint an external review team whose members
41 shall be qualified by training and experience to examine the conditions
42 in the specific district. In conjunction with the Department of
43 Education, the team, at the direction of the commissioner, shall either
44 examine only those aspects of the district's operations bearing on the
45 areas of deficiency, or shall examine all aspects of the district's
46 operation, including but not limited to education, governance,

1 management and finance. In addition, the team shall examine
2 conditions in the community which may adversely affect the ability of
3 the pupils to learn and the team may recommend measures to mitigate
4 the effects of those conditions. The team shall report its findings and
5 conclusions, including directives to be utilized by the district in the
6 preparation of a corrective action plan to achieve certification and
7 recommendations as to the technical assistance which the district will
8 require in order to effectively implement the corrective action plan, to
9 the commissioner. The commissioner shall direct the district to
10 respond to the report of the external review team in establishing a
11 corrective action plan. The corrective action plan shall be submitted
12 to and approved by the commissioner. The commissioner shall assure
13 that the local district's budget provides the resources necessary to
14 implement the approved plan, including the necessary technical
15 assistance. The entire cost of those activities associated with the
16 review team shall be paid by the Department of Education. The
17 commissioner shall also have the authority to order necessary
18 budgetary reallocations within the district, or such other measures as
19 he deems necessary and appropriate. Further, nothing herein shall
20 preclude the commissioner from taking the steps set forth in section 6
21 of P.L.1996, c.138 (C.18A:7F-6) upon a finding that the district is
22 failing to meet core curriculum content standards.

23 (2) If the commissioner finds that the district is unsuccessful in
24 correcting the deficiencies noted in the evaluation process, the
25 commissioner shall direct that the district enter level III monitoring, as
26 defined pursuant to law and regulation. However, if the commissioner
27 determines that a district is making reasonable progress toward
28 correcting deficiencies, the commissioner may grant an extension for
29 a specific period of time. During this extension the district will remain
30 under level II monitoring. At the end of the extension the
31 commissioner shall determine whether the district is eligible for
32 certification or if the district must be directed to enter level III
33 monitoring.] If a school district is 50 percent to 79 percent compliant
34 with the quality performance indicators, the district shall be considered
35 a performing district. The commissioner shall require the district to
36 develop an improvement plan that addresses the quality performance
37 indicators with which the district has not complied. The improvement
38 plan shall be submitted to and approved by the commissioner. In
39 accordance with the improvement plan, the commissioner shall provide
40 targeted assistance, technical assistance, or both, to the district. If
41 necessary, the commissioner may authorize an in-depth examination of
42 the district to determine the causes for the district's noncompliance
43 with the quality performance indicators.

44 If a district effectively implements its improvement plan and is able
45 to attain 80 to 100 percent compliance with the quality performance
46 indicators through the interventions set forth in this subsection, the

1 commissioner shall issue the district a letter of recognition designating
2 the district as a high performing district. The commissioner shall
3 recommend that the State board certify the school district for a period
4 of seven years as providing a thorough and efficient system of
5 education, contingent on continued progress in meeting the quality
6 performance indicators. If the district has not effectively implemented
7 its improvement plan and has not attained 80 to 100 percent
8 compliance with the quality performance indicators through the
9 interventions set forth in this subsection, the commissioner shall issue
10 the district a letter detailing the areas in which the district remains
11 deficient. The district shall report to the department on a periodic
12 basis as determined by the commissioner and the reports shall detail
13 the district's progress in implementing the improvement plan.

14 c. [(1) When a district which has had a comprehensive
15 examination of all aspects of the district's operations by an external
16 review team pursuant to subsection b. of this section is directed to
17 enter level III monitoring the commissioner shall prepare an
18 administrative order directing the corrective actions which shall be
19 taken by the district based upon the findings and conclusions of the
20 level II external review team and the department's monitoring of the
21 level II plan. The commissioner shall insure that technical assistance
22 is provided to the district in order to implement those actions. The
23 commissioner shall also have the power to order necessary budgetary
24 reallocations within the district, or such other measures as the
25 commissioner deems necessary and appropriate. Further, nothing
26 herein shall preclude the commissioner from taking the steps set forth
27 in section 6 of P.L.1996, c.138 (C.18A:7F-6) upon a finding that the
28 district is failing to meet core curriculum content standards.

29 (2) When a district which has not had a comprehensive examination
30 of all aspects of the district's operations by an external review team
31 pursuant to subsection b. of this section is directed to enter level III
32 monitoring, the commissioner shall designate the county
33 superintendent to appoint an external review team whose members
34 shall be qualified by training and experience to examine the conditions
35 in the specific district. In conjunction with the Department of
36 Education, the team shall examine all aspects of the district's
37 operations including but not limited to education, governance,
38 management and finance. The team shall report its findings and
39 conclusions, including directives to be utilized in the preparation of a
40 corrective action plan to achieve certification, to the commissioner.
41 The commissioner shall prepare an administrative order directing the
42 corrective actions which shall be taken by the district based upon the
43 findings and conclusions of the level III external review team and the
44 department's monitoring of the level II plan. The commissioner shall
45 insure that technical assistance is provided to the district in order to
46 implement those actions. The commissioner shall also have the power

1 to order necessary budgetary reallocations within the district, or such
2 other measures as the commissioner deems necessary and appropriate.
3 Further, nothing herein shall preclude the commissioner from taking
4 the steps set forth in section 6 of P.L.1996, c.138 (C.18A:7F-6) upon
5 a finding that the district is not meeting core curriculum content
6 standards.

7 (3) The board of education of a school district which is directed to
8 enter level III monitoring may appeal that decision to the State Board
9 of Education. The State board may refer the hearing of that appeal to
10 a committee of not less than three of its members, which committee
11 shall hear the appeal and report thereon, recommending its
12 conclusions, to the board and the board shall decide the appeal by
13 resolution in open meeting. A determination of the appeal by the State
14 board shall be considered final.

15 (4) If the commissioner finds, based upon the findings and
16 directives of the level II or level III review team and the Department
17 of Education, that conditions within the district may preclude the
18 successful implementation of a corrective action plan or that the
19 district has failed to make reasonable progress in the implementation
20 of a corrective action plan to achieve certification, the commissioner
21 shall direct that a comprehensive compliance investigation be
22 conducted by the Department of Education. If the commissioner
23 directs that a comprehensive compliance investigation be conducted,
24 the commissioner may order any necessary action to insure the security
25 of the books, papers, vouchers and records of the district.] (1) If a
26 school district is less than 50 percent compliant with the quality
27 performance indicators in four or fewer of the five key components of
28 school district effectiveness, the commissioner shall direct the district
29 to enter partial State control. The board of education of a school
30 district which is directed to enter partial State control may appeal that
31 decision to the State Board of Education. The State board may refer
32 the hearing of that appeal to a committee of not less than three of its
33 members, which committee shall hear the appeal and report thereon,
34 recommending its conclusions, to the board and the board shall decide
35 the appeal by resolution in open meeting. A determination of the
36 appeal by the State board shall be considered final.

37 (2) The commissioner shall authorize an in-depth examination of the
38 district to determine the causes for the district's noncompliance with
39 the quality performance indicators and the district shall be required to
40 develop an improvement plan that addresses the quality performance
41 indicators with which the district has not complied. The improvement
42 plan shall be submitted to and approved by the commissioner. The
43 commissioner shall assure that the local district's budget provides the
44 resources necessary to implement the improvement plan.

45 (3) If the position of superintendent of schools is vacant in a district
46 under partial State control, the commissioner may appoint a

1 superintendent who shall serve for a period not to exceed two years.

2 (4) The commissioner may appoint one or more highly skilled
3 professionals to provide direct oversight in the district regarding the
4 quality performance indicators with which the district has failed to
5 comply. The highly skilled professional shall have authority in the
6 areas of oversight that the commissioner designates. The highly
7 skilled professional shall work collaboratively with the superintendent
8 and the board of education to address areas identified in the
9 improvement plan. The cost for the salaries of the highly skilled
10 professionals shall be a shared expense of the school district and the
11 State.

12 (5) The commissioner may appoint up to three additional members
13 to the board of education of a district under partial State control. A
14 board member appointed by the commissioner shall be a voting
15 member of the board and shall have all the rights, powers and
16 privileges of a member of the board. A member appointed by the
17 commissioner shall serve at the pleasure of the commissioner. Any
18 vacancy in the membership appointed by the commissioner shall be
19 filled in the same manner as the original appointment.

20 (6) The department shall conduct a periodic review of the
21 improvement plan and the district's progress in addressing deficiencies
22 noted in the improvement plan, including on-site visits. Based on the
23 district's success in implementing its improvement plan, the
24 commissioner shall make a determination to return to local control one
25 or more of the areas that have been under State control, to leave one
26 or more areas under State control or to recommend to the State Board
27 of Education that the district be placed under full State control.

28 If the commissioner determines that the district has successfully
29 implemented the improvement plan, the commissioner shall issue a
30 letter of recognition to the district designating the district as a high
31 performing district and the district shall return to local control. The
32 commissioner shall recommend that the State board certify the school
33 district for a period of seven years as providing a thorough and
34 efficient system of education, contingent on continued progress in
35 meeting the quality performance indicators.

36 d. [Whenever a district in level II monitoring is directed to
37 establish a corrective action plan or whenever a district in level III
38 monitoring shall be required to implement an approved corrective
39 action plan pursuant to this section, the commissioner shall determine
40 the cost to the district of implementation of those portions of the
41 corrective action plan which are directly responsive to the district's
42 deficiencies as identified in the report of the external review team or,
43 where applicable, by the commissioner. In making this fiscal
44 assessment, the commissioner shall identify those aspects of the
45 corrective action plan which are already contained in the district's
46 current expense budget. Where appropriate, the commissioner shall

1 reallocate funds within the district's budget to support the corrective
2 action plan. Once reallocated, any transfers among line items of the
3 district's budget may occur only with the commissioner's approval.
4 The commissioner shall further determine the amount of additional
5 revenue, if any, needed to implement the corrective action plan and
6 shall recertify a budget for the district. ~~(Deleted by amendment,~~
7 P.L. c.)(now pending before the Legislature as this bill.)

8 e. If a school district is less than 50 percent compliant with the
9 quality performance indicators in all of the five key components of
10 school district effectiveness, the district shall be directed to enter full
11 State control. A comprehensive compliance investigation shall be
12 conducted by the department and shall entail a thorough and detailed
13 examination [of a district's educational programs, fiscal practices,
14 governance and management] in the five key components of school
15 district effectiveness as set forth in section 10 of P.L.1975, c.212
16 (C.18A:7A-10) . Based on the investigation, the commissioner shall
17 issue a report which will document any irregularities [and list all those
18 aspects of the corrective action plan established pursuant to
19 subsections b. and c. of this section which have not been successfully
20 implemented by the district or the conditions which would preclude the
21 district from successfully implementing a plan]. A copy of this report
22 shall be given to the district. The commissioner shall also order the
23 local board to show cause why an administrative order, subject to the
24 provisions of section 15 of P.L.1975, c.212 (C.18A:7A-15) and
25 section 1 of P.L.1987, c.399 (C.18A:7A-34) should not be
26 implemented. The plenary hearing before a judge of the Office of
27 Administrative Law, pursuant to the "Administrative Procedure Act,"
28 P.L.1968, c.410 (C.52:14B-1 et seq.), upon said order to show cause
29 shall be conducted in the manner prescribed by subdivision B of article
30 2 of chapter 6 of Title 18A of the New Jersey Statutes.

31 In the proceeding the State shall have the burden of showing that
32 the recommended administrative order is not arbitrary, unreasonable
33 or capricious.

34 (cf: P.L.1996, c.138, s.37)

35

36 5. Section 15 of P.L.1975, c.212 (C.18A:7A-15) is amended to
37 read as follows:

38 15. a. If, after a plenary hearing, the commissioner determines that
39 it is necessary to take corrective action, the commissioner shall have
40 the power to order necessary budgetary changes within the district or
41 other measures the commissioner deems appropriate to establish a
42 thorough and efficient system of education with the exception of the
43 creation of a [State-operated] school district under full State control.
44 The commissioner shall assure that the local district's budget provides
45 the resources necessary to implement the order. If the commissioner
46 determines that the district has failed to take or is unable to take the

1 corrective actions necessary to establish a thorough and efficient
2 system of education, the commissioner shall recommend to the State
3 board that it issue an administrative order creating a [State-operated]
4 school district under full State control. Notwithstanding any other
5 provision of law to the contrary and upon its determining that the
6 school district is not providing a thorough and efficient system of
7 education, the State board may direct [the removal of the district
8 board of education and] the creation of a [State-operated] school
9 district under full State control whose functions, funding and authority
10 are defined in P.L.1987, c.399 (C.18A:7A-34 et seq.). No order for
11 the creation of a [State-operated] school district under full State
12 control shall issue solely on the basis of a district's failure to correct
13 substandard physical facilities. Nothing herein shall limit the right of
14 any party to appeal the State board's order to the Superior Court.

15 b. A district under full State control shall be required to develop
16 an improvement plan that addresses the quality performance
17 indicators with which the district has not complied. The improvement
18 plan shall be submitted to and approved by the commissioner. The
19 commissioner shall assure that the local district's budget provides the
20 resources necessary to implement the improvement plan.

21 c. In districts under full State control the State board, upon the
22 recommendation of the commissioner, may appoint a State district
23 superintendent to serve for a period not to exceed three years.

24 d. The commissioner may appoint one or more highly skilled
25 professionals to provide direct oversight in the district regarding the
26 quality performance indicators with which the district has failed to
27 comply. The highly skilled professional shall have authority in the
28 areas of oversight that the commissioner designates. The highly
29 skilled professional shall work collaboratively with the superintendent
30 and the board of education to address areas identified in the
31 improvement plan. The cost for the salaries of the highly skilled
32 professionals shall be a shared expense of the school district and the
33 State.

34 e. The department shall conduct a periodic review of the
35 improvement plan and the district's progress in addressing deficiencies
36 noted in the improvement plan, including on-site visits. Based upon
37 the district's success in implementing its improvement plan, the
38 commissioner shall make a determination to return to local control one
39 or more areas that have been under State control or to leave the
40 district under full State control.

41 If the commissioner determines that the district has successfully
42 implemented the improvement plan, the commissioner shall issue a
43 letter of recognition to the district designating the district as a high
44 performing district and the district shall return to local control. The
45 commissioner shall recommend that the State board certify the school
46 district for a period of seven years as providing a thorough and

1 efficient system of education, contingent on continued progress in
2 meeting the quality performance indicators.

3 (cf: P.L.1987, c.398, s.3)

4

5 6. Section 5 of P.L.1987, c.398 (C.18A:7A-15.1) is amended to
6 read as follows:

7 5. Pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15), the
8 State board, upon the recommendation of the commissioner, shall have
9 [full] authority to: a. remove the district board of education [,] or
10 approve the appointment by the commissioner of up to three additional
11 voting members to the school board; b. create a [State-operated]
12 school district [,] under full State control; and c. appoint, upon
13 recommendation of the commissioner, a State district superintendent
14 of schools to direct [all] the operations of the district [, including the
15 implementation of the administrative order. The State district
16 superintendent of schools shall have all authority and powers
17 previously vested in the district board of education] in accordance
18 with the improvement plan established pursuant to section 15 of
19 P.L.1975, c.212 (C.18A:7A-15).

20 (cf: P.L.1987, c.398, s.5)

21

22 7. Section 2 of P.L.1987, c.400 (C.18A:7A-31.1) is amended to
23 read as follows:

24 2. Whenever the Commissioner of Education directs the
25 Department of Education to undertake a comprehensive compliance
26 investigation of a local school district pursuant to section 14 of
27 P.L.1975, c.212 (C.18A:7A-14), the commissioner shall immediately
28 inform the Joint Committee on the Public Schools, created pursuant to
29 P.L.1975, c.16 (C.52:9R-1), of that directive. The commissioner shall
30 make the [evaluation and monitoring] reports [regarding the district]
31 submitted by the district pursuant to section 11 of P.L.1975, c.212
32 (C.18A:7A-11) available to the committee, and shall keep the
33 committee apprised of the progress and the final outcome of the
34 comprehensive compliance investigation.

35 (cf: P.L.1987, c.400, s.2)

36

37 8. Section 3 of P.L.1987, c.400 (C.18A:7A-31.2) is amended to
38 read as follows:

39 3. Whenever the State Board of Education issues an administrative
40 order establishing a [State-operated] school district under full State
41 control pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15), the
42 commissioner shall immediately inform the Joint Committee on the
43 Public Schools of that administrative order, and shall advise the
44 committee as to the causes of the district's failure to achieve
45 [certification through local district initiatives] the requisite
46 compliance with the quality performance indicators.

47 (cf: P.L.1987, c.400, s.3)

1 9. Section 4 of P.L.1987, c.400 (C.18A:7A-31.3) is amended to
2 read as follows:

3 4.a. Within six months following the establishment of a
4 **[State-operated]** school district under full State control, the
5 commissioner shall present to the Joint Committee on the Public
6 Schools the **[corrective action]** improvement plan developed for the
7 district.

8 b. On **[a periodic]** an annual basis[, but not less than once each
9 year,] the commissioner shall provide a **[detailed]** report to the
10 committee on the progress made in the implementation of the
11 **[corrective action]** improvement plan and the prospects for the return
12 of the district to local control.

13 c. The Joint Committee on the Public Schools, in cooperation with
14 the commissioner, may develop a plan for monitoring the
15 administration of a **[State-operated]** school district under full State
16 control and the implementation of the **[corrective action]**
17 improvement plan. The plan developed by the committee shall include
18 provisions for independent documentation and assessment.

19 (cf: P.L.1987, c.400, s.4)

20

21 10. Section 1 of P.L.1987, c.399 (C.18A:7A-34) is amended to
22 read as follows:

23 1. Whenever the Commissioner of Education shall determine after
24 the issuance of an administrative order that a local school district has
25 failed to assure a thorough and efficient system of education, the State
26 Board of Education may issue an administrative order as set forth in
27 section 15 of P.L.1975, c.212 (C.18A:7A-15) which shall **[remove the**
28 **district board of education and]** create a **[State-operated]** school
29 district under full State control. The **[State-operated]** school district
30 under full State control shall become effective immediately upon
31 issuance of the administrative order by the State board.

32 (cf: P.L.1987, c.399, s.1)

33

34 11. Section 2 of P.L.1987, c.399 (C.18A:7A-35) is amended to
35 read as follows:

36 2. a. The schools of a **[State-operated]** school district **[shall]**
37 under full State control may be conducted by and under the
38 supervision of a State district superintendent of schools appointed by
39 the State board upon recommendation of the commissioner. The
40 individual selected shall be qualified by training and experience for the
41 particular district and shall work collaboratively with any highly skilled
42 professionals appointed by the commissioner.

43 The State board may, upon the recommendation of the
44 commissioner, choose to retain the person who holds the position of
45 superintendent of schools in the school district at the time the State

1 board issues the administrative order pursuant to section 15 of
2 P.L.1975, c.212 (C.18A:7A-15). If the State board chooses to retain
3 the superintendent of schools, the person shall comply with the
4 directives of the commissioner or his designee, including any highly
5 skilled professional appointed by the commissioner.

6 b. **[The]** If the State board appoints a State district superintendent
7 the appointment shall be [appointed] for an original term not to
8 exceed [five] three years. Notwithstanding any other provision of
9 law, no person so appointed shall acquire tenure nor shall the
10 commissioner, with approval of the State board, be precluded from
11 terminating the superintendent's services pursuant to the terms of the
12 superintendent's individual contract of employment. For the purpose
13 of the New Jersey Tort Claims Act, N.J.S.59:1-1 et seq., the State
14 district superintendent shall be considered a State officer.

15 c. The salary of the State district superintendent shall be fixed by
16 the commissioner and adjusted from time to time as the commissioner
17 deems appropriate. The cost for said salary and for the salaries of all
18 persons appointed pursuant to this amendatory and supplementary act,
19 except the highly skilled professionals, shall be an expense of the local
20 school district.

21 d. The State district superintendent shall perform **[all the]** such
22 duties and possess [all the] such powers [heretofore and hereafter
23 assigned in Title 18A of the New Jersey Statutes to central
24 administrative and supervisory staff, instructional and noninstructional,
25 which shall include but not be limited to the superintendent of schools,
26 secretary of the board of education, school business administrator,
27 school business manager, and assistants and clerks thereto] as deemed
28 appropriate by the commissioner.

29 e. Except as otherwise provided in this amendatory and
30 supplementary act, the State district superintendent shall have the
31 power to perform all acts and do all things **[consistent with law]** that
32 the commissioner deems necessary for the proper conduct,
33 maintenance and supervision of the schools in the district.

34 f. The State district superintendent may, if deemed appropriate by
35 the commissioner, make, amend and repeal district rules, policies and
36 guidelines, not inconsistent with law for the proper conduct,
37 maintenance and supervision of the schools in the district.

38 g. The State district superintendent **[shall]** may, if deemed
39 appropriate by the commissioner, provide in each school a mechanism
40 for parent, teacher and community involvement. In addition, the State
41 district superintendent **[shall]** may provide for at least one public
42 meeting in both the fall and the spring semesters to advise parents and
43 members of the community on the activities within the district and to
44 provide an opportunity for those parents, teachers and community
45 members who wish to be heard. The meetings shall be at such times

1 and places as to ensure maximum public participation.

2 h. The State district superintendent, or such other person as the
3 commissioner shall designate, shall ensure that the district is in
4 compliance with all federal and State laws, rules and regulations
5 relating to equal employment opportunities, affirmative action and
6 minority business opportunities.

7 (cf: P.L.1995, c.179, s.1)

8

9 12. Section 4 of P.L.1987, c.399 (C.18A:7A-37) is amended to
10 read as follows:

11 4. [Notwithstanding the absence of a] If the State board, upon the
12 recommendation of the commissioner, chooses to remove the board of
13 education in a school district under full State control, [a
14 State-operated] the school district shall remain a corporate entity.

15 (cf: P.L.1987, c.399, s.4)

16

17 13. Section 5 of P.L.1987, c.399 (C.18A:7A-38) is amended to
18 read as follows:

19 5. Except as otherwise provided in this amendatory and
20 supplementary act, the State district superintendent in a
21 [State-operated] school district [shall have] under full State control
22 or any other person designated by the commissioner may be given the
23 power to:

24 a. Enforce the rules of the State board; and

25 b. Perform all acts and do all things, consistent with law and the
26 rules of the State board, necessary for the lawful and proper conduct,
27 equipment and maintenance of the public schools of the district.

28 (cf: P.L.1987, c.399, s.5)

29

30 14. Section 6 of P.L.1987, c.399 (C.18A:7A-39) is amended to
31 read as follows:

32 6.a. The State district superintendent [of a State-operated school
33 district] or any other person designated by the commissioner may in
34 a school district under full State control:

35 (1) Sue in the district's corporate name and likewise submit to
36 arbitration and determination disputes and controversies in the manner
37 provided by law;

38 (2) Cause a report of the condition of the public schools and the
39 public school property [under the superintendent's control] and an
40 itemized account of the condition of the finances of the district to be
41 printed and published as soon as practicable after the close of each
42 school year; and

43 (3) Cause an exact census to be taken annually of all children
44 residing in the district between the ages of five and 18 years, including
45 such other information as he or she may deem necessary or proper and
46 appoint, for the purpose of taking that census, as many suitable

- 1 persons as may be necessary to act as enumerators and fix their
2 compensation, which compensation shall be paid as a current expense.
- 3 b. A [State-operated] school district under full State control may
4 be sued under its corporate name.
- 5 c. [State-operated school] School districts under full State control
6 may join with local boards of education for the purpose of affording
7 the districts those benefits which may accrue pursuant to P.L.1983,
8 c.108 (C.18A:18B-1 et seq.).
- 9 d. A [State-operated] school district under full State control shall
10 be subject to all provisions of chapter 19 of Title 18A of the New
11 Jersey Statutes except that all warrants for claims or expenditures
12 approvable by a district board of education or any action required of
13 a district board of education pursuant to chapter 19 [shall] may be
14 authorized by the State district superintendent or any other person
15 designated by the commissioner.
- 16 e. Authority for the implementation of any provision of chapter 20
17 of Title 18A of the New Jersey Statutes relative to the acquisition and
18 disposition of property which requires action by a district board of
19 education [shall] may, in a [State-operated] school district under full
20 State control, be exercised by the State district superintendent or any
21 other person designated by the commissioner .
- 22 f. The authority vested in boards of education by chapter 21 of
23 Title 18A of the New Jersey Statutes [shall] may in a
24 [State-operated] school district under full State control be vested in
25 the State district superintendent or any other person designated by the
26 commissioner.
- 27 g. [State-operated school] School districts under full State control
28 shall be subject to all requirements set forth in chapter 18A of Title
29 18A of the New Jersey Statutes except that such determination as may
30 be required of a district board of education by the provisions of said
31 law [shall] may be rendered by the State district superintendent or any
32 other person designated by the commissioner.
- 33 (cf: P.L.1987, c.399, s.6)
- 34
- 35 15. Section 7 of P.L.1987, c.399 (C.18A:7A-40) is amended as
36 follows:
- 37 7.a. When [the board of education is removed and] a
38 [State-operated] district under full State control is established,
39 pursuant to section 1 of [this amendatory and supplementary act]
40 P.L.1987, c.399 (C.18A:7A-34), or when local control is
41 reestablished, pursuant to section 16 of [this amendatory and
42 supplementary act] P.L.1987, c.399 (C.18A:7A-49), collective
43 bargaining agreements entered into by the school district shall remain
44 in force, except where otherwise expressly provided in [this
45 amendatory and supplementary act] P.L.1987, c.399 (C.18A:7A-34
46 et seq.).

1 b. Except where otherwise expressly provided in [this amendatory
2 and supplementary act] P.L.1987, c.399 (C.18A:7A-34 et seq.), all
3 teaching staff members and other employees of a [State-operated]
4 district under full State control shall retain and continue to acquire all
5 rights and privileges acquired pursuant to Title 18A of the New Jersey
6 Statutes. After the reestablishment of local control in the district, the
7 board shall preserve and recognize all rights and privileges acquired
8 prior to and during the State [operation] control of the district.

9 (cf: P.L.1987, c.399, s.7)

10

11 16. Section 8 of P.L.1987, c.399 (C.18A:7A-41) is amended to
12 read as follows:

13 8. There [shall] may be established within a [State-operated]
14 school district under full State control an internal audit team which
15 shall monitor the business functions of the district and report its
16 findings to [the State district superintendent and] the commissioner
17 and any district personnel deemed appropriate by the commissioner.

18 The cost of providing this internal audit function shall be borne by the
19 State.

20 (cf: P.L.1987, c.399, s.8)

21

22 17. Section 9 of P.L.1987, c.399 (C.18A:7A-42) is amended to
23 read as follows:

24 9. a. In a [State-operated] school district under full State control,
25 all officers, employees and consultants, professional and
26 nonprofessional, certified and noncertified, shall be employed or
27 retained, transferred and removed [as provided below] in accordance
28 with the improvement plan which has been approved by the
29 commissioner. In accordance with that plan:

30 (1) The State district superintendent or any other person designated
31 by the commissioner may appoint, transfer and remove clerks,
32 pursuant to the provisions of Title 11A (Civil Service) of the New
33 Jersey Statutes and the provisions of N.J.S. 18A:17-1 et seq.

34 (2) The State district superintendent or any other person designated
35 by the commissioner, subject to the approval of the commissioner,
36 shall appoint and set the salaries of such State assistant
37 superintendents as the superintendent shall deem necessary and assign
38 to them their duties and responsibilities. No State assistant
39 superintendent shall acquire tenure, notwithstanding any other
40 provision of law.

41 (3) The State district superintendent of schools or any other person
42 designated by the commissioner shall, subject to the approval of the
43 commissioner or his designee, make all personnel determinations
44 relative to employment, transfer and removal of all officers and
45 employees, professional and nonprofessional, except that the services
46 of the district auditor or auditors and attorney or attorneys shall be
47 immediately terminated by creation of a [State-operated] school

1 district [pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15)]
2 under full State control.

3 b. The State district superintendent or any other person designated
4 by the commissioner may delegate to subordinate officers or
5 employees in the district any of [the superintendent's] his powers and
6 duties as [the superintendent] he may deem desirable to be exercised
7 under [the superintendent's] his supervision and direction.
8 (cf: P.L.1987, c.399, s.9)

9
10 18. Section 10 of P.L.1987, c.399 (C.18A:7A-43) is amended to
11 read as follows:

12 10. Except as otherwise provided in this amendatory and
13 supplementary act, any person serving under tenure or permanent civil
14 service status shall retain all tenure rights and may continue to serve
15 in the district pursuant to the provisions of this section. However,
16 they shall perform only such duties as prescribed [or delegated by the
17 State district superintendent] in the improvement plan which has been
18 approved by the commissioner and those duties for which they may be
19 appropriately certified.
20 (cf: P.L.1987, c.399, s.10)

21
22 19. Section 11 of P.L.1987, c.399 (C.18A:7A-44) is amended to
23 read as follows:

24 11. a. Notwithstanding any other provision of law or contract, the
25 positions of the district's chief school administrator and those
26 executive administrators responsible for curriculum, business and
27 finance, and personnel [shall] may be abolished upon creation of the
28 [State-operated] school district under full State control. The affected
29 individuals shall be given 60 days' notice of termination or 60 days'
30 pay. The notice or payment shall be in lieu of any other claim or
31 recourse against the employing board or the school district based on
32 law or contract. Any individual whose position is abolished by
33 operation of this subsection shall be entitled to assert a claim to any
34 position or to placement upon a preferred eligibility list for any
35 position to which the individual may be entitled by virtue of tenure or
36 seniority within the district. No individual whose position is abolished
37 by operation of this subsection shall retain any right to tenure or
38 seniority in the positions abolished herein.

39 b. Within [one year] 120 days of the establishment of the
40 [State-operated] school district under State control, the State district
41 superintendent [shall] or any other person designated by the
42 commissioner may prepare a reorganization of the district's central
43 administrative and supervisory staff and [shall] may evaluate all
44 individuals employed in central administrative and supervisory staff
45 positions. The State district superintendent [shall] or any other
46 person designated by the commissioner may implement the

1 reorganization on the July 1 next following its preparation, unless
2 otherwise directed by the commissioner. The State district
3 superintendent or any other person designated by the commissioner
4 shall retain the authority to prepare a reorganization and to evaluate
5 all employed individuals after the expiration of the 120 day period.

6 c. Notwithstanding any other provision of law or contract, the
7 positions of the central administrative and supervisory staff,
8 instructional and noninstructional, other than those positions abolished
9 pursuant to subsection a. of this section, [shall] may be abolished
10 upon the reorganization of the [State-operated] staff of the school
11 [district's staff] district under full State control. The State district
12 superintendent or any other person designated by the commissioner
13 may hire an individual whose position is so abolished, based upon the
14 evaluation of the individual and the staffing needs of the reorganized
15 district staff. These individuals shall be hired with tenure if they had
16 tenure in their prior position. If they did not have tenure in their prior
17 position, they may obtain tenure pursuant to the provisions of N.J.S.
18 18A:28-6. Individuals hired as State assistant superintendents shall
19 not be hired with tenure and shall not acquire tenure. Employees or
20 officers not hired for the reorganized staff shall be given 60 days'
21 notice of termination or 60 days' pay. The notice or payment shall be
22 in lieu of any other claim or recourse against the employing board or
23 the school district based on law or contract. Notwithstanding this
24 limitation, nothing herein shall preclude an individual from asserting
25 upon separation from service any legal contractual right to health care
26 coverage, annuities, accrued vacation days, accrued sick leave,
27 insurance and approved tuition costs. Any employee whose position
28 is abolished by operation of this subsection shall be entitled to assert
29 a claim to any position or to placement upon a preferred eligibility list
30 for any position to which the employee may be entitled by virtue of
31 tenure or seniority within the district. No employee whose position is
32 abolished by operation of this subsection shall retain any right to
33 tenure or seniority in the positions abolished herein.

34 (cf: P.L.1995, c.179, s.2)

35

36 20. Section 12 of P.L.1987, c.399 (C.18A:7A-45) is amended to
37 read as follows:

38 12. a. The Commissioner of Education shall adopt criteria for the
39 evaluation of building principals and vice-principals in a
40 [State-operated] school district under full State control.

41 b. Upon appointment, the State district superintendent [shall] or
42 other person designated by the commissioner may establish an
43 assessment unit [which shall] to conduct on-site evaluations of each
44 building principal and vice-principal in accordance with the criteria
45 established by the commissioner and render evaluation reports to the
46 State district superintendent or any other person designated by the

1 commissioner. No less than three evaluations shall be performed for
2 each building principal and vice-principal within 18 months following
3 the establishment of **[State operation]** the school district under full
4 State control. All personnel records for building principals and
5 vice-principals prepared before the establishment of the
6 **[State-operated]** district under full State control shall be sealed upon
7 issuance of the State Board of Education order establishing the
8 **[State-operated]** school district under full State control.

9 c. Notwithstanding any other provision of law or contract, the
10 State district superintendent or any other person designated by the
11 commissioner, after completion of an assessment cycle of not less than
12 12 months, may dismiss any tenured building principal or
13 vice-principal for inefficiency, incapacity, unbecoming conduct or
14 other just cause as defined by the criteria for principal or vice-principal
15 performance in **[State-operated]** districts under full State control
16 established by the commissioner pursuant to subsection a. of this
17 section. Nothing herein shall preclude the dismissal of a tenured
18 building principal or vice-principal prior to the completion of an
19 assessment cycle of not less than 12 months if the basis for the
20 dismissal is incapacity or unbecoming conduct. All dismissals of
21 tenured building principals or vice-principals shall be conducted in
22 accordance with the procedures set forth in sections 10, 11, 13, 14, 16
23 and 17 of chapter 6 of Title 18A of the New Jersey Statutes, except
24 that the State district superintendent or any other person designated
25 by the commissioner shall act as the board of education in all respects.

26 d. The commissioner and the Office of Administrative Law are
27 empowered and directed to take any necessary action to expedite
28 hearings for dismissal of tenured principals or vice-principals,
29 including relaxation of any time requirements established by law or
30 practice. In no event shall a hearing commence later than 45 days
31 after certification of charges. Hearings shall be completed within 45
32 days of commencement. In no event shall a final decision be issued
33 later than 120 days following the certification of charges.

34 e. Evaluations of building principals or vice-principals conducted
35 by district personnel prior to the establishment of the **[State-operated]**
36 school district under full State control shall not be admissible in a
37 tenure hearing for any building principal or vice-principal except in the
38 following circumstances:

39 (1) Evaluations of building principals or vice-principals performed
40 by members of the **[State-operated school district's]** central
41 administrative and supervisory staff who are hired **[by the State**
42 **district superintendent]** to fill one of the positions in the reorganized
43 central office of the **[State-operated]** district under full State control
44 shall be admissible;

45 (2) Evaluations of building principals or vice-principals made by

1 individuals who were no longer employed by the school district as of
2 the date it became a [State-operated] school district under full State
3 control shall be admissible only if the evaluation was performed more
4 than five years preceding the date of the establishment of the
5 [State-operated] district under full State control.
6 (cf: P.L.1995, c.179, s.3)

7
8 21. Section 13 of P.L.1987, c.399 (C.18A:7A-46) is amended to
9 read as follows:

10 13. a. [State-operated school] School districts under full State
11 control shall be created only as provided pursuant to section 15 of
12 P.L.1975, c.212 (C.18A:7A-15).

13 b. [State-operated school] School districts [shall] under full State
14 control may be conducted by and under the supervision of a State
15 district superintendent appointed by the State Board of Education
16 upon recommendation of the commissioner.
17 (cf: P.L.1987, c.399, s.13)

18
19 22. Section 1 of P.L.1991, c.139 (C.18A:7A-46.1) is amended to
20 read as follows:

21 1. a. In any [State-operated] State-controlled school district
22 created pursuant to the provisions of P.L.1975, c.212 (C.18A:7A-1 et
23 seq.) there [shall] may be established a Capital Project Control Board,
24 hereinafter the board, [which shall] to be responsible for the review
25 of any capital project proposed by the State district superintendent or
26 a person designated by the commissioner, provided that the State
27 district superintendent or person designated by the commissioner
28 proposes that the capital project be financed in whole or in part by
29 school bonds or notes, or through a lease purchase agreement pursuant
30 to subsection f. of N.J.S.18A:20-4.2. The board shall also be
31 responsible for the certification to the State district superintendent of
32 schools or person designated by the Commissioner of Education and
33 the [Commissioner of Education] commissioner of the necessity for
34 the capital project and the certification of the appropriation to be made
35 by the governing body of the municipality.

36 b. The board shall consist of five voting members. One member
37 shall be appointed by the Commissioner of Education and two
38 members shall be appointed by the chief executive officer with the
39 consent of a majority of the full membership of the local governing
40 body of the municipality or municipalities in which the school district
41 is located. If the school district is comprised of two municipalities,
42 each municipality shall be entitled to one member, appointed by the
43 executive officer with the consent of the governing body. If the school
44 district is comprised of more than two municipalities, each of the two
45 municipalities with the largest population according to the most recent
46 federal decennial census shall be entitled to one member, appointed by

1 the executive officer with the consent of the governing body.
2 However, if a local governing body fails to agree upon the selection of
3 either board member appointed by an executive officer, then the
4 Commissioner of Education shall make the appointment. One member
5 shall be appointed by the Director of the Division of Local
6 Government Services in the Department of Community Affairs who
7 shall have experience in the area of local finance and capital projects.
8 The fifth member shall be the State district superintendent of schools
9 or any other person designated by the commissioner who shall serve
10 ex-officio and shall act as chairperson of the board. The board
11 members, except for the State district superintendent or the person
12 designated by the commissioner, shall each serve for a term of one
13 year commencing on July 1 of each year and expiring on June 30 of the
14 following year. Any vacancy in the membership of the board shall be
15 filled for the unexpired term in the manner provided by the original
16 appointment. Members of the board may be employees of the State or
17 any subdivision thereof. All members of the board shall serve without
18 compensation.

19 c. The board shall meet from time to time upon the request of the
20 State district superintendent or person designated by the
21 commissioner. All meetings of the board shall be conducted pursuant
22 to the provisions of the "Open Public Meetings Act," P.L.1975, c.231
23 (C.10:4-6 et seq.). The State district superintendent , or [his
24 designee] the person designated by the commissioner, shall be charged
25 with the responsibility of preparing a transcript of the proceedings and
26 all votes shall be recorded in writing.

27 (cf: P.L.2000, c.72, s.32)

28

29 23. Section 2 of P.L.1991, c.139 (C.18A:7A-46.2) is amended to
30 read as follows:

31 2. **[The]** In the event that a capital projects review board is
32 established pursuant to section 1 of P.L.1991, c.139 (C.18A:7A-46.1)
33 the board shall hear the recommendation of the State district
34 superintendent or the person designated by the commissioner
35 concerning any proposed capital project, which is to be financed in
36 whole or in part by school bonds or notes, or through a lease purchase
37 agreement pursuant to subsection f. of N.J.S.18A:20-4.2, and shall
38 undertake all actions necessary to review the proposed capital project
39 to determine whether the project will assist the **[State-operated]**
40 school district under full State control in providing a thorough and
41 efficient system of education in that district. In making this
42 determination it may take into consideration factors such as the
43 conditions in the school district, any applicable educational goals, the
44 objectives and standards established by the State, the need for the
45 capital project, the reasonableness of the amount to be expended for
46 the capital project, the estimated time for the undertaking and

1 completion of the capital project, and any other factors which the
2 board may deem necessary including the relationship of the capital
3 project to the long-term capital budget or plan of the school district
4 and the fiscal implications thereof.

5 Following its review and within 60 days of the date on which the
6 State district superintendent or the person designated by the
7 commissioner submits the recommendation to the board, the board
8 shall adopt a resolution as to whether the [State-operated] school
9 district under full State control should undertake the capital project
10 and providing its reasons therefor. The board shall adopt a resolution
11 indicating the necessity for the capital project and shall also fix and
12 determine by resolution the amount necessary to be raised locally for
13 the capital project. If the board fails to act within 60 days of the
14 submission date, the State district superintendent or the person
15 designated by the commissioner shall submit the recommendation to
16 the commissioner who shall approve or disapprove the capital project.
17 If the board makes a decision which is contrary to the recommendation
18 of the superintendent or the person designated by the commissioner,
19 the superintendent or the person designated by the commissioner may,
20 within 30 days from the date of the board's action, submit the matter
21 to the commissioner for final decision. If the commissioner determines
22 that a capital project should be undertaken, the commissioner shall so
23 notify the board and shall indicate the amount necessary to be raised
24 locally for the capital project. Upon notification, the board shall adopt
25 a resolution indicating the necessity for the capital project and shall
26 also fix and determine by resolution the amount necessary for the
27 capital project as indicated by the commissioner. Certified copies of
28 any resolution requesting the authorization and issuance of bonds and
29 notes or the authorization of a lease purchase agreement shall be
30 delivered to the State district superintendent or the person designated
31 by the Commissioner of Education, the Commissioner of Education,
32 the Director of the Division of Local Government Services in the
33 Department of Community Affairs and the governing body of the
34 municipality or municipalities in which the school district is located.
35 The board shall not approve or recommend any capital project which
36 is inconsistent with the provisions of N.J.S.18A:21-1.
37 (cf: P.L.2000, c.72, s.33)

38
39 24. Section 3 of P.L.1991, c.139 (C.18A:7A-46.3) is amended to
40 read as follows:

41 3. Notwithstanding the provisions of any law to the contrary, the
42 cost of any capital project authorized pursuant to this act which is to
43 be funded by bonds or notes and certified by the board to the State
44 district superintendent or the person designated by the commissioner,
45 the Commissioner of Education, the Director of the Division of Local
46 Government Services in the Department of Community Affairs and the

1 governing body of the municipality or municipalities in which the
2 school district is located shall be financed by the issuance of school
3 bonds or notes pursuant to the provisions of chapter 24 of Title 18A
4 of the New Jersey Statutes and the "Local Bond Law" (N.J.S.40A:2-1
5 et seq.) and the notes, school bonds or other obligations shall be
6 authorized, issued, sold and delivered in the manner prescribed by the
7 "Local Bond Law" (N.J.S.40A:2-1 et seq.).

8 (cf: P.L.2000, c.72, s.34)

9

10 25. Section 4 of P.L.1991, c.139 (C.18A:7A-46.4) is amended to
11 read as follows:

12 4. Any authorization of notes or bonds effective prior to the date
13 of the appointment of the State district superintendent or the person
14 designated by the commissioner shall be issued in the manner
15 prescribed by the "Local Bond Law," (N.J.S.40A:2-1 et seq.).

16 (cf: P.L.1991, c.139, s.4)

17

18 26. Section 6 of P.L.1991, c.139 (C.18A:7A-46.6) is amended to
19 read as follows:

20 6. The debt service on bonds, notes and other obligations
21 authorized pursuant to **[this act]** P.L.1991, c.139 (C.18A:7A-46.1 et
22 seq.) shall be appropriated and made part of the municipal budget and
23 raised through the annual municipal tax levy. However, all debt
24 service payments shall be included in the budget of the
25 **[State-operated]** school district under full State control as the sum
26 necessary for interest and debt redemption charges and shall be eligible
27 for State education aid in the year in which the appropriation and
28 expenditure are made.

29 (cf: P.L.1991, c.139, s.6)

30

31 27. Section 14 of P.L.1987, c.399 (C.18A:7A-47) is amended to
32 read as follows:

33 14. a. Within 60 days, the commissioner **[shall]** may establish a
34 board of education consisting of not more than 15 persons from
35 among the residents of the district. The membership of the board shall
36 be representative of the community's racial and ethnic balance.
37 Previous members of the board of education shall not be precluded
38 from consideration for membership on this board. Of the 15 members,
39 13 shall be appointed by the commissioner and two shall be appointed
40 by the local governing body of the municipality in which the school
41 district is located. If the school district includes more than one
42 municipality, then the governing body of each constituent municipality
43 shall have one appointment to the board and the number of
44 appointments by the commissioner shall be reduced accordingly. If the
45 local governing body fails to agree upon the selection of board
46 members within 60 days of the establishment of the **[State-operated]**

1 school district under full State control, then the commissioner may
2 make the additional two appointments. Any vacancies on the board
3 shall be filled by the appropriate appointing authority within 45 days
4 of the occurrence of the vacancy. All individuals appointed to the
5 board shall meet all of the statutory requirements for membership on
6 a board of education and shall be required to attend all meetings of the
7 board, all meetings of standing board committees to which the member
8 is appointed, and all in-service training sessions provided for board
9 members. Any member of the board who, during the course of any
10 school year, fails to attend eighty percent of all meetings of the board
11 and of standing board committees and in-service training sessions shall
12 be removed upon recommendation of the State district superintendent
13 or the person designated by the commissioner to the appropriate
14 appointing authority. Members of the board of education shall serve
15 for two-year terms, unless removed from the board as provided herein.
16 The board shall meet as soon as may be possible after its appointment
17 and shall select a chairman and a vice-chairman from among its
18 members.

19 b. The State board, upon the recommendation of the commissioner,
20 may retain the board of education in place at the time that the State
21 board issues the administrative order creating the school district under
22 full State control. In this case the commissioner may appoint up to
23 three additional members to the board of education. If the State board
24 determines to retain the board of education, the board shall have only
25 those rights, powers and privileges of the advisory board established
26 pursuant to subsection a. of this section. Any vacancy in the
27 membership appointed by the commissioner shall be filled in the same
28 manner as the original appointment.

29 c. The State district superintendent [shall meet with the board of
30 education at least once in each month and] or the person designated
31 by the commissioner may meet [more] with the board as frequently as
32 necessary for the effective operation of the school district. The
33 meetings of the board shall be convened and scheduled at the direction
34 of the State district superintendent or the person designated by the
35 commissioner, and the State district superintendent or the person
36 designated by the commissioner shall determine the agenda. At the
37 meetings, the State district superintendent or the person designated by
38 the commissioner shall report to the board on all actions taken and on
39 pending actions in a timely fashion, and provide an opportunity for a
40 full discussion by the board and by the public of those actions.
41 Meetings shall be conducted pursuant to the provisions of the "Open
42 Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). On a
43 regular basis, but no less than twice each year, the board of education
44 shall report in writing directly to the State district superintendent or
45 the person designated by the commissioner concerning its assessment
46 of the progress of the district. Copies of the report shall be forwarded

1 to the commissioner and the State board. The State district
2 superintendent or the person designated by the commissioner shall
3 make such clerical and other resources available as are necessary for
4 the effective operation of the board of education.

5 d. The commissioner, in consultation with the New Jersey School
6 Boards Association, shall provide the members of the board of
7 education with appropriate in-service training in school matters.

8 (cf: P.L.1995, c.179, s.4)

9
10 28. Section 15 of P.L.1987, c.399 (C.18A:7A-48) is amended to
11 read as follows:

12 15. **[a. At]** If the commissioner has established a board of
13 education pursuant to subsection a. of section 14 of P.L.1987, c.399
14 (C.18A:7A-47), at the April school election in the fourth full academic
15 year following the creation of a [State-operated] school district under
16 full State control, nine board members shall be elected from among the
17 15 appointed board members, three to serve a one-year term, three to
18 serve a two-year term, and three to serve a three-year term. If there
19 are not nine members from the 15 appointed members who are willing
20 to run for election, the commissioner shall retain the right to appoint
21 the remaining members of the board. In each subsequent year, board
22 members shall be elected from the community at large.

23 **[b.** Beginning in the second year of State operation, the State
24 district superintendent shall bring matters of curriculum before the
25 board and may bring other matters before the board for a vote.
26 Beginning in the third year of State operation, the State district
27 superintendent shall bring legal matters before the board for a vote.
28 Beginning in the fourth year of State operation, the State district
29 superintendent shall bring fiscal matters before the board for a vote.
30 However, the State district superintendent shall retain veto power until
31 the reestablishment of local control.]

32 (cf: P.L.1995, c.179, s.5)

33
34 29. Section 16 of P.L.1987, c.399 (C.18A:7A-49) is amended to
35 read as follows:

36 16. a. **[The State district superintendent shall annually provide to**
37 **the commissioner an assessment of the progress of the district toward**
38 **meeting the requirements necessary for State certification. In addition,**
39 **the commissioner shall ensure that the district is regularly monitored**
40 **by the Department of Education in the manner provided for all school**
41 **districts in level III monitoring pursuant to section 14 of P.L.1975,**
42 **c.212 (C.18A:7A-14).]** A school district under full State control shall
43 make an annual report of its progress in complying with the quality
44 performance indicators adopted pursuant to section 10 of P.L.1975,
45 c.212 (C.18A:7A-10). The commissioner shall formally report to the
46 State board and to the Governor and the Legislature on the district's

1 progress.

2 b. Based upon the annual [assessment] report of progress [and the
3 district's having received State certification], but not sooner than
4 [five] three years after the establishment of the [State-operated]
5 school district under full State control, the commissioner may
6 [recommend to the State board that local control be reestablished]
7 place the school district under partial State control or elsewhere on the
8 performance continuum as the commissioner deems appropriate. If the
9 [State board] commissioner so determines, [local control shall be
10 reestablished] the school district shall be placed under partial State
11 control or designated as a highly performing or performing district
12 effective on the July 1 next ensuing.

13 c. [Upon the reestablishment of local control, the board of
14 education shall assume full responsibility for the operation of the
15 school district; however, the State district superintendent and those
16 members of the superintendent's staff appointed by operation of these
17 laws relating to State-operated school districts shall continue to serve
18 for a one-year transition period upon conclusion of which their term
19 of service shall expire without prejudice to the right of the district
20 board of education to reappoint any or all such persons to similar
21 positions within the district. During the transition period, the State
22 district superintendent may place matters before the board for a vote.
23 The board of education shall act upon all such matters brought before
24 it by the State district superintendent] In the event that the State
25 board, upon the recommendation of the commissioner, has appointed
26 a State district superintendent in a district under full State control and
27 if the district is placed under partial State control or is designated as
28 a highly performing or performing district, then the board of
29 education shall be permitted to extend the contract of the
30 superintendent who holds the position at the time that the district is
31 placed under partial State control or is designated a highly performing
32 or performing district, provide 18-months notice to the superintendent
33 to modify the contract, or allow the contract in effect to expire with
34 the appropriate statutory notice pursuant to subsection b. of section
35 4 of P.L.1991, c.267 (C.18A:17-20.1).

36 d. Not more than one year following the [reestablishment of local
37 control] placement of the district under partial State control or
38 designation as a highly performing or performing district, the board
39 shall call a special election for purposes of placing the question of
40 classification status before the voters of the district, which election
41 shall be conducted in accordance with the provisions of Title 19 of the
42 Revised Statutes concerning school elections.

43 e. If the voters of the district shall elect to become a type I district,
44 it shall be governed by the provisions of chapter 9 of Title 18A of the
45 New Jersey Statutes relating to type I districts after January 31 next

1 ensuing, unless the district is established in a city of the first class, in
2 which case it shall be governed after June 30 next ensuing. The
3 members of the district board of education at the time of said election
4 shall continue in office until expiration of their respective terms and
5 the qualification in office of their successors.

6 f. If the voters of the district shall so select that the district shall
7 become a type II district, it shall be governed by the provisions of
8 chapter 9 of Title 18A relating to type II districts and the members of
9 the board of education at the time of said election shall remain and
10 continue in office until the expiration of their respective terms and the
11 qualification of their respective successors.

12 g. If the commissioner cannot recommend that [local control be
13 reestablished in a district five years after the establishment of a
14 State-operated] the school district under full State control be placed
15 under partial State control within three years, then the commissioner
16 shall provide a comprehensive report to the State board and to the
17 Governor and the Legislature, including a detailed analysis of the
18 causes for the failure of the district to [achieve certification] comply
19 with the quality performance indicators and an assessment of the
20 amount of time necessary for the continuation of the [State-operated]
21 school district under full State control. On the basis of that report the
22 State board shall determine whether to continue the [State-operated]
23 school district under full State control or return the district to [local
24 control pursuant to this section] partial State control.

25 (cf: P.L.1995, c.278, s.25)

26

27 30. Section 17 of P.L.1987, c.399 (C.18A:7A-50) is amended to
28 read as follows:

29 17. The State district superintendent [of a State-operated school
30 district] or the person designated by the commissioner in a school
31 district under full State control shall develop a budget on or before
32 March 22 and shall present this budget to the board of education to
33 elicit the board's comments and recommendations. This budget shall
34 conform in all respects with the requirements of chapter 22 of Title
35 18A of the New Jersey Statutes and shall be subject to the limitations
36 on spending by local school districts otherwise required by P.L.1996,
37 c.138 (C.18A:7F-1 et al.).

38 (cf: P.L.1996, c.138, s.39)

39

40 31. Section 18 of P.L.1987, c.399 (C.18A:7A-51) is amended to
41 read as follows:

42 18. Upon the preparation of its budget, the State district
43 superintendent or the person designated by the commissioner shall fix
44 a date, place and time for the holding of a public hearing upon the
45 budget and the amounts of money necessary to be appropriated for the

1 use of the public schools for the ensuing school year, and the various
2 items and purposes for which the same are to be appropriated, which
3 hearing shall be held between March 22 and March 29. Notice of the
4 hearing, contents of the notice and the format and purpose of the
5 hearing shall be as provided in N.J.S.18A:22-11, N.J.S.18A:22-12 and
6 N.J.S.18A:22-13.

7 (cf: P.L.1995, c.278, s.40)

8

9 32. Section 19 of P.L.1987, c.399 (C.18A:7A-52) is amended to
10 read as follows:

11 19. a. After the public hearing provided for by section 18 of
12 P.L.1987, c.399 (C.18A:7A-51) but not later than April 8, the State
13 district superintendent or the person designated by the commissioner
14 shall fix and determine the amount of money necessary to be
15 appropriated for the ensuing school year and shall certify the amounts
16 to be raised by special district tax for school purposes as well as the
17 sum necessary for interest and debt redemption, if any, to the county
18 board of taxation and the amount or amounts so certified shall be
19 included in the taxes assessed, levied and collected in the municipality
20 or municipalities comprising the district. The State district
21 superintendent or the person designated by the commissioner shall
22 follow the procedures established pursuant to section 5 of P.L.1996,
23 c.138 (C.18A:7F-5).

24 b. (Deleted by amendment, P.L.1996, c.138).

25 c. (Deleted by amendment, P.L.1996, c.138).

26 (cf: P.L.1996, c.138, s.40)

27

28 33. Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended to read
29 as follows:

30 3. As used in sections 1 through 30 and 57 through 71 of this act,
31 unless the context clearly requires a different meaning:

32 "Abbott district" means an Abbott district as defined in section 3 of
33 P.L.1996, c.138 (C.18A:7F-3);

34 "Area cost allowance" means \$138 per square foot for the school
35 year 2000-2001 and shall be inflated by an appropriate cost index for
36 the 2001-2002 school year. For the 2002-2003 school year and
37 subsequent school years, the area cost allowance shall be as
38 established in the biennial Report on the Cost of Providing a Thorough
39 and Efficient Education and inflated by an appropriate cost index for
40 the second year to which the report applies. The area cost allowance
41 used in determining preliminary eligible costs of school facilities
42 projects shall be that of the year of application for approval of the
43 project;

44 "Authority means the New Jersey Economic Development
45 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

46 "Community provider" means a private entity which has contracted

1 to provide early childhood education programs for an ECPA district
2 and which (a) is licensed by the Department of Human Services to
3 provide day care services pursuant to P.L.1983, c.492 (C.30:5B-1 et
4 seq.); and (b) is a tax exempt nonprofit organization;

5 "Community early childhood education facilities project" means a
6 school facilities project consisting of facilities in which early childhood
7 education programs are provided to 3 or 4-year old children under
8 contract with the ECPA district but which are owned and operated by
9 a community provider;

10 "Commissioner" means the Commissioner of Education;

11 "Core curriculum content standards" means the standards
12 established pursuant to the provisions of subsection a. of section 4 of
13 P.L.1996, c.138 (C.18A:7F-4);

14 "Cost index" means the average annual increase, expressed as a
15 decimal, in actual construction cost factors for the New York City and
16 Philadelphia areas during the second fiscal year preceding the budget
17 year as determined pursuant to regulations promulgated by the
18 authority pursuant to section 26 of this act;

19 "Debt service" means and includes payments of principal and
20 interest upon school bonds issued to finance the acquisition of school
21 sites and the purchase or construction of school facilities, additions to
22 school facilities, or the reconstruction, remodeling, alteration,
23 modernization, renovation or repair of school facilities, including
24 furnishings, equipment, architect fees and the costs of issuance of such
25 obligations and shall include payments of principal and interest upon
26 school bonds heretofore issued to fund or refund such obligations, and
27 upon municipal bonds and other obligations which the commissioner
28 approves as having been issued for such purposes. Debt service
29 pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.),
30 P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177
31 (C.18A:58-33.2 et seq.) is excluded;

32 "Demonstration project" means a school facilities project selected
33 by the State Treasurer for construction by a redevelopment entity
34 pursuant to section 6 of this act;

35 "District" means a local or regional school district established
36 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey
37 Statutes, a county special services school district established pursuant
38 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a
39 county vocational school district established pursuant to article 3 of
40 chapter 54 of Title 18A of the New Jersey Statutes, and a
41 State-operated school district established pursuant to P.L.1987, c.399
42 (C.18A:7A-34 et seq.);

43 "District aid percentage" means the number expressed as a
44 percentage derived from dividing the district's core curriculum
45 standards aid calculated pursuant to section 15 of P.L.1996, c.138
46 (C.18A:7F-15) as of the date of the commissioner's determination of

1 preliminary eligible costs by the district's T & E budget calculated
2 pursuant to subsection d. of section 13 of P.L.1996, c.138
3 (C.18A:7F-13) as of the date of the commissioner's determination of
4 preliminary eligible costs;

5 "ECPA district" means a district that qualifies for early childhood
6 program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16);

7 "Excess costs" means the additional costs, if any, which shall be
8 borne by the district, of a school facilities project which result from
9 design factors that are not required to meet the facilities efficiency
10 standards and not approved pursuant to paragraph (1) of subsection
11 g. of section 5 of this act or are not authorized as community design
12 features included in final eligible costs pursuant to subsection c. of
13 section 6 of this act;

14 "Facilities efficiency standards" means the standards developed by
15 the commissioner pursuant to subsection h. of section 4 of this act;

16 "Final eligible costs" means for school facilities projects to be
17 constructed by the authority, the final eligible costs of the school
18 facilities project as determined by the commissioner, in consultation
19 with the authority, pursuant to section 5 of this act; for demonstration
20 projects, the final eligible costs of the project as determined by the
21 commissioner and reviewed by the authority which may include the
22 cost of community design features determined by the commissioner to
23 be an integral part of the school facility and which do not exceed the
24 facilities efficiency standards, and which were reviewed by the
25 authority and approved by the State Treasurer pursuant to section 6
26 of this act; and for districts whose district aid percentage is less than
27 55% and which elect not to have the authority construct a school
28 facilities project, final eligible costs as determined pursuant to
29 paragraph (1) of subsection h. of section 5 of this act;

30 "FTE" means a full-time equivalent student which shall be
31 calculated as follows: in districts that qualify for early childhood
32 program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16),
33 each student in grades kindergarten through 12 shall be counted at
34 100% of the actual count of students, and each preschool student
35 approved by the commissioner to be served in the district shall be
36 counted at 50% or 100% of the actual count of preschool students for
37 an approved half-day or full-day program, respectively; in districts that
38 do not qualify for early childhood program aid pursuant to section 16
39 of P.L.1996, c.138 (C.18A:7F-16), each student in grades 1 through
40 12 shall be counted at 100% of the actual count of students, in the
41 case of districts which operate a half-day kindergarten program each
42 kindergarten student shall be counted at 50% of the actual count of
43 kindergarten students, in the case of districts which operate a full-day
44 kindergarten program or which currently operate a half-day
45 kindergarten program but propose to build facilities to house a full-day
46 kindergarten program each kindergarten student shall be counted at

1 100% of the actual count of kindergarten students, and preschool
2 students shall not be counted. In addition, each preschool
3 handicapped child who is entitled to receive a full-time program
4 pursuant to N.J.S.18A:46-6 shall be counted at 100% of the actual
5 count of these students in the district;

6 "Functional capacity" means the number of students that can be
7 housed in a building in order to have sufficient space for it to be
8 educationally adequate for the delivery of programs and services
9 necessary for student achievement of the core curriculum content
10 standards. Functional capacity is determined by dividing the existing
11 gross square footage of a school building by the minimum area
12 allowance per FTE student pursuant to subsection b. of section 8 of
13 this act for the grade level students contained therein. The difference
14 between the projected enrollment determined pursuant to subsection
15 a. of section 8 of this act and the functional capacity is the unhoused
16 students that are the basis upon which the additional costs of space to
17 provide educationally adequate facilities for the entire projected
18 enrollment are determined. The existing gross square footage for the
19 purposes of defining functional capacity is exclusive of existing spaces
20 that are not contained in the facilities efficiency standards but which
21 are used to deliver programs and services aligned to the core
22 curriculum content standards, used to provide support services directly
23 to students, or other existing spaces that the district can demonstrate
24 would be structurally or fiscally impractical to convert to other uses
25 contained in the facilities efficiency standards;

26 "Lease purchase payment" means and includes payment of principal
27 and interest for lease purchase agreements in excess of five years
28 approved pursuant to subsection f. of N.J.S.18A:20-4.2 prior to the
29 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) to finance the
30 purchase or construction of school facilities, additions to school
31 facilities, or the reconstruction, remodeling, alteration, modernization,
32 renovation or repair of school facilities, including furnishings,
33 equipment, architect fees and issuance costs. Approved lease purchase
34 agreements in excess of five years shall be accorded the same
35 accounting treatment as school bonds;

36 ["Level II district" means a district which is directed by the
37 commissioner to enter level II monitoring pursuant to the provisions
38 of section 14 of P.L.1975, c.212 (C.18A:7A-14);]

39 "Local share" means, in the case of a school facilities project to be
40 constructed by the authority, the total costs less the State share as
41 determined pursuant to section 5 of this act; in the case of a
42 demonstration project, the total costs less the State share as
43 determined pursuant to sections 5 and 6 of this act; and in the case of
44 a school facilities project not to be constructed by the authority, but
45 which shall be financed pursuant to section 15 of this act, the total
46 costs less the State share as determined pursuant to that section;

1 "Local unit" means a county, municipality, board of education or
2 any other political subdivision or instrumentality authorized to
3 construct, operate and maintain a school facilities project and to
4 borrow money for those purposes pursuant to law;

5 "Local unit obligations" means bonds, notes, refunding bonds,
6 refunding notes, lease obligations and all other obligations of a local
7 unit which are issued or entered into for the purpose of paying for all
8 or a portion of the costs of a school facilities project, including
9 moneys payable to the authority;

10 "Long-range facilities plan" means the plan required to be submitted
11 to the commissioner by a district pursuant to section 4 of this act;

12 "Maintenance" means expenditures which are approved for repairs
13 and replacements for the purpose of keeping a school facility open and
14 safe for use or in its original condition, including repairs and
15 replacements to a school facility's heating, lighting, ventilation,
16 security and other fixtures to keep the facility or fixtures in effective
17 working condition. Maintenance shall not include contracted custodial
18 or janitorial services, expenditures for the cleaning of a school facility
19 or its fixtures, the care and upkeep of grounds or parking lots, and the
20 cleaning of, or repairs and replacements to, movable furnishings or
21 equipment, or other expenditures which are not required to maintain
22 the original condition over the school facility's useful life. Approved
23 maintenance expenditures shall be as determined by the commissioner
24 pursuant to regulations to be adopted by the commissioner pursuant
25 to section 26 of this act;

26 "Other allowable costs" means the costs of site development,
27 acquisition of land or other real property interests necessary to
28 effectuate the school facilities project, fees for the services of design
29 professionals, including architects, engineers, construction managers
30 and other design professionals, legal fees, financing costs and the
31 administrative costs of the authority or the district incurred in
32 connection with the school facilities project;

33 "Preliminary eligible costs" means the initial eligible costs of a
34 school facilities project as calculated pursuant to the formulas set forth
35 in section 7 of this act which shall be deemed to include the costs of
36 construction and other allowable costs;

37 "Redevelopment entity" means a redevelopment entity authorized
38 by a municipal governing body to implement plans and carry out
39 redevelopment projects in the municipality pursuant to the "Local
40 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
41 seq.);

42 "Report on the Cost of Providing a Thorough and Efficient
43 Education" or "Report" means the report issued by the commissioner
44 pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4);

45 "School bonds" means, in the case of a school facilities project
46 which is to be constructed by the authority, a redevelopment entity,

1 or a district under section 15 of this act, bonds, notes or other
2 obligations issued by a district to finance the local share; and, in the
3 case of a school facilities project which is not to be constructed by the
4 authority or a redevelopment entity, or financed under section 15 of
5 this act, bonds, notes or other obligations issued by a district to
6 finance the total costs;

7 "School enrollment" means the number of FTE students other than
8 evening school students, including post-graduate students and
9 post-secondary vocational students, who, on the last school day prior
10 to October 16 of the current school year, are recorded in the registers
11 of the school;

12 "School facility" means and includes any structure, building or
13 facility used wholly or in part for academic purposes by a district, but
14 shall exclude athletic stadiums, grandstands, and any structure,
15 building or facility used solely for school administration;

16 "School facilities project" means the acquisition, demolition,
17 construction, improvement, repair, alteration, modernization,
18 renovation, reconstruction or maintenance of all or any part of a
19 school facility or of any other personal property necessary for, or
20 ancillary to, any school facility, and shall include fixtures, furnishings
21 and equipment, and shall also include, but is not limited to, site
22 acquisition, site development, the services of design professionals,
23 such as engineers and architects, construction management, legal
24 services, financing costs and administrative costs and expenses
25 incurred in connection with the project;

26 "Special education services pupil" means a pupil receiving specific
27 services pursuant to chapter 46 of Title 18A of the New Jersey
28 Statutes;

29 "State aid" means State municipal aid and State school aid;

30 "State debt service aid" means for school bonds issued for school
31 facilities projects approved by the commissioner after the effective
32 date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect not
33 to have the authority or a redevelopment entity construct the project
34 or which elect not to finance the project under section 15 of this act,
35 the amount of State aid determined pursuant to section 9 of this act;
36 and for school bonds or certificates of participation issued for school
37 facilities projects approved by the commissioner prior to the effective
38 date of P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid
39 determined pursuant to section 10 of this act;

40 "State municipal aid" means business personal property tax
41 replacement revenues, State urban aid and State revenue sharing, as
42 these terms are defined in section 2 of P.L.1976, c.38 (C.40A:3-3), or
43 other similar forms of State aid payable to the local unit and to the
44 extent permitted by federal law, federal moneys appropriated or
45 apportioned to the municipality or county by the State;

46 "State school aid" means the funds made available to school

1 districts pursuant to sections 15 and 17 of P.L.1996, c.138
2 (C.18A:7F-15 and 17);

3 "State share" means the State's proportionate share of the final
4 eligible costs of a school facilities project to be constructed by the
5 authority as determined pursuant to section 5 of this act; in the case of
6 a demonstration project, the State's proportionate share of the final
7 eligible costs of the project as determined pursuant to sections 5 and
8 6 of this act; and in the case of a school facilities project to be financed
9 pursuant to section 15 of this act, the State share as determined
10 pursuant to that section;

11 "Total costs" means, in the case of a school facilities project which
12 is to be constructed by the authority or a redevelopment entity or
13 financed pursuant to section 15 of this act, the final eligible costs plus
14 excess costs if any; and in the case of a school facilities project which
15 is not to be constructed by the authority or a redevelopment entity or
16 financed pursuant to section 15 of this act, the total cost of the project
17 as determined by the district.

18 (cf: P.L.2000, c.72, s.3)

19

20 34. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to read
21 as follows:

22 5. a. The authority shall construct and finance the school facilities
23 projects of Abbott districts, districts in level II [districts] monitoring
24 pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) as of the
25 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), and districts with
26 a district aid percentage equal to or greater than 55%.

27 b. Any district whose district aid percentage is less than 55% may
28 elect to have the authority undertake the construction of a school
29 facilities project in the district and the State share shall be determined
30 pursuant to this section. In the event that the district elects not to
31 have the authority undertake the construction of the project, State
32 support for the project shall be determined pursuant to section 9 or
33 section 15 of this act, as applicable.

34 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the
35 contrary, the procedures for obtaining approval of a school facilities
36 project shall be as set forth in this act; provided that any district whose
37 district aid percentage is less than 55%, which elects not to have the
38 authority or a redevelopment entity undertake the construction of the
39 project, shall also be required to comply with the provisions of
40 N.J.S.18A:18A-16.

41 d. Any district seeking to initiate a school facilities project shall
42 apply to the commissioner for approval of the project. The application
43 shall, at a minimum, contain the following information: a description
44 of the school facilities project; a schematic drawing of the project or,
45 at the option of the district, preliminary plans and specifications; a
46 delineation and description of each of the functional components of the

1 project; the number of unhoused students to be housed in the project;
2 the area allowances per FTE student as calculated pursuant to section
3 8 of this act; and the estimated cost to complete the project as
4 determined by the district.

5 e. The commissioner shall review each proposed school facilities
6 project to determine whether it is consistent with the district's
7 long-range facilities plan and whether it complies with the facilities
8 efficiency standards and the area allowances per FTE student derived
9 from those standards. The commissioner shall make a decision on a
10 district's application within 90 days from the date he determines that
11 the application is fully and accurately completed and that all
12 information necessary for a decision has been filed by the district, or
13 from the date of the last revision made by the district. If the
14 commissioner is not able to make a decision within 90 days, he shall
15 notify the district in writing explaining the reason for the delay and
16 indicating the date on which a decision on the project will be made,
17 provided that the date shall not be later than 60 days from the
18 expiration of the original 90 days set forth in this subsection. If the
19 decision is not made by the subsequent date indicated by the
20 commissioner, then the project shall be deemed approved and the
21 preliminary eligible costs for new construction shall be calculated by
22 using the proposed square footage of the building as the approved area
23 for unhoused students.

24 f. If the commissioner determines that the school facilities project
25 complies with the facilities efficiency standards and the district's
26 long-range facilities plan and does not exceed the area allowance per
27 FTE student derived from those standards, the commissioner shall
28 calculate the preliminary eligible costs of the project pursuant to the
29 formulas set forth in section 7 of this act; except that in the case of a
30 county special services school district or a county vocational school
31 district, the commissioner shall calculate the preliminary eligible costs
32 to equal the amount determined by the board of school estimate and
33 approved by the board of chosen freeholders pursuant to section 14 of
34 P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate.

35 g. If the commissioner determines that the school facilities project
36 is inconsistent with the facilities efficiency standards or exceeds the
37 area allowances per FTE student derived from those standards, the
38 commissioner shall notify the district.

39 (1) The commissioner shall approve area allowances in excess of
40 the area allowances per FTE student derived from the facilities
41 efficiency standards if the board of education or State district
42 superintendent, as appropriate, demonstrates that school facilities
43 needs related to required programs cannot be addressed within the
44 facilities efficiency standards and that all other proposed spaces are
45 consistent with those standards. The commissioner shall approve area
46 allowances in excess of the area allowances per FTE student derived

1 from the facilities efficiency standards if the additional area allowances
2 are necessary to accommodate centralized facilities to be shared
3 among two or more school buildings within the district and the
4 centralized facilities represent a more cost effective alternative.

5 (2) The commissioner may waive a facilities efficiency standard if
6 the board of education or State district superintendent, as appropriate,
7 demonstrates to the commissioner's satisfaction that the waiver will
8 not adversely affect the educational adequacy of the school facility,
9 including the ability to deliver the programs and services necessary to
10 enable all students to achieve the core curriculum content standards.

11 (3) To house the district's central administration, a district may
12 request an adjustment to the approved areas for unhoused students of
13 2.17 square feet for each FTE student in the projected total district
14 school enrollment if the proposed administrative offices will be housed
15 in a school facility and the district demonstrates either that the existing
16 central administrative offices are obsolete or that it is more practical
17 to convert those offices to instructional space. To the extent that
18 existing administrative space will continue to be used for
19 administrative purposes, the space shall be included in the formulas set
20 forth in section 7 of this act.

21 If the commissioner approves excess facilities efficiency standards
22 or additional area allowances pursuant to paragraph (1), (2), or (3) of
23 this subsection, the commissioner shall calculate the preliminary
24 eligible costs based upon the additional area allowances or excess
25 facilities efficiency standards pursuant to the formulas set forth in
26 section 7 of this act. In the event that the commissioner does not
27 approve the excess facilities efficiency standards or additional area
28 allowances, the district may either: modify its submission so that the
29 school facilities project meets the facilities efficiency standards; or pay
30 for the excess costs.

31 (4) The commissioner shall approve spaces in excess of, or
32 inconsistent with, the facilities efficiency standards, hereinafter
33 referred to as nonconforming spaces, upon a determination by the
34 district that the spaces are necessary to comply with State or federal
35 law concerning individuals with disabilities. A district may apply for
36 additional State aid for nonconforming spaces that will permit pupils
37 with disabilities to be educated to the greatest extent possible in the
38 same buildings or classes with their nondisabled peers. The
39 nonconforming spaces may: (a) allow for the return of pupils with
40 disabilities from private facilities; (b) permit the retention of pupils
41 with disabilities who would otherwise be placed in private facilities; (c)
42 provide space for regional programs in a host school building that
43 houses both disabled and nondisabled pupils; and (d) provide space for
44 the coordination of regional programs by a county special services
45 school district, educational services commission, jointure commission,
46 or other agency authorized by law to provide regional educational

1 services in a school building that houses both disabled and nondisabled
2 pupils. A district's State support ratio shall be adjusted to equal the
3 lesser of the sum of its district aid percentage as defined in section 3
4 of this act plus 0.25, or 100% for any nonconforming spaces approved
5 by the commissioner pursuant to this paragraph.

6 h. Upon approval of a school facilities project and determination
7 of the preliminary eligible costs:

8 (1) In the case of a district whose district aid percentage is less than
9 55% and which has elected not to have the authority undertake the
10 construction of the school facilities project, the commissioner shall
11 notify the district whether the school facilities project is approved and,
12 if so approved, the preliminary eligible costs and the excess costs, if
13 any. Following the determination of preliminary eligible costs and the
14 notification of project approval, the district may appeal to the
15 commissioner for an increase in those costs if the detailed plans and
16 specifications completed by a design professional for the school
17 facilities project indicate that the cost of constructing that portion of
18 the project which is consistent with the facilities efficiency standards
19 and does not exceed the area allowances per FTE student exceeds the
20 preliminary eligible costs as determined by the commissioner for the
21 project by 10% or more. The district shall file its appeal within 30
22 days of the preparation of the plans and specifications. If the district
23 chooses not to file an appeal, then the final eligible costs shall equal
24 the preliminary eligible costs.

25 The appeal shall outline the reasons why the preliminary eligible
26 costs calculated for the project are inadequate and estimate the amount
27 of the adjustment which needs to be made to the preliminary eligible
28 costs. The commissioner shall forward the appeal information to the
29 authority for its review and recommendation. If the additional costs
30 are the result of factors that are within the control of the district or are
31 the result of design factors that are not required to meet the facilities
32 efficiency standards, the authority shall recommend to the
33 commissioner that the preliminary eligible costs be accepted as the
34 final eligible costs. If the authority determines the additional costs are
35 not within the control of the district or are the result of design factors
36 required to meet the facilities efficiency standards, the authority shall
37 recommend to the commissioner a final eligible cost based on its
38 experience for districts with similar characteristics, provided that,
39 notwithstanding anything to the contrary, the commissioner shall not
40 approve an adjustment to the preliminary eligible costs which exceeds
41 10% of the preliminary eligible costs. The commissioner shall make
42 a determination on the appeal within 30 days of its receipt. If the
43 commissioner does not approve an adjustment to the school facilities
44 project's preliminary eligible costs, the commissioner shall issue his
45 findings in writing on the reasons for the denial and on why the
46 preliminary eligible costs as originally calculated are sufficient.

1 (2) In all other cases, the commissioner shall promptly prepare and
2 submit to the authority a preliminary project report which shall consist,
3 at a minimum, of the following information: a complete description of
4 the school facilities project; the actual location of the project; the total
5 square footage of the project together with a breakdown of total
6 square footage by functional component; the preliminary eligible costs
7 of the project; the project's priority ranking determined pursuant to
8 subsection m. of this section; any other factors to be considered by the
9 authority in undertaking the project; and the name and address of the
10 person from the district to contact in regard to the project.

11 i. Upon receipt by the authority of the preliminary project report,
12 the authority, upon consultation with the district, shall prepare detailed
13 plans and specifications and schedules which contain the authority's
14 estimated cost and schedule to complete the school facilities project.
15 The authority shall transmit to the commissioner the authority's
16 recommendations in regard to the project which shall, at a minimum,
17 contain the detailed plans and specifications; whether the school
18 facilities project can be completed within the preliminary eligible costs;
19 and any other factors which the authority determines should be
20 considered by the commissioner.

21 (1) In the event that the authority determines that the school
22 facilities project can be completed within the preliminary eligible costs:
23 the final eligible costs shall be deemed to equal the preliminary eligible
24 costs; the commissioner shall be deemed to have given final approval
25 to the project; and the preliminary project report shall be deemed to be
26 the final project report delivered to the authority pursuant to
27 subsection j. of this section.

28 (2) In the event that the authority determines that the school
29 facilities project cannot be completed within the preliminary eligible
30 costs, prior to the submission of the authority's recommendations to
31 the commissioner, the authority shall, in consultation with the district
32 and the commissioner, determine whether changes can be made in the
33 project which will result in a reduction in costs while at the same time
34 meeting the facilities efficiency standards approved by the
35 commissioner.

36 (a) If the authority determines that changes in the school facilities
37 project are possible so that the project can be accomplished within the
38 scope of the preliminary eligible costs while still meeting the facilities
39 efficiency standards, the authority shall so advise the commissioner,
40 whereupon the commissioner shall: calculate the final eligible costs to
41 equal the preliminary eligible costs; give final approval to the project
42 with the changes noted; and issue a final project report to the authority
43 pursuant to subsection j. of this section.

44 (b) If the authority determines that it is not possible to make
45 changes in the school facilities project so that it can be completed
46 within the preliminary eligible costs either because the additional costs

1 are the result of factors outside the control of the district or the
2 additional costs are required to meet the facilities efficiency standards,
3 the authority shall recommend to the commissioner that the
4 preliminary eligible costs be increased accordingly, whereupon the
5 commissioner shall: calculate the final eligible costs to equal the sum
6 of the preliminary eligible costs plus the increase recommended by the
7 authority; give final approval to the project; and issue a final project
8 report to the authority pursuant to subsection j. of this section.

9 (c) If the additional costs are the result of factors that are within the
10 control of the district or are the result of design factors that are not
11 required to meet the facilities efficiency standards or approved
12 pursuant to paragraph (1) of subsection g. of this section, the authority
13 shall recommend to the commissioner that the preliminary eligible
14 costs be accepted, whereupon the commissioner shall: calculate the
15 final eligible costs to equal the preliminary eligible costs and specify
16 the excess costs which are to be borne by the district; give final
17 approval to the school facilities project; and issue a final project report
18 to the authority pursuant to subsection j. of this section; provided that
19 the commissioner may approve final eligible costs which are in excess
20 of the preliminary eligible costs if, in his judgment, the action is
21 necessary to meet the educational needs of the district.

22 (d) For a school facilities project constructed by the authority, the
23 authority shall be responsible for any costs of construction, but only
24 from the proceeds of bonds issued by the authority pursuant to this
25 act, which exceed the amount originally projected by the authority and
26 approved for financing by the authority, provided that the excess is the
27 result of an underestimate of labor or materials costs by the authority.
28 After receipt by the authority of the final project report, the district
29 shall be responsible only for the costs associated with changes, if any,
30 made at the request of the district to the scope of the school facilities
31 project.

32 j. The authority shall not commence the acquisition or construction
33 of a school facilities project unless the commissioner transmits to the
34 authority a final project report and the district complies with the
35 approval requirements for the local share, if any, pursuant to section
36 11 of this act. The final project report shall contain all of the
37 information contained in the preliminary project report and, in
38 addition, shall contain: the final eligible costs; the excess costs, if any;
39 the total costs which equals the final eligible costs plus excess costs,
40 if any; the State share; and the local share.

41 k. For the Abbott districts, the State share shall be 100% of the
42 final eligible costs. For all other districts, the State share shall be an
43 amount equal to 115% of the district aid percentage; except that the
44 State share shall not be less than 40% of the final eligible costs.

45 If any district which is included in district factor group A or B,
46 other than an Abbott district, is having difficulty financing the local

1 share of a school facilities project, the district may apply to the
2 commissioner to receive 100% State support for the project and the
3 commissioner may request the approval of the Legislature to increase
4 the State share of the project to 100%.

5 l. The local share for school facilities projects constructed by the
6 authority or a redevelopment entity shall equal the final eligible costs
7 plus any excess costs less the State share.

8 m. The commissioner shall establish, in consultation with the
9 Abbott districts, a priority ranking of all school facilities projects in the
10 Abbott districts based upon his determination of critical need, and shall
11 establish priority categories for all school facilities projects in
12 non-Abbott districts. The commissioner shall rank projects from Tier
13 I to Tier IV in terms of critical need according to the following
14 prioritization:

15 Tier I: health and safety, including electrical system upgrades;
16 required early childhood education programs; unhoused students/class
17 size reduction as required to meet the standards of the
18 "Comprehensive Educational Improvement and Financing Act of
19 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.);

20 Tier II: educational adequacy - specialized instructional spaces,
21 media centers, cafeteriums, and other non-general classroom spaces
22 contained in the facilities efficiency standards; special education spaces
23 to achieve the least restrictive environment;

24 Tier III: technology projects; regionalization or consolidation
25 projects;

26 Tier IV: other local objectives.

27 n. The provisions of the "Public School Contracts Law,"
28 N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities
29 project constructed by a district but shall not be applicable to projects
30 constructed by the authority or a redevelopment entity pursuant to the
31 provisions of this act.

32 o. In the event that a district whose district aid percentage is less
33 than 55% elects not to have the authority undertake construction of a
34 school facilities project, any proceeds of school bonds issued by the
35 district for the purpose of funding the project which remain unspent
36 upon completion of the project shall be used by the district to reduce
37 the outstanding principal amount of the school bonds.

38 p. Upon completion by the authority of a school facilities project,
39 if the cost of construction and completion of the project is less than
40 the total costs, the district shall be entitled to receive a portion of the
41 local share based on a pro rata share of the difference based on the
42 ratio of the State share to the local share.

43 q. The authority shall determine the cause of any costs of
44 construction which exceed the amount originally projected by the
45 authority and approved for financing by the authority.

46 r. In the event that a district has engaged architectural services to

1 prepare the documents required for initial proposal of a school
2 facilities project, the district shall, if permitted by the terms of the
3 district's contract for architectural services, and at the option of the
4 authority assign the contract for architectural services to the authority
5 if the authority determines that the assignment would be in the best
6 interest of the school facilities project.

7 s. Notwithstanding anything to the contrary contained in P.L.2000,
8 c.72 (C.18A:7G-1 et al.), an ECPA district, at its option, may provide
9 in its long-range facilities plan submitted pursuant to section 4 of this
10 act, for one or more community early childhood education facilities
11 projects. If the district has requested designation of a demonstration
12 project pursuant to section 6 of this act and is eligible to submit a plan
13 for a community early childhood education facilities project pursuant
14 to this section, the district shall be permitted to include the community
15 early childhood education facilities project as part of the
16 demonstration project.

17 (1) An ECPA district seeking to initiate a community early
18 childhood education facilities project shall apply to the commissioner
19 for approval of the project. The application shall, at a minimum,
20 contain the following information: the name of the community
21 provider; evidence that the community provider is licensed by the
22 Department of Human Services pursuant to P.L.1983, c.492
23 (C.30:5B-1 et seq.) and is a tax exempt nonprofit organization;
24 evidence that the community provider is or shall provide early
25 childhood education programs for the district; a description of the
26 community early childhood education facilities project; a schematic
27 drawing of the project, or at the option of the district, preliminary
28 plans and specifications; a delineation and description of each of the
29 functional components of the project; identification of those portions
30 of the proposed project which shall be devoted in whole or in part to
31 the provision of early childhood education programs to 3 or 4-year old
32 children from the ECPA district; the estimated cost to complete the
33 project as determined by the district in consultation with the
34 community provider; and whether the facility provides services other
35 than early childhood education programs for 3 and 4-year old children,
36 pursuant to a contract with the ECPA district.

37 (2) The commissioner shall review the proposed early childhood
38 education facilities project to determine whether it is consistent with
39 the district's long-range facilities plan, whether it will provide a facility
40 which is structurally adequate and safe and capable of providing a
41 program which will enable preschool children being served pursuant
42 to the ECPA district's approved early childhood education operational
43 plan to meet the standards for early childhood education programs
44 established by the department and whether there is a need for
45 increased capacity or to rehabilitate existing space to meet these
46 standards. Only those facilities which are used for 3 or 4-year old

1 children pursuant to a contract with the ECPA district shall be eligible
2 for approval, provided that facilities which are jointly used by 3 or
3 4-year old children from the ECPA district and from other districts
4 shall also be eligible for approval.

5 (3) If the commissioner approves the project, the commissioner
6 shall determine, in consultation with the authority, the cost to
7 complete the approved project, which shall be the reasonable,
8 estimated cost of the renovation or new construction necessary to
9 provide a facility which is structurally adequate and safe and capable
10 of providing a program which will enable preschool children being
11 served pursuant to the ECPA district's approved early childhood
12 education operation plan to meet the standards for early childhood
13 education programs established by the department. For projects
14 initiated by an Abbott district, the State support shall be 100% of such
15 reasonable, estimated cost. For projects initiated by an ECPA district
16 that is not an Abbott district, the State support shall be an amount
17 equal to 115% of the district aid percentage of that ECPA district, of
18 such reasonable, estimated cost, except that the State support shall not
19 be less than 40% of such reasonable, estimated cost. The
20 commissioner shall issue a final project report to the authority which
21 shall contain a complete description of the project, the actual location
22 of the project, the total square footage of the project together with a
23 breakdown of total square footage by functional component; any other
24 factors to be considered by the authority in undertaking the project;
25 the names and addresses of the people to contact from the district and
26 the community provider; the amount of State support for the project;
27 and the amount of local support required from the community provider
28 to pay for costs, if any, of the project which have not been approved
29 by the commissioner for State support.

30 (4) Upon submission to the authority of a final project report, the
31 authority shall undertake the financing, acquisition, construction and
32 all other appropriate actions necessary to complete the community
33 early childhood education facilities project, provided, that if there is
34 local support required for the project, such actions shall not commence
35 until the authority receives the local support from the community
36 provider. The authority may, in its discretion, and upon consultation
37 with the commissioner, authorize a community provider to undertake
38 the acquisition, construction and all other appropriate action necessary
39 to complete the project, in which case the authority shall not provide
40 State support until the community provider provides the local support,
41 if any.

42 (5) In order to implement the arrangements established for
43 community early childhood education facilities projects, the authority
44 shall enter into an agreement with the district, the commissioner and
45 the community provider containing the terms and conditions
46 determined by the parties to be necessary to effectuate the project.

1 (6) The authority shall require as a condition of providing State
2 support for any community early childhood education facilities project
3 that the State support must be repaid by the community provider in the
4 event that (a) the commissioner determines that the project is no
5 longer being used for the purposes for which it was intended; or (b)
6 the project is sold, leased or otherwise conveyed to an individual or
7 organization that does not have tax exempt nonprofit or government
8 status.

9 (cf: P.L.2000, c.72, s.5)

10
11 35. Section 14 of P.L.2000, c.72 (C.18A:7G-14) is amended to
12 read as follows:

13 14. Notwithstanding any other provisions of law to the contrary:

14 a. The authority shall have the power, pursuant to the provisions
15 of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and
16 refunding bonds, incur indebtedness and borrow money secured, in
17 whole or in part, by moneys received pursuant to sections 17, 18 and
18 19 of this act for the purposes of: financing all or a portion of the
19 costs of school facilities projects and any costs related to the issuance
20 thereof, including, but not limited to, the administrative, insurance,
21 operating and other expenses of the authority to undertake the
22 financing, design, construction and maintenance of school facilities
23 projects; lending moneys to local units to pay the costs of all or a
24 portion of school facilities projects and any costs related to the
25 issuance thereof; funding the grants to be made pursuant to section 15
26 of this act; and financing the acquisition of school facilities projects to
27 permit the refinancing of debt by the district pursuant to section 16 of
28 this act. The aggregate principal amount of the bonds, notes or other
29 obligations issued by the facilities authority shall not exceed:
30 \$100,000,000 for the State share of costs for county vocational
31 school district school facilities projects; \$6,000,000,000 for the State
32 share of costs for Abbott district school facilities projects; and
33 \$2,500,000,000 for the State share of costs for school facilities
34 projects in all other districts. This limitation shall not include any
35 bonds, notes or other obligations issued for refunding purposes.

36 The authority may establish reserve funds to further secure bonds
37 and refunding bonds issued pursuant to this section and may issue
38 bonds to pay for the administrative, insurance and operating costs of
39 the authority in carrying out the provisions of this act. In addition to
40 its bonds and refunding bonds, the authority shall have the power to
41 issue subordinated indebtedness, which shall be subordinate in lien to
42 the lien of any or all of its bonds or refunding bonds as the authority
43 may determine.

44 b. The authority shall issue the bonds or refunding bonds in such
45 manner as it shall determine in accordance with the provisions of this
46 act and P.L.1974, c.80 (C.34:1B-1 et seq.); provided that

1 notwithstanding any other law to the contrary, no resolution adopted
2 by the authority authorizing the issuance of bonds or refunding bonds
3 pursuant to this section shall be adopted or otherwise made effective
4 without the approval in writing of the State Treasurer; and refunding
5 bonds issued to refund bonds issued pursuant to this section shall be
6 issued on such terms and conditions as may be determined by the
7 authority and the State Treasurer. The authority may, in any
8 resolution authorizing the issuance of bonds or refunding bonds issued
9 pursuant to this section, pledge the contract with the State Treasurer
10 provided for pursuant to section 18 of this act, or any part thereof, or
11 may pledge all or any part of the repayments of loans made to local
12 units pursuant to section 19 of this act for the payment or redemption
13 of the bonds or refunding bonds, and covenant as to the use and
14 disposition of money available to the authority for payment of the
15 bonds and refunding bonds. All costs associated with the issuance of
16 bonds and refunding bonds by the authority for the purposes set forth
17 in this act may be paid by the authority from amounts it receives from
18 the proceeds of the bonds or refunding bonds, and from amounts it
19 receives pursuant to sections 17, 18, and 19 of this act. The costs may
20 include, but shall not be limited to, any costs relating to the issuance
21 of the bonds or refunding bonds, administrative costs of the authority
22 attributable to the making and administering of loans and grants to
23 fund school facilities projects, and costs attributable to the agreements
24 entered into pursuant to subsection d. of this section.

25 c. Each issue of bonds or refunding bonds of the authority shall be
26 special obligations of the authority payable out of particular revenues,
27 receipts or funds, subject only to any agreements with the holders of
28 bonds or refunding bonds, and may be secured by other sources of
29 revenue, including, but not limited to, one or more of the following:

30 (1) Pledge of the revenues and other receipts to be derived from the
31 payment of local unit obligations and any other payment made to the
32 authority pursuant to agreements with any local unit, or a pledge or
33 assignment of any local unit obligations, and the rights and interest of
34 the authority therein;

35 (2) Pledge of rentals, receipts and other revenues to be derived
36 from leases or other contractual arrangements with any person or
37 entity, public or private, including one or more local units, or a pledge
38 or assignment of those leases or other contractual arrangements and
39 the rights and interests of the authority therein;

40 (3) Pledge of all moneys, funds, accounts, securities and other
41 funds, including the proceeds of the bonds;

42 (4) Pledge of the receipts to be derived from payments of State aid
43 to the authority pursuant to section 21 of this act;

44 (5) Pledge of the contract or contracts with the State Treasurer
45 pursuant to section 18 of this act;

46 (6) Pledge of any sums remitted to the local unit by donation from

1 any person or entity, public or private, subject to the approval of the
2 State Treasurer;

3 (7) A mortgage on all or any part of the property, real or personal,
4 comprising a school facilities project then owned or thereafter to be
5 acquired, or a pledge or assignment of mortgages made to the
6 authority by any person or entity, public or private, including one or
7 more local units and rights and interests of the authority therein; and

8 (8) The receipt of any grants, reimbursements or other payments
9 from the federal government.

10 d. The resolution authorizing the issuance of bonds or refunding
11 bonds pursuant to this section may also provide for the authority to
12 enter into any revolving credit agreement, agreement establishing a
13 line of credit or letter of credit, reimbursement agreement, interest rate
14 exchange agreement, currency exchange agreement, interest rate floor
15 or cap, options, puts or calls to hedge payment, currency, rate, spread
16 or similar exposure or similar agreements, float agreements, forward
17 agreements, insurance contracts, surety bonds, commitments to
18 purchase or sell bonds, purchase or sale agreements, or commitments
19 or other contracts or agreements and other security agreements
20 approved by the authority in connection with the issuance of the bonds
21 or refunding bonds pursuant to this section. In addition, the authority
22 may, in anticipation of the issuance of the bonds or the receipt of
23 appropriations, grants, reimbursements or other funds, including,
24 without limitation, grants from the federal government for school
25 facilities projects, issue notes, the principal of or interest on which, or
26 both, shall be payable out of the proceeds of notes, bonds or other
27 obligations of the authority or appropriations, grants, reimbursements
28 or other funds or revenues of the authority.

29 e. The authority is authorized to engage, subject to the approval of
30 the State Treasurer and in such manner as the State Treasurer shall
31 determine, the services of financial advisors and experts, placement
32 agents, underwriters, appraisers, and other advisors, consultants and
33 agents as may be necessary to effectuate the financing of school
34 facilities projects.

35 f. Bonds and refunding bonds issued by the authority pursuant to
36 this section shall be special and limited obligations of the authority
37 payable from, and secured by, funds and moneys determined by the
38 authority in accordance with this section. Notwithstanding any other
39 provision of law or agreement to the contrary, any bonds and
40 refunding bonds issued by the authority pursuant to this section shall
41 not be secured by the same property as bonds and refunding bonds
42 issued by the authority to finance projects other than school facilities
43 projects. Neither the members of the authority nor any other person
44 executing the bonds or refunding bonds shall be personally liable with
45 respect to payment of interest and principal on these bonds or
46 refunding bonds. Bonds or refunding bonds issued pursuant to this

1 section shall not be a debt or liability of the State or any agency or
2 instrumentality thereof, except as otherwise provided by this
3 subsection, either legal, moral or otherwise, and nothing contained in
4 this act shall be construed to authorize the authority to incur any
5 indebtedness on behalf of or in any way to obligate the State or any
6 political subdivision thereof, and all bonds and refunding bonds issued
7 by the authority shall contain a statement to that effect on their face.

8 g. The State hereby pledges and covenants with the holders of any
9 bonds or refunding bonds issued pursuant to this act that it will not
10 limit or alter the rights or powers vested in the authority by this act,
11 nor limit or alter the rights or powers of the State Treasurer in any
12 manner which would jeopardize the interest of the holders or any
13 trustee of the holders, or inhibit or prevent performance or fulfillment
14 by the authority or the State Treasurer with respect to the terms of any
15 agreement made with the holders of the bonds or refunding bonds or
16 agreements made pursuant to subsection d. of this section; except that
17 the failure of the Legislature to appropriate moneys for any purpose
18 of this act shall not be deemed a violation of this section.

19 h. The authority may charge to and collect from local units,
20 districts, the State and any other person, any fees and charges in
21 connection with the authority's actions undertaken with respect to
22 school facilities projects, including, but not limited to, fees and charges
23 for the authority's administrative, organization, insurance, operating
24 and other expenses incident to the financing, planning, design,
25 construction management, acquisition, construction, completion and
26 placing into service and maintenance of school facilities projects.
27 Notwithstanding any provision of this act to the contrary, no district
28 in Level II [district] monitoring pursuant to section 14 of P.L.1975,
29 c.212 (C.18A:7A-14) as of the effective date of P.L.2000, c.72
30 (C.18A:7G-1 et al.), or a district whose district aid percentage is
31 greater than or equal to 55% but less than 100% shall be responsible
32 for the payment of any fees and charges related to the authority's
33 operating expenses.

34 (cf: P.L.2000, c.72, s.14)

35

36 36. (New section) If the State board, upon the recommendation of
37 the commissioner, decides not to appoint a State district
38 superintendent in a school district under full State control, then the
39 commissioner shall designate a person who may exercise the powers
40 and authorities set forth in chapter 7A of Title 18A of the New Jersey
41 Statutes in accordance with the improvement plan.

42

43 37. (New section) a. A district which has been certified as a Level
44 I district by the State Board of Education as of the effective date of
45 this act, shall, in accordance with a schedule established by the
46 commissioner, be evaluated by the commissioner in the five key

1 components of school district effectiveness as set forth in section 10
2 of P.L.1975, c.212 (C.18A:7A-10). Based on a district's compliance
3 with the quality performance indicators, the commissioner shall assess
4 district effectiveness and place the district on the performance
5 continuum.

6 b. A State-operated district or a district which has been certified
7 as a Level II or a Level III district by the State Board of Education as
8 of the effective date of this act, shall be evaluated by a team of highly
9 skilled professionals in the five key components of school district
10 effectiveness as set forth in section 10 of P.L.1975, c.212 (C.18A:7A-
11 10). The evaluation shall be completed within 45 days of the effective
12 date of this act. The commissioner shall establish a process for the
13 receipt of comments from the public during the evaluation. The
14 commissioner shall provide a report of the evaluation to the district
15 within 15 days of the completion of the evaluation. The report shall
16 contain the commissioner's determination of the district's placement on
17 the performance continuum. The district shall have 30 days from the
18 date of receipt of the report to appeal the placement decision to the
19 commissioner. The commissioner shall make a recommendation to the
20 State Board of Education if the recommendation is to place the district
21 under partial or full State control. The commissioner and State board
22 shall take whatever action is appropriate based on the district's
23 placement on the performance continuum.

24 c. If a State-operated school district evaluated pursuant to
25 subsection b. of this section successfully meets the quality performance
26 indicators for the governance component of school district
27 effectiveness, then three years following the return to local control, the
28 board of education shall call a special election for purposes of placing
29 the question of classification status before the voters of the district,
30 which election shall be conducted in accordance with the provisions
31 of Title 19 of the Revised Statutes concerning school elections.

32 If the voters of the district elect to become a type I district, it shall
33 be governed by the provisions of chapter 9 of Title 18A of the New
34 Jersey Statutes relating to type I districts after January 31 next
35 ensuing, unless the district is established in a city of the first class, in
36 which case it shall be governed after June 30 next ensuing. The
37 members of the district board of education at the time of said election
38 shall continue in office until expiration of their respective terms and
39 the qualification in office of their successors.

40 If the voters of the district elect to become a type II district, it shall
41 be governed by the provisions of chapter 9 of Title 18A relating to
42 type II districts and the members of the board of education at the time
43 of said election shall remain and continue in office until the expiration
44 of their respective terms and the qualification of their respective
45 successors.

46 d. The board of education of a State-operated school district that

1 successfully meets the quality performance indicators for the
2 governance component of school district effectiveness shall be
3 permitted to extend the contract of the superintendent who holds the
4 position at the time of the evaluation conducted pursuant to subsection
5 b. of this section, provide 18-months notice to the superintendent to
6 modify the contract, or allow the contract in effect to expire with the
7 appropriate statutory notice pursuant to subsection b. of section 4 of
8 P.L.1991, c.267 (C.18A:17-20.1).

9
10 38. The following sections are hereby repealed:

11 Section 1 of P.L.1991, c.3 (C.18A:7A-14.3);

12 P.L.1997, c.432 (C.18A:7A-14.4 et seq.);

13 Section 5 of P.L.1987, c.400 (C.18A:7A-31.4).

14
15 39. This act shall take effect immediately.
16
17

18 STATEMENT

19
20 This bill establishes the New Jersey Quality Single Accountability
21 Continuum (NJ QSAC), a new system for monitoring public school
22 districts in the State. Under this new system each school district will
23 provide an annual report to the Department of Education on its
24 progress in complying with the quality performance indicators. The
25 quality performance indicators are the standards to be met in five key
26 components of school district effectiveness: instructional and program;
27 personnel; fiscal management; operations; and governance. Based on
28 the district's compliance with the indicators, the Commissioner of
29 Education will assess district effectiveness and place the district on a
30 performance continuum that will determine the type and level of
31 oversight and technical assistance and support the district will receive.

32 A district that is found to be 80% to 100% compliant with the
33 quality performance indicators will be issued a letter of recognition
34 designating the district as a high performing district. In this case, the
35 commissioner will make a recommendation to the State Board of
36 Education to certify the school district for a period of seven years as
37 providing a thorough and efficient system of education, contingent on
38 continued progress in meeting the quality performance indicators.

39 A district that is found to be 50% to 79% compliant with the quality
40 performance indicators will be considered a performing district. This
41 type of district will be required to develop and submit to the
42 commissioner for his approval an improvement plan. The
43 improvement plan will address the quality performance indicators with
44 which the district has not complied. In accordance with the
45 improvement plan the commissioner will provide targeted assistance,
46 technical assistance, or both, to the district. The commissioner may

1 also authorize, if necessary, an in-depth examination of the district to
2 determine the causes for the district's noncompliance with the quality
3 performance indicators.

4 A performing district that implements its improvement plan and is
5 able to attain 80% to 100% compliance with the quality performance
6 indicators will be issued a letter of recognition designating it as a high
7 performing district and the commissioner will make a recommendation
8 to the State board to certify the district for a period of seven years,
9 contingent on continued progress in meeting the quality performance
10 indicators. If the district fails to effectively implement its improvement
11 plan, the commissioner will issue the district a letter detailing the areas
12 in which the district remains deficient. The district will then be
13 required to report to the department on a periodic basis detailing its
14 progress in implementing the improvement plan.

15 If a district is less than 50% compliant with the quality performance
16 indicators, the district will be placed under partial or full State control,
17 depending upon how many of the five key components of school
18 district effectiveness are implicated in the district's noncompliance. If
19 the district is less than 50% compliant in four or fewer of the five key
20 components, the commissioner will place the district under partial
21 State control. The district may appeal this decision to the State Board
22 of Education and the board's decision will be considered final. In the
23 case of a district under partial State control, the commissioner will
24 authorize an in-depth examination of the district to determine the
25 causes for the district's noncompliance with the quality performance
26 indicators and the district will be required to develop and submit to the
27 commissioner for his approval an improvement plan. The
28 commissioner is required to assure that the district's budget provides
29 the resources necessary to implement the improvement plan.

30 In the case of a district under partial State control, if the position
31 of superintendent is vacant when the district comes under partial State
32 control, the commissioner may appoint a superintendent to serve a
33 two-year term. The commissioner may also appoint highly skilled
34 professionals to provide direct oversight in the district regarding the
35 quality performance indicators with which the district has failed to
36 comply. The highly skilled professionals will have authority in the
37 areas of oversight that the commissioner designates and they will work
38 collaboratively with the superintendent and the board of education to
39 address areas identified in the improvement plan. The commissioner
40 will also have the authority to appoint up to three additional members
41 to the district's board of education and they will serve at the pleasure
42 of the commissioner.

43 For a district under partial State control, the commissioner will
44 conduct periodic reviews of the improvement plan and the district's
45 progress in addressing deficiencies noted in the improvement plan,
46 including on-site visits. Based on the district's success in

1 implementing its improvement plan, the commissioner will make a
2 determination to return to local control one or more of the areas that
3 have been under State control, to leave one or more areas under State
4 control or to recommend to the State board that the district be placed
5 under full State control. If the commissioner determines that a district
6 which has been under partial State control has successfully
7 implemented its improvement plan, he will issue a letter of recognition
8 designating the district as a high performing district and recommend
9 that the State board certify the district for seven years.

10 A district that is less than 50% compliant with the quality
11 performance indicators in all of the five key components of school
12 district effectiveness will be directed to enter full State control. The
13 department will conduct a comprehensive compliance investigation in
14 these districts entailing a thorough and detailed examination in the
15 five key components of school district effectiveness. Based on the
16 investigation the commissioner will issue a report, a copy of which will
17 be provided to the district. As is required under current law prior to
18 the establishment of a State-operated district, the bill requires that a
19 plenary hearing before a judge of the Office of Administrative Law be
20 conducted and in this proceeding the State will have the burden of
21 showing that the recommended administrative order by the State board
22 directing the district to enter full State control is not arbitrary,
23 unreasonable or capricious.

24 As in the case of a performing district and a district under partial
25 State control, a district under full State control will be required to
26 develop an improvement plan and submit it to the commissioner for his
27 approval. As with a district under partial State control, the
28 commissioner will be permitted to appoint highly skilled professionals
29 in the district. The bill also permits the State board to appoint, upon
30 the recommendation of the commissioner, a State district
31 superintendent of schools. The State district superintendent will serve
32 a term of three years and will have such powers as deemed appropriate
33 by the commissioner. The bill also allows the State board, upon the
34 recommendation of the commissioner, to retain the person who holds
35 the position of superintendent of schools in the district at the time the
36 district is placed under full State control.

37 The bill provides that the State board may retain the board of
38 education in place at the time that the school district is placed under
39 full State control, in which case he may appoint up to 3 additional
40 members. The State board may alternatively establish a new board of
41 education of not more than 15 persons. In either case, the board will
42 be advisory in nature.

43 A school district under full State control will report annually on its
44 progress in complying with the quality performance indicators and
45 based on this report, but not sooner than three years after the
46 establishment of the district under full State control, the commissioner

1 may place the school district under partial State control or elsewhere
2 on the performance continuum. On the basis of the report the State
3 board will determine whether to continue the full State control or
4 return the district to partial State control. In the case of a district
5 which successfully implements its improvement plan, the commissioner
6 will issue a letter of recognition to the district designating it a high
7 performing district and recommend to the State board that the district
8 be certified for seven years.

9 Under the provisions of the bill the Joint Committee on the Public
10 Schools will retain the role it held in regard to State-operated school
11 districts.

12 The bill sets forth a plan to transition districts to the new
13 monitoring system of NJ QSAC. A district which has been certified
14 as a Level I district will, in accordance with a schedule established by
15 the commissioner, be evaluated by the commissioner in the five key
16 components of school district effectiveness and based on a district's
17 compliance with the quality performance indicators, will be placed on
18 the performance continuum. A State-operated district or a district
19 which has been certified as a Level II or a Level III district will be
20 evaluated by a team of highly skilled professionals in the five key
21 components of school district effectiveness within 45 days of the
22 effective date of the bill. Within 15 days of the completion of the
23 evaluation, the commissioner will provide a report of the evaluation to
24 the district. The report will contain the commissioner's determination
25 as to where on the performance continuum the district should be
26 placed. The district will have 30 days from its receipt of the report to
27 appeal the placement decision to the commissioner. The commissioner
28 will make a recommendation to the State board if the recommendation
29 is to place the district under partial or full State control. The
30 commissioner and the State board will then take whatever action is
31 appropriate based on the district's placement on the performance
32 continuum.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 1431

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2004

The Senate Education Committee reports favorably Senate Bill No. 1431 with committee amendments.

As amended, this bill establishes the New Jersey Quality Single Accountability Continuum (NJ QSAC), a new system for monitoring public school districts in the State. Under this new system each school district will provide an annual report to the Department of Education on its progress in complying with the quality performance indicators. The quality performance indicators are the standards to be met in five key components of school district effectiveness: instruction and program; personnel; fiscal management; operations; and governance. Based on the district's compliance with the indicators, the Commissioner of Education will assess district effectiveness and place the district on a performance continuum that will determine the type and level of oversight and technical assistance and support the district will receive.

A district that is found to be 80% to 100% compliant with the quality performance indicators will be issued a letter of recognition designating the district as a high performing district. In this case, the commissioner will make a recommendation to the State Board of Education to certify the school district for a period of seven years as providing a thorough and efficient system of education, contingent on continued progress in meeting the quality performance indicators.

A district that is found to be 50% to 79% compliant with the quality performance indicators will be considered a moderate performing district. This type of district will be required to develop and submit to the commissioner for his approval an improvement plan. The improvement plan will address the quality performance indicators with which the district has not complied. In accordance with the improvement plan the commissioner will provide targeted assistance, technical assistance, or both, to the district. The commissioner may also authorize, if necessary, an in-depth examination of the district to determine the causes for the district's noncompliance with the quality performance indicators.

A moderate performing district that implements its improvement

plan and is able to attain 80% to 100% compliance with the quality performance indicators will be issued a letter of recognition designating it as a high performing district and the commissioner will make a recommendation to the State board to certify the district for a period of seven years, contingent on continued progress in meeting the quality performance indicators. If the district fails to effectively implement its improvement plan, the commissioner will issue the district a letter detailing the areas in which the district remains deficient. The district will then be required to report to the department on a periodic basis detailing its progress in implementing the improvement plan.

If a district is less than 50% compliant with the quality performance indicators, the district will be placed under partial or full State intervention, depending upon how many of the five key components of school district effectiveness are implicated in the district's noncompliance. If the district is less than 50% compliant in four or fewer of the five key components, the commissioner will place the district under partial State intervention. The district may appeal this decision to the State Board of Education and the board's decision will be considered final. In the case of a district under partial State intervention, the commissioner will authorize an in-depth examination of the district to determine the causes for the district's noncompliance with the quality performance indicators and the district will be required to develop and submit to the commissioner for his approval an improvement plan. The commissioner is required to assure that the district's budget provides the resources necessary to implement the improvement plan.

In the case of a district under partial State intervention, if the position of superintendent is vacant when the district comes under partial State intervention, the commissioner may appoint a superintendent to serve a two-year term. The commissioner, in consultation with the local board of education, may also appoint highly skilled professionals to assist the district in building local capacity and to provide direct oversight in the district regarding the quality performance indicators with which the district has failed to comply. The highly skilled professionals will have authority in the areas of oversight that the commissioner designates and they will work collaboratively with the superintendent, the board of education and the employees of the district working in the area of the oversight to address areas identified in the improvement plan. The commissioner will have the authority to appoint up to two additional members to the district's board of education and the local governing body of the municipality in which the school district is located will have the authority to appoint one additional member to the board. These voting members will serve for a term of two years, and the commissioner or the local governing body, as appropriate, will be permitted to obtain approval of the State board for any extension of the two-year term.

For a district under partial State intervention, the commissioner

will conduct periodic reviews of the improvement plan and the district's progress in addressing deficiencies noted in the improvement plan, including on-site visits. Based on the district's success in implementing its improvement plan, the commissioner will make a determination to withdraw from intervention in one or more of the areas that have been under State intervention or to recommend to the State board that the district be placed under full State intervention. If the commissioner determines that a district which has been under partial State intervention has successfully implemented its improvement plan, he will issue a letter of recognition designating the district as a high performing district and recommend that the State board certify the district for seven years.

A district that is less than 50% compliant with the quality performance indicators in all of the five key components of school district effectiveness will be directed to enter full State intervention. The department will conduct a review and analysis in these districts entailing a thorough and detailed examination in the five key components of school district effectiveness. Based on the analysis the commissioner will issue a report, a copy of which will be provided to the district. As is required under current law prior to the establishment of a State-operated district, the bill requires that a plenary hearing before a judge of the Office of Administrative Law be conducted and in this proceeding the State will have the burden of showing that the recommended administrative order by the State board directing the district to enter full State intervention is not arbitrary, unreasonable or capricious.

As in the case of a moderate performing district and a district under partial State intervention, a district under full State intervention will be required to develop an improvement plan and submit it to the commissioner for his approval. As with a district under partial State intervention, the commissioner, in consultation with the local board of education, will be permitted to appoint highly skilled professionals in the district. The bill also permits the State board to appoint, upon the recommendation of the commissioner, a State district superintendent of schools. The State district superintendent will serve a term of three years and will have such powers as deemed appropriate by the commissioner. The bill also allows the State board, upon the recommendation of the commissioner, to retain the person who holds the position of superintendent of schools in the district at the time the district is placed under full State intervention.

The bill provides that the board of education in place at the time that the State board issues the administrative order creating the district under full State intervention will be retained as an advisory board. With the State board's approval, the commissioner will be permitted to appoint up to two additional voting members to the board. The local governing body of the municipality will be permitted to appoint one additional voting member. These additional members will serve a two-year term, and the commissioner and local governing body, as

appropriate, will be permitted to obtain approval from the State board for an extension of this term.

A school district under full State intervention will report annually on its progress in complying with the quality performance indicators and based on this report, but not sooner than three years after the establishment of the district under full State intervention, the commissioner may recommend that the State board place the school district under partial State intervention or elsewhere on the performance continuum. On the basis of the report, the State board will determine whether to continue the full State intervention or return the district to partial State intervention. In the case of a district which successfully implements its improvement plan, the commissioner will issue a letter of recognition to the district designating it a high performing district and recommend to the State board that the district be certified for seven years.

Under the provisions of the bill, the Joint Committee on the Public Schools will retain the role it held in regard to State-operated school districts.

The bill sets forth a plan to transition districts to the new monitoring system of NJ QSAC. A district which has been certified as a Level I district will, in accordance with a schedule established by the commissioner, be evaluated by the commissioner in the five key components of school district effectiveness and based on a district's compliance with the quality performance indicators, will be placed on the performance continuum. A State-operated district or a district which has been certified as a Level II or a Level III district will be evaluated by a team of highly skilled professionals in the five key components of school district effectiveness within 45 days of the effective date of regulations promulgated by the State Board of Education. Within 15 days of the completion of the evaluation, the commissioner will provide a report of the evaluation to the district. The report will contain the commissioner's determination as to where on the performance continuum the district should be placed. The district will have 30 days from its receipt of the report to appeal the placement decision to the commissioner. The commissioner will make a recommendation to the State board if the recommendation is to place the district under partial or full State intervention. The commissioner and the State board will then take whatever action is appropriate based on the district's placement on the performance continuum.

The committee amended the bill to do the following:

- change certain terminology. Districts will now be under full or partial "intervention" rather than "control." The "comprehensive compliance investigation" is referred to as a "review and analysis." Districts that are 50% to 79% compliant with the quality performance indicators will be considered "moderate performing" districts rather than "performing" districts;
- provide that the system for evaluating the performance of schools will be based on not only the five key components of school district

effectiveness (instruction and program, personnel, fiscal management, operations, and governance), but also on an assessment of the degree to which the thoroughness and efficiency standards are being achieved;

- provide that the highly skilled professionals in districts under partial and full State intervention will be appointed by the commissioner in consultation with the local board of education and will work collaboratively with the employees of the district who are working in the area of oversight. The amendments specify that one of the purposes of these individuals will be to assist the district in building local capacity. The amendments also specify the formula for sharing the costs of the highly skilled professionals - the State will pay one-third of the costs of the salaries and the district will pay two-thirds;
- limits the number of additional board members a commissioner may appoint in a district under partial State intervention to two, and allows the governing body of the municipality in which the district is located to appoint one additional member to the board. The amendments provide that these additional members will serve a two-year term, with the possibility of an extension if approved by the State board. Additional members appointed by the commissioner will be required to report to the commissioner on the activities of the board and will provide assistance to the board on certain matters;
- eliminate the option of removing the school board in a district under full State intervention. Three additional voting members will be permitted to be appointed. As in a district under partial State intervention, the commissioner will get up to two appointments and the governing body of the municipality will get one appointment. The terms for these appointments will be the same as the additional appointments made in a district under partial State intervention;
- provide that the reorganization plan in a district under full State intervention will be prepared within 180 days, rather than 120 days, after the establishment of full State intervention;
- clarify that it is the State board, upon the recommendation of the commissioner, that decides no sooner than three years after the establishment of a district under full State intervention exactly where on the performance continuum a district should be placed based on an annual report of the district's progress;
- provide that districts that are currently State-operated that are determined to have successfully met the governance component of school district effectiveness will have one year following the State's withdrawal from intervention to call a special election to determine the issue of classification status - either Type I or Type II;
- add a provision that requires the State Board of Education to promulgate rules to effectuate the provisions of the bill;
- provide that within 45 days of the effective date of rules promulgated by the State Board of Education, the evaluation of current State-operated districts and districts certified as a Level II or a Level III district will be completed by a team of highly skilled professionals;
- provide that in the case of a district under partial State control which

is contiguous with a "qualified municipality," the membership of the school board will be controlled by the provisions of the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.), not the provisions of NJ QSAC. A board of education of a district that is contiguous with a "qualified municipality" and that was subject to Level II or Level III monitoring prior to the effective date of NJ QSAC, will continue to be subject to the provisions of the "Municipal Rehabilitation and Economic Recovery Act," in regard to the board configuration;

- exempt school districts under full State intervention from the provisions of the "Municipal Rehabilitation and Economic Recovery Act," regarding the configuration of the school board, which is the way that State-operated districts are treated currently under that law.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1431**

STATE OF NEW JERSEY

DATED: MARCH 14, 2005

The Senate Budget and Appropriations Committee reports favorably a committee substitute for Senate Bill No. 1431.

This committee substitute bill establishes the New Jersey Quality Single Accountability Continuum (NJ QSAC), a new system for monitoring public school districts in the State.

The goal of NJ QSAC is to ensure that all New Jersey school districts are operating at a high level of performance. Under this new system each school district will provide an annual report to the Department of Education on its progress in satisfying the quality performance indicators. The quality performance indicators are the standards to be met in five key components of school district effectiveness: instruction and program; personnel; fiscal management; operations; and governance. Based on the district's satisfaction of the indicators, the Commissioner of Education will assess district capacity and effectiveness and place the district on a performance continuum that will determine the type and level of oversight and technical assistance and support the district will receive.

A district that is found to satisfy 80% to 100% of the quality performance indicators in each of the five key components of school district effectiveness will be issued a letter of recognition designating the district as a high performing district. In this case, the commissioner will make a recommendation to the State Board of Education to certify the school district for a period of seven years as providing a thorough and efficient system of education, contingent on continued progress in meeting the quality performance indicators.

A district that is found to satisfy 50% to 79% of the quality performance indicators will be considered a moderate performing district. This type of district will be required to develop and submit to the commissioner for his approval an improvement plan designed to increase district capacity and address the quality performance indicators with which the district has not complied. In accordance with the improvement plan, the commissioner will provide targeted assistance, technical assistance, or both, to the district. The commissioner may also authorize, if necessary, an in-depth examination of the district to determine the causes for the district's

noncompliance with the quality performance indicators.

The commissioner will review the district's progress in implementing the improvement plan not less than every six months. If the commissioner finds, based on those reviews, that after two years the district has not satisfied 80% to 100% of the quality performance indicators in each of the five key components of school district effectiveness, then the commissioner will require the district to amend the improvement plan.

A moderate performing district that implements its improvement plan and is able to satisfy 80% to 100% of the quality performance indicators in each of the five components of school district effectiveness will be issued a letter of recognition designating it as a high performing district. The commissioner will then make a recommendation to the State board to certify the district for a period of seven years, contingent on continued progress in meeting the quality performance indicators. If the district fails to effectively implement its improvement plan, the commissioner will issue the district a letter detailing the areas in which the district remains deficient.

If a district satisfies less than 50% of the quality performance indicators in four or fewer of the five key components of school district effectiveness, the commissioner will authorize an in-depth evaluation of the district's performance and capacity. Based on the evaluation, the district, in cooperation with the department, will develop an improvement plan designed to increase district capacity and address the quality performance indicators with which the district has not complied. The improvement plan may include the appointment by the commissioner of one or more highly skilled professionals to provide technical assistance in the areas in which the district has failed to satisfy the quality performance indicators. The cost of the highly skilled professionals will be shared on an equal basis by the State and the district. Upon approval of the improvement plan by the commissioner, the commissioner will provide the district with the technical assistance outlined in the plan and will assure that the district's budget provides the resources necessary to implement the plan.

The commissioner will review the district's progress not less than every six months. This review will include on-site visits. If the commissioner finds that after two years the district has not satisfied at least 50% of the quality performance indicators in one or more of the five key components of school district effectiveness, the commissioner will require the district to amend its improvement plan. This does not mean, however, that two years will have to elapse prior to the district being required to enter partial State intervention.

If the district satisfies less than 50% of the quality performance indicators in only one of the five key components of school district effectiveness, the commissioner may order the district to enter partial State intervention. The board of education may appeal this decision

to the State Board of Education, whose decision will be considered final.

For a district that satisfies less than 50% of the quality performance indicators in two to four of the five key components of school district effectiveness, being placed under full State intervention entails a more detailed procedural process. For these districts the commissioner may order the district board of education to show cause why an administrative order placing the district under partial State intervention should not be implemented. A plenary hearing will be held on an expedited basis before a judge of the Office of Administrative Law. If the board fails to show cause why the order should not be implemented, the commissioner will recommend to the State board that it issue such an order placing the district under partial State intervention.

If a district is under partial State intervention and the position of superintendent is vacant, the commissioner may appoint a superintendent to serve a two-year term. In addition to the highly skilled professionals appointed to provide technical assistance to the district in implementing its improvement plan, the commissioner, in consultation with the district, may also appoint highly skilled professionals to provide direct oversight in the district regarding the quality performance indicators with which the district has failed to comply. The highly skilled professionals will have authority in the areas of oversight that the commissioner designates and they will work collaboratively with the superintendent, the board of education and the employees of the district working in the area of the oversight to address areas identified in the improvement plan. The cost of these highly skilled professionals will also be shared on an equal basis by the State and the district.

The commissioner will have the authority to appoint up to three additional nonvoting members to the district's board of education. If the commissioner appoints three additional members, one of these members must be appointed from a list of three candidates provided by the local governing body of the municipality in which the district is located. The additional members will serve for a term of two years, and the commissioner will be permitted to obtain the approval of the State board for any extension of the two-year term.

Six months following the placement of the district under partial State intervention, the commissioner will determine, in accordance with criteria promulgated by the State Board of Education, whether or not the additional members should become voting members. The district will have 30 days to appeal the commissioner's determination to the State Board of Education.

Based on the district's success in implementing its improvement plan, the commissioner will make a determination to withdraw from intervention in one or more of the areas that have been under State intervention or to recommend to the State board that the district be placed under full State intervention. If the commissioner determines

that a district which has been under partial State intervention has successfully implemented its improvement plan, he will issue a letter of recognition designating the district as a high performing district and recommend that the State board certify the district for seven years.

If a district satisfies less than 50% of the quality performance indicators in each of the five key components of school district effectiveness, the same interim step will occur that takes place if the district satisfies less than 50% of the quality performance indicators in four or less of the components. An in-depth evaluation of the district will take place and based on that, the district, in cooperation with the department, will develop an improvement plan. The improvement plan may include the appointment of highly skilled professionals to provide technical assistance in the areas in which the district has failed to satisfy the quality performance indicators.

The commissioner may also order the district board of education to show cause why an administrative order placing the district under full State intervention should not be implemented. A plenary hearing will be held on an expedited basis. If the board fails to show cause why the order should not be implemented, such an order will be issued by the State board.

If the district is under full State intervention, the substitute permits the State board to appoint, upon the recommendation of the commissioner, a State district superintendent of schools. The State district superintendent will serve a term of three years and will have such powers as deemed appropriate by the commissioner. The substitute also allows the State board, upon the recommendation of the commissioner, to retain the person who holds the position of superintendent of schools in the district at the time the district is placed under full State intervention.

The substitute provides that the board of education in place at the time that the State board issues the administrative order creating the district under full State intervention will be retained as an advisory board. With the State board's approval, the commissioner will be permitted to appoint up to three additional nonvoting members to the board, one of whom will be appointed from a list provided by the local municipal governing body. These three additional members may become voting members six months after the district is placed under full State control according to the same procedure described for districts under partial State intervention. Each additional member will serve a two-year term, and the commissioner will be permitted to obtain approval from the State board for an extension of this term.

A school district under full State intervention will report annually on its progress in complying with the quality performance indicators, and based on this report, but not sooner than three years after the establishment of the district under full State intervention, the commissioner may recommend that the State board place the school district under partial State intervention or elsewhere on the performance continuum. On the basis of the report, the State board will determine whether to continue the full State intervention or return

the district to partial State intervention. In the case of a district which successfully implements its improvement plan, the commissioner will issue a letter of recognition to the district designating it a high performing district and recommend to the State board that the district be certified for seven years.

Under the provisions of the substitute, the Joint Committee on the Public Schools will retain the role it held in regard to State-operated school districts.

The substitute sets forth a plan to transition districts to the new monitoring system of NJ QSAC. A district which has been certified as a Level I district will, in accordance with a schedule established by the commissioner, be evaluated by the commissioner in the five key components of school district effectiveness and based on a district's compliance with the quality performance indicators, will be placed on the performance continuum. A State-operated district or a district which has been certified as a Level II or a Level III district will be evaluated by a team of highly skilled professionals in the five key components of school district effectiveness within 45 days of the effective date of regulations promulgated by the State Board of Education. Within 15 days of completing the evaluation, the commissioner will provide a report of the evaluation to the district. The report will contain the commissioner's determination as to where on the performance continuum the district should be placed. The district will have 30 days from its receipt of the report to appeal the placement decision to the commissioner. The commissioner will make a recommendation to the State board if the recommendation is to place the district under partial or full State intervention. The commissioner and the State board will then take whatever action is appropriate based on the district's placement on the performance continuum.

Within one year of the effective date of the substitute, the Commissioner of Education is required to submit a report to the Joint Committee on the Public Schools concerning the department's progress in implementing NJ QSAC. The report must also address the department's capacity to provide the necessary technical assistance and support to districts in implementing their improvement plans and outline any additional resources required by the department to effectuate the accountability system.

The bill repeals the following sections of the law providing for the monitoring of school districts: section 1 of P.L.1991, c.3 (C.18A:7A-14.1) and P.L.1997, c.432 (C.18A:7A-14.3 et seq.), establishing certain legislative findings and prescribing an alternative program for the monitoring of "Level I" districts, a term ceasing to have application under the bill; sections 2 and 5 of P.L.1987, c.400 (C.18A:7A-31.1 and 31.4), providing for the transmittal of evaluation and monitoring reports of districts undergoing comprehensive compliance investigations to the Joint Committee on the Public Schools and for issuance by the Committee of a one-time report on the implementation of the law establishing State-operated school districts; and section 15 of P.L.1987, c.399 (C.18A:7A-48), concerning the first

election of members to a board of education in a State-operated district in the fourth full academic year after State takeover, as the legislation retains the elected board of education in a district placed under State intervention.

FISCAL IMPACT

The fiscal impact of this legislation on the State and local school districts is indeterminate. Areas of potential cost under the substitute would include the following:

(1) The State and local school districts are to share equally in the salary costs associated with highly skilled professionals selected to provide technical assistance and oversight in school districts placed under partial or full State intervention. The required number of highly skilled professionals and the scope of their responsibilities will be dependent upon the number of districts in which the State determines such intervention may be warranted as well as the nature of the intervention;

(2) State costs associated with the implementation of NJ QSAC will be dependent upon the staffing requirements of implementing the new system as opposed to the current seven-year monitoring cycle. One of the stated purposes of NJ QSAC is to provide the Department of Education with the ability to intervene in problems as soon as they are identified, and the potential impact of the new system on department operations is unclear at this point. While NJ QSAC will relieve the department of the necessity of organizing a monitoring team to visit districts and evaluate their operations on a seven-year schedule for purposes of district certification, the need to react more immediately under NJ QSAC may necessitate staffing increases and realignment;

(3) State costs associated with NJ QSAC will also be dependent upon the number of districts directed to enter partial State intervention. Under current law, a full scale takeover of a school district is authorized and has only been invoked in the case of three school districts. Under NJ QSAC, more districts may be subject to State intervention in one or more areas, and the availability of this option may again impact on DOE staffing. Also, placement under partial State intervention in two or more areas requires a hearing before the Office of Administrative Law and consequently the State and school districts will incur any costs associated with such hearings; and

(4) Finally, any school district which is a moderate performing district or a district under partial or full State intervention is required to develop an improvement plan. Under current law, districts in Level II or III monitoring and State-operated districts are required to develop corrective action plans. Under NJ QSAC the number of districts required to develop plans would be increased and districts would be subject to any costs that may be associated with the preparation of such plans.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1431
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: APRIL 12, 2005

SUMMARY

Synopsis: Establishes New Jersey Quality Single Accountability Continuum, a new State monitoring system for public school districts.

Type of Impact: Indeterminate

Agencies Affected: Department of Education and Local School Districts

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate	Indeterminate	Indeterminate
Local Cost	Indeterminate	Indeterminate	Indeterminate

- ! Establishes the New Jersey Quality Single Accountability Continuum, a new system of monitoring school districts. The New Jersey Quality Single Accountability Continuum will evaluate a school district's compliance with the quality performance indicators in the five key components of school district effectiveness: instruction and program; personnel; fiscal management; operations; and governance. Based on the school district's satisfaction of the indicators, the Commissioner of Education will assess district capacity and effectiveness and place the district on a performance continuum that will determine the type and level of oversight and technical assistance and support the district receives.
- ! State and local costs associated with the implementation of New Jersey Quality Single Accountability Continuum are indeterminate and will depend on a variety of factors. Areas of potential cost are discussed below.
- ! State costs will be dependent upon the Department of Education (DOE) staffing requirements of implementing the new system as opposed to the current seven-year monitoring cycle. State costs will also be dependent upon the number of school districts directed to enter partial or full State intervention, the number of highly skilled professionals assigned to those districts and the salaries of those professionals as the State is responsible for one-half of their salary costs, and the level of other technical assistance required to be provided by the department. Local costs will be dependent upon the number of school districts directed to enter partial or full State intervention, the number of highly skilled professionals assigned to those districts and the salaries of those professionals as the district

is responsible for one-half of their salary costs, and the number of districts Statewide which are required to develop improvement plans.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 1431 of 2004 establishes the New Jersey Quality Single Accountability Continuum, a new system for monitoring public school districts in the State.

The goal of New Jersey Quality Single Accountability Continuum is to ensure that all New Jersey school districts are operating at a high level of performance. Under this new system each school district will provide an annual report to the DOE on its progress in satisfying the quality performance indicators. The quality performance indicators are the standards to be met in five key components of school district effectiveness: instruction and program; personnel; fiscal management; operations; and governance. Based on the district's satisfaction of the indicators, the Commissioner of Education will assess district capacity and effectiveness and place the district on a performance continuum that will determine the type and level of oversight and technical assistance and support the district will receive.

A district that is found to satisfy 80 percent to 100 percent of the quality performance indicators in each of the five key components of school district effectiveness will be issued a letter of recognition designating the district as a high performing district. In this case, the commissioner will make a recommendation to the State Board of Education to certify the school district for a period of seven years as providing a thorough and efficient system of education, contingent on continued progress in meeting the quality performance indicators.

A district that is found to satisfy 50 percent to 79 percent of the quality performance indicators will be considered a moderate performing district. This type of district will be required to develop and submit to the commissioner for his approval an improvement plan designed to increase district capacity and address the quality performance indicators with which the district has not complied. In accordance with the improvement plan, the commissioner will provide targeted assistance, technical assistance, or both, to the district. The commissioner may also authorize, if necessary, an in-depth examination of the district to determine the causes for the district's noncompliance with the quality performance indicators.

If a district satisfies less than 50 percent of the quality performance indicators in four or fewer of the five key components of school district effectiveness, the commissioner will authorize an in-depth evaluation of the district's performance and capacity. Based on the evaluation, the district, in cooperation with the department, will develop an improvement plan designed to increase district capacity and address the quality performance indicators with which the district has not complied. The improvement plan may include the appointment by the commissioner of one or more highly skilled professionals to provide technical assistance in the areas in which the district has failed to satisfy the quality performance indicators. The cost of the highly skilled professionals will be shared on an equal basis by the State and the district. Upon approval of the improvement plan by the commissioner, the commissioner will provide the district with the technical assistance outlined in the plan.

If the district satisfies less than 50 percent of the quality performance indicators in only one of the five key components of school district effectiveness, the commissioner may order the district to enter partial State intervention. The board of education may appeal this decision to the State Board of Education, whose decision will be considered final.

For a district that satisfies less than 50 percent of the quality performance indicators in two to four of the five key components of school district effectiveness, being placed under full State

intervention entails a more detailed procedural process. For these districts the commissioner may order the district board of education to show cause why an administrative order placing the district under partial State intervention should not be implemented. A plenary hearing will be held on an expedited basis before a judge of the Office of Administrative Law. If the board fails to show cause why the order should not be implemented, the commissioner will recommend to the State board that it issue such an order placing the district under partial State intervention.

If a district satisfies less than 50 percent of the quality performance indicators in each of the five key components of school district effectiveness, the same interim step will occur that takes place if the district satisfies less than 50 percent of the quality performance indicators in four or less of the components. An in-depth evaluation of the district will take place and based on that, the district, in cooperation with the department, will develop an improvement plan. The improvement plan may include the appointment of highly skilled professionals to provide technical assistance in the areas in which the district has failed to satisfy the quality performance indicators.

The commissioner may also order the district board of education to show cause why an administrative order placing the district under full State intervention should not be implemented. A plenary hearing will be held on an expedited basis. If the board fails to show cause why the order should not be implemented, such an order will be issued by the State board.

The substitute also sets forth a plan to transition districts to the new monitoring system of New Jersey Quality Single Accountability Continuum. A district which has been certified as a Level I district will, in accordance with a schedule established by the commissioner, be evaluated by the commissioner in the five key components of school district effectiveness and based on a district's compliance with the quality performance indicators, will be placed on the performance continuum. A State-operated district or a district which has been certified as a Level II or a Level III district will be evaluated by a team of highly skilled professionals in the five key components of school district effectiveness within 45 days of the effective date of regulations promulgated by the State Board of Education. Within 15 days of completing the evaluation, the commissioner will provide a report of the evaluation to the district. The report will contain the commissioner's determination as to where on the performance continuum the district should be placed. The district will have 30 days from its receipt of the report to appeal the placement decision to the commissioner. The commissioner will make a recommendation to the State board if the recommendation is to place the district under partial or full State intervention. The commissioner and the State board will then take whatever action is appropriate based on the district's placement on the performance continuum.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The fiscal impact of the Senate Committee Substitute for Senate Bill No.1431 on the State and local school districts is indeterminate. Areas of potential cost under the substitute would include the following:

1) the State and local school districts are to share equally in the salary costs associated with highly skilled professionals selected to provide technical assistance and oversight in school districts placed under partial or full State intervention. The required number of highly skilled professionals and the scope of their responsibilities will be dependent upon the number of districts in which the State determines such intervention may be warranted as well as the nature of the intervention;

2) State costs associated with the implementation of New Jersey Quality Single Accountability Continuum will be dependent upon the staffing requirements of implementing the new system as opposed to the current seven-year monitoring cycle. One of the stated purposes of New Jersey Quality Single Accountability Continuum is to provide the DOE with the ability to intervene in problems as soon as they are identified, and the potential impact of the new system on department operations is unclear at this point. While New Jersey Quality Single Accountability Continuum will relieve the department of the necessity of organizing a monitoring team to visit districts and evaluate their operations on a seven-year schedule for purposes of district certification, the need to react more immediately under New Jersey Quality Single Accountability Continuum may necessitate staffing increases and realignment;

3) State costs associated with New Jersey Quality Single Accountability Continuum will also be dependent upon the number of districts directed to enter partial State intervention. Under current law, a full scale takeover of a school district is authorized and has only been invoked in the case of three school districts. Under New Jersey Quality Single Accountability Continuum, more districts may be subject to State intervention in one or more areas, and the availability of this option may again impact on DOE staffing. Also, placement under partial State intervention in two or more areas requires a hearing before the Office of Administrative Law and consequently the State and school districts will incur any costs associated with such hearings;

4) any school district which is a moderate performing district or a district under partial or full State intervention is required to develop an improvement plan. Under current law, districts in Level II or III monitoring and State-operated districts are required to develop corrective action plans. Under New Jersey Quality Single Accountability Continuum the number of districts required to develop plans is likely to increase and districts would be subject to any costs that may be associated with the preparation of such plans; and

5) the plan to transition districts to the new monitoring system of New Jersey Quality Single Accountability Continuum requires the Commissioner of Education to assemble a team of highly skilled professionals to evaluate districts which are in Level II or Level III or are State-operated districts. Presumably there will be salary and other costs associated with the work of the highly skilled professionals during this transition.

Section: *Education*

Analyst: *Kathleen Fazzari*
Section Chief

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 2643

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 3, 2004

Sponsored by:

Assemblyman CRAIG A. STANLEY

District 28 (Essex)

SYNOPSIS

Establishes New Jersey Quality Single Accountability Continuum (NJ QSAC), a new State monitoring system for public school districts.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning school district monitoring and amending and
2 supplementing chapter 7A of Title 18A of the New Jersey Statutes.

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

6
7 1. Section 3 of P.L.1975, c.212 (C.18A:7A-3) is amended to read
8 as follows:

9 3. For the purposes of this act, unless the context clearly requires
10 a different meaning:

11 "Administrative order" means a written directive ordering specific
12 corrective action by a district which has shown insufficient
13 [educational progress within a reasonable period of time in meeting
14 goals and standards] compliance with the quality performance
15 indicators.

16 "Joint Committee on the Public Schools" means the committee
17 created pursuant to P.L.1975, c.16 (C.52:9R-1 et seq.).

18 "Targeted assistance" means the assistance provided to a school
19 district in a specific area to support the teaching and learning process
20 and overall district effectiveness.

21 "Technical assistance" means guidance and support provided to a
22 school district to enable the district to meet State and federal policy
23 and regulatory requirements and to ensure the provision of a thorough
24 and efficient education.

25 (cf: P.L.1996, c.138, s.34)

26
27 2. Section 10 of P.L.1975, c.212 (C.18A:7A-10) is amended to
28 read as follows:

29 10. For the purpose of evaluating the thoroughness and efficiency
30 of all the public schools of the State, the commissioner, with the
31 approval of the State board and after review by the Joint Committee
32 on the Public Schools, shall develop and administer [a uniform,
33 Statewide system] the New Jersey Quality Single Accountability
34 Continuum for evaluating the performance of each school. The system
35 shall be based on [such means as the commissioner deems proper in
36 order to (a) determine pupil status and needs, (b) ensure pupil
37 progress, and (c) assess the degree to which the thoroughness and
38 efficiency standards established pursuant to section 4 of P.L.1996,
39 c.138 (C.18A:7F-4) are being achieved] an evaluation of the
40 following five key components of school district effectiveness:
41 instructional and program; personnel; fiscal management; operations;
42 and governance. A school district's effectiveness shall be determined

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 using quality performance indicators comprised of standards for each
2 of the five key components of school district effectiveness. Based on
3 a district's compliance with the indicators, the commissioner shall
4 assess district effectiveness and place the district on a performance
5 continuum that will determine the type and level of oversight and
6 technical assistance and support the district receives.

7 (cf: P.L.1996, c.138, s.35)

8
9 3. Section 11 of P.L.1975, c.212 (C.18A:7A-11) is amended to
10 read as follows:

11 11. Each school district and county vocational school district shall
12 make an annual report of its progress in [conforming to the standards
13 for the evaluation of school performance] complying with the quality
14 performance indicators adopted pursuant to section 10 of P.L.1975,
15 c.212 (C.18A:7A-10). [Each district's annual report shall include but
16 not be limited to:

17 a. Demographic data related to each school;

18 b. Results of designated assessment programs, including Statewide
19 assessment programs established pursuant to law and regulation;

20 c. Information on each school's fiscal operation, including the
21 budget of each school;

22 d. (Deleted by amendment, P.L.1996, c.138).

23 e. Plans and programs for professional improvement;

24 f. Plans to carry out innovative educational programs designed to
25 improve the quality of education;

26 g. Recommendations for school improvements during the ensuing
27 year; and

28 h. Such additional information as may be prescribed by the
29 commissioner.]

30 The district reports shall be submitted to the commissioner annually
31 on a date [to be] and in such form as prescribed by the commissioner,
32 who shall make them the basis for an annual report to the Governor
33 and the Legislature, describing the condition of education in New
34 Jersey, the efforts of New Jersey schools in meeting the standards of
35 a thorough and efficient education, the steps underway to correct
36 deficiencies in school performance, and the progress of New Jersey
37 schools in comparison to other state education systems in the United
38 States.

39 (cf: P.L.2000, c.72, s.31)

40
41 4. Section 14 of P.L.1975, c.212 (C.18A:7A-14) is amended to
42 read as follows:

43 14. a. (1) The commissioner shall review the results of the
44 [evaluations conducted and reports] report submitted pursuant to
45 sections 10 and 11 of P.L.1975, c.212 (C.18A:7A-10 and 18A:7A-11)
46 and determine where on the performance continuum the district shall

1 be placed. The commissioner shall establish a mechanism for parent,
2 school employee and community resident input into the review
3 process. If the commissioner [~~shall find~~] finds that a school district
4 or county vocational school district [~~satisfies the evaluation criteria~~]
5 is 80 percent to 100 percent compliant with the quality performance
6 indicators, the commissioner shall issue to the district a letter of
7 recognition designating the district as a high performing district,
8 provided that the district has submitted to the department a statement
9 of assurance which attests that the contents of the report are valid.
10 The commissioner shall recommend that the State board certify the
11 school district for a period of seven years as providing a thorough and
12 efficient system of education, contingent on continued progress in
13 meeting the [~~standards~~] quality performance indicators. [If the
14 commissioner finds that a school district can correct the deficiency or
15 deficiencies without additional diagnostic monitoring or technical
16 assistance, the commissioner may certify the school district with the
17 condition that the district correct the deficiency within a period of time
18 to be determined by the commissioner. If the commissioner shall find
19 that a school district has failed to show sufficient progress toward
20 achieving the thoroughness and efficiency standards established
21 pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4), the
22 commissioner shall advise the local board of education of that
23 determination, and shall direct that the district enter level II
24 monitoring, as defined pursuant to law and regulation. Nothing herein
25 shall preclude the commissioner from taking the steps set forth in
26 section 6 of P.L.1996, c.138 (C.18A:7F-6) upon a finding that the
27 district is failing to meet core curriculum content standards.

28 (2) The board of education of a school district which is directed to
29 enter level II monitoring may appeal that decision to the State Board
30 of Education. The State board may refer the hearing of that appeal to
31 a committee of not less than three of its members, which committee
32 shall hear the appeal and report thereon, recommending its
33 conclusions, to the board and the board shall decide the appeal by
34 resolution in open meeting. A determination of the appeal by the State
35 board shall be considered final.]

36 b. [(1) When a district enters level II monitoring, the
37 commissioner shall establish procedures whereby parents, school
38 employees and community residents may meet with the commissioner
39 or the commissioner's designee to discuss their concerns and the
40 county superintendent shall appoint an external review team whose
41 members shall be qualified by training and experience to examine the
42 conditions in the specific district. In conjunction with the Department
43 of Education, the team, at the direction of the commissioner, shall
44 either examine only those aspects of the district's operations bearing
45 on the areas of deficiency, or shall examine all aspects of the district's
46 operation, including but not limited to education, governance,

1 management and finance. In addition, the team shall examine
2 conditions in the community which may adversely affect the ability of
3 the pupils to learn and the team may recommend measures to mitigate
4 the effects of those conditions. The team shall report its findings and
5 conclusions, including directives to be utilized by the district in the
6 preparation of a corrective action plan to achieve certification and
7 recommendations as to the technical assistance which the district will
8 require in order to effectively implement the corrective action plan, to
9 the commissioner. The commissioner shall direct the district to
10 respond to the report of the external review team in establishing a
11 corrective action plan. The corrective action plan shall be submitted
12 to and approved by the commissioner. The commissioner shall assure
13 that the local district's budget provides the resources necessary to
14 implement the approved plan, including the necessary technical
15 assistance. The entire cost of those activities associated with the
16 review team shall be paid by the Department of Education. The
17 commissioner shall also have the authority to order necessary
18 budgetary reallocations within the district, or such other measures as
19 he deems necessary and appropriate. Further, nothing herein shall
20 preclude the commissioner from taking the steps set forth in section 6
21 of P.L.1996, c.138 (C.18A:7F-6) upon a finding that the district is
22 failing to meet core curriculum content standards.

23 (2) If the commissioner finds that the district is unsuccessful in
24 correcting the deficiencies noted in the evaluation process, the
25 commissioner shall direct that the district enter level III monitoring, as
26 defined pursuant to law and regulation. However, if the commissioner
27 determines that a district is making reasonable progress toward
28 correcting deficiencies, the commissioner may grant an extension for
29 a specific period of time. During this extension the district will remain
30 under level II monitoring. At the end of the extension the
31 commissioner shall determine whether the district is eligible for
32 certification or if the district must be directed to enter level III
33 monitoring.] If a school district is 50 percent to 79 percent compliant
34 with the quality performance indicators, the district shall be considered
35 a performing district. The commissioner shall require the district to
36 develop an improvement plan that addresses the quality performance
37 indicators with which the district has not complied. The improvement
38 plan shall be submitted to and approved by the commissioner. In
39 accordance with the improvement plan, the commissioner shall provide
40 targeted assistance, technical assistance, or both, to the district. If
41 necessary, the commissioner may authorize an in-depth examination of
42 the district to determine the causes for the district's noncompliance
43 with the quality performance indicators.

44 If a district effectively implements its improvement plan and is able
45 to attain 80 to 100 percent compliance with the quality performance
46 indicators through the interventions set forth in this subsection, the

1 commissioner shall issue the district a letter of recognition designating
2 the district as a high performing district. The commissioner shall
3 recommend that the State board certify the school district for a period
4 of seven years as providing a thorough and efficient system of
5 education, contingent on continued progress in meeting the quality
6 performance indicators. If the district has not effectively implemented
7 its improvement plan and has not attained 80 to 100 percent
8 compliance with the quality performance indicators through the
9 interventions set forth in this subsection, the commissioner shall issue
10 the district a letter detailing the areas in which the district remains
11 deficient. The district shall report to the department on a periodic
12 basis as determined by the commissioner and the reports shall detail
13 the district's progress in implementing the improvement plan.

14 c. [(1) When a district which has had a comprehensive
15 examination of all aspects of the district's operations by an external
16 review team pursuant to subsection b. of this section is directed to
17 enter level III monitoring the commissioner shall prepare an
18 administrative order directing the corrective actions which shall be
19 taken by the district based upon the findings and conclusions of the
20 level II external review team and the department's monitoring of the
21 level II plan. The commissioner shall insure that technical assistance
22 is provided to the district in order to implement those actions. The
23 commissioner shall also have the power to order necessary budgetary
24 reallocations within the district, or such other measures as the
25 commissioner deems necessary and appropriate. Further, nothing
26 herein shall preclude the commissioner from taking the steps set forth
27 in section 6 of P.L.1996, c.138 (C.18A:7F-6) upon a finding that the
28 district is failing to meet core curriculum content standards.

29 (2) When a district which has not had a comprehensive examination
30 of all aspects of the district's operations by an external review team
31 pursuant to subsection b. of this section is directed to enter level III
32 monitoring, the commissioner shall designate the county
33 superintendent to appoint an external review team whose members
34 shall be qualified by training and experience to examine the conditions
35 in the specific district. In conjunction with the Department of
36 Education, the team shall examine all aspects of the district's
37 operations including but not limited to education, governance,
38 management and finance. The team shall report its findings and
39 conclusions, including directives to be utilized in the preparation of a
40 corrective action plan to achieve certification, to the commissioner.
41 The commissioner shall prepare an administrative order directing the
42 corrective actions which shall be taken by the district based upon the
43 findings and conclusions of the level III external review team and the
44 department's monitoring of the level II plan. The commissioner shall
45 insure that technical assistance is provided to the district in order to
46 implement those actions. The commissioner shall also have the power

1 to order necessary budgetary reallocations within the district, or such
2 other measures as the commissioner deems necessary and appropriate.
3 Further, nothing herein shall preclude the commissioner from taking
4 the steps set forth in section 6 of P.L.1996, c.138 (C.18A:7F-6) upon
5 a finding that the district is not meeting core curriculum content
6 standards.

7 (3) The board of education of a school district which is directed to
8 enter level III monitoring may appeal that decision to the State Board
9 of Education. The State board may refer the hearing of that appeal to
10 a committee of not less than three of its members, which committee
11 shall hear the appeal and report thereon, recommending its
12 conclusions, to the board and the board shall decide the appeal by
13 resolution in open meeting. A determination of the appeal by the State
14 board shall be considered final.

15 (4) If the commissioner finds, based upon the findings and
16 directives of the level II or level III review team and the Department
17 of Education, that conditions within the district may preclude the
18 successful implementation of a corrective action plan or that the
19 district has failed to make reasonable progress in the implementation
20 of a corrective action plan to achieve certification, the commissioner
21 shall direct that a comprehensive compliance investigation be
22 conducted by the Department of Education. If the commissioner
23 directs that a comprehensive compliance investigation be conducted,
24 the commissioner may order any necessary action to insure the security
25 of the books, papers, vouchers and records of the district. (1) If a
26 school district is less than 50 percent compliant with the quality
27 performance indicators in four or fewer of the five key components of
28 school district effectiveness, the commissioner shall direct the district
29 to enter partial State control. The board of education of a school
30 district which is directed to enter partial State control may appeal that
31 decision to the State Board of Education. The State board may refer
32 the hearing of that appeal to a committee of not less than three of its
33 members, which committee shall hear the appeal and report thereon,
34 recommending its conclusions, to the board and the board shall decide
35 the appeal by resolution in open meeting. A determination of the
36 appeal by the State board shall be considered final.

37 (2) The commissioner shall authorize an in-depth examination of
38 the district to determine the causes for the district's noncompliance
39 with the quality performance indicators and the district shall be
40 required to develop an improvement plan that addresses the quality
41 performance indicators with which the district has not complied. The
42 improvement plan shall be submitted to and approved by the
43 commissioner. The commissioner shall assure that the local district's
44 budget provides the resources necessary to implement the
45 improvement plan.

46 (3) If the position of superintendent of schools is vacant in a

1 district under partial State control, the commissioner may appoint a
2 superintendent who shall serve for a period not to exceed two years.

3 (4) The commissioner may appoint one or more highly skilled
4 professionals to provide direct oversight in the district regarding the
5 quality performance indicators with which the district has failed to
6 comply. The highly skilled professional shall have authority in the
7 areas of oversight that the commissioner designates. The highly
8 skilled professional shall work collaboratively with the superintendent
9 and the board of education to address areas identified in the
10 improvement plan. The cost for the salaries of the highly skilled
11 professionals shall be a shared expense of the school district and the
12 State.

13 (5) The commissioner may appoint up to three additional members
14 to the board of education of a district under partial State control. A
15 board member appointed by the commissioner shall be a voting
16 member of the board and shall have all the rights, powers and
17 privileges of a member of the board. A member appointed by the
18 commissioner shall serve at the pleasure of the commissioner. Any
19 vacancy in the membership appointed by the commissioner shall be
20 filled in the same manner as the original appointment.

21 (6) The department shall conduct a periodic review of the
22 improvement plan and the district's progress in addressing deficiencies
23 noted in the improvement plan, including on-site visits. Based on the
24 district's success in implementing its improvement plan, the
25 commissioner shall make a determination to return to local control one
26 or more of the areas that have been under State control, to leave one
27 or more areas under State control or to recommend to the State Board
28 of Education that the district be placed under full State control.

29 If the commissioner determines that the district has successfully
30 implemented the improvement plan, the commissioner shall issue a
31 letter of recognition to the district designating the district as a high
32 performing district and the district shall return to local control. The
33 commissioner shall recommend that the State board certify the school
34 district for a period of seven years as providing a thorough and
35 efficient system of education, contingent on continued progress in
36 meeting the quality performance indicators.

37 d. [Whenever a district in level II monitoring is directed to
38 establish a corrective action plan or whenever a district in level III
39 monitoring shall be required to implement an approved corrective
40 action plan pursuant to this section, the commissioner shall determine
41 the cost to the district of implementation of those portions of the
42 corrective action plan which are directly responsive to the district's
43 deficiencies as identified in the report of the external review team or,
44 where applicable, by the commissioner. In making this fiscal
45 assessment, the commissioner shall identify those aspects of the
46 corrective action plan which are already contained in the district's

1 current expense budget. Where appropriate, the commissioner shall
2 reallocate funds within the district's budget to support the corrective
3 action plan. Once reallocated, any transfers among line items of the
4 district's budget may occur only with the commissioner's approval.
5 The commissioner shall further determine the amount of additional
6 revenue, if any, needed to implement the corrective action plan and
7 shall recertify a budget for the district. ~~](Deleted by amendment, P.L.~~
8 ~~c. ___)(now pending before the Legislature as this bill.)~~

9 e. If a school district is less than 50 percent compliant with the
10 quality performance indicators in all of the five key components of
11 school district effectiveness, the district shall be directed to enter full
12 State control. A comprehensive compliance investigation shall be
13 conducted by the department and shall entail a thorough and detailed
14 examination [of a district's educational programs, fiscal practices,
15 governance and management] in the five key components of school
16 district effectiveness as set forth in section 10 of P.L.1975, c.212
17 (C.18A:7A-10) . Based on the investigation, the commissioner shall
18 issue a report which will document any irregularities [and list all those
19 aspects of the corrective action plan established pursuant to
20 subsections b. and c. of this section which have not been successfully
21 implemented by the district or the conditions which would preclude the
22 district from successfully implementing a plan]. A copy of this report
23 shall be given to the district. The commissioner shall also order the
24 local board to show cause why an administrative order, subject to the
25 provisions of section 15 of P.L.1975, c.212 (C.18A:7A-15) and
26 section 1 of P.L.1987, c.399 (C.18A:7A-34) should not be
27 implemented. The plenary hearing before a judge of the Office of
28 Administrative Law, pursuant to the "Administrative Procedure Act,"
29 P.L.1968, c.410 (C.52:14B-1 et seq.), upon said order to show cause
30 shall be conducted in the manner prescribed by subdivision B of article
31 2 of chapter 6 of Title 18A of the New Jersey Statutes.

32 In the proceeding the State shall have the burden of showing that
33 the recommended administrative order is not arbitrary, unreasonable
34 or capricious.

35 (cf: P.L.1996, c.138, s.37)

36

37 5. Section 15 of P.L.1975, c.212 (C.18A:7A-15) is amended to
38 read as follows:

39 15. a. If, after a plenary hearing, the commissioner determines that
40 it is necessary to take corrective action, the commissioner shall have
41 the power to order necessary budgetary changes within the district or
42 other measures the commissioner deems appropriate to establish a
43 thorough and efficient system of education with the exception of the
44 creation of a [State-operated] school district under full State control.
45 The commissioner shall assure that the local district's budget provides
46 the resources necessary to implement the order. If the commissioner

1 determines that the district has failed to take or is unable to take the
2 corrective actions necessary to establish a thorough and efficient
3 system of education, the commissioner shall recommend to the State
4 board that it issue an administrative order creating a [State-operated]
5 school district under full State control. Notwithstanding any other
6 provision of law to the contrary and upon its determining that the
7 school district is not providing a thorough and efficient system of
8 education, the State board may direct [the removal of the district
9 board of education and] the creation of a [State-operated] school
10 district under full State control whose functions, funding and authority
11 are defined in P.L.1987, c.399 (C.18A:7A-34 et seq.). No order for
12 the creation of a [State-operated] school district under full State
13 control shall issue solely on the basis of a district's failure to correct
14 substandard physical facilities. Nothing herein shall limit the right of
15 any party to appeal the State board's order to the Superior Court.

16 b. A district under full State control shall be required to develop
17 an improvement plan that addresses the quality performance
18 indicators with which the district has not complied. The improvement
19 plan shall be submitted to and approved by the commissioner. The
20 commissioner shall assure that the local district's budget provides the
21 resources necessary to implement the improvement plan.

22 c. In districts under full State control the State board, upon the
23 recommendation of the commissioner, may appoint a State district
24 superintendent to serve for a period not to exceed three years.

25 d. The commissioner may appoint one or more highly skilled
26 professionals to provide direct oversight in the district regarding the
27 quality performance indicators with which the district has failed to
28 comply. The highly skilled professional shall have authority in the
29 areas of oversight that the commissioner designates. The highly
30 skilled professional shall work collaboratively with the superintendent
31 and the board of education to address areas identified in the
32 improvement plan. The cost for the salaries of the highly skilled
33 professionals shall be a shared expense of the school district and the
34 State.

35 e. The department shall conduct a periodic review of the
36 improvement plan and the district's progress in addressing deficiencies
37 noted in the improvement plan, including on-site visits. Based upon
38 the district's success in implementing its improvement plan, the
39 commissioner shall make a determination to return to local control one
40 or more areas that have been under State control or to leave the
41 district under full State control.

42 If the commissioner determines that the district has successfully
43 implemented the improvement plan, the commissioner shall issue a
44 letter of recognition to the district designating the district as a high
45 performing district and the district shall return to local control. The
46 commissioner shall recommend that the State board certify the school

1 district for a period of seven years as providing a thorough and
2 efficient system of education, contingent on continued progress in
3 meeting the quality performance indicators.

4 (cf: P.L.1987, c.398, s.3)

5

6 6. Section 5 of P.L.1987, c.398 (C.18A:7A-15.1) is amended to
7 read as follows:

8 5. Pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15), the
9 State board, upon the recommendation of the commissioner, shall have
10 **[full]** authority to: a. remove the district board of education **[,]** or
11 approve the appointment by the commissioner of up to three additional
12 voting members to the school board; b. create a **[State-operated]**
13 school district **[,]** under full State control; and c. appoint, upon
14 recommendation of the commissioner, a State district superintendent
15 of schools to direct **[all]** the operations of the district [, including the
16 implementation of the administrative order. The State district
17 superintendent of schools shall have all authority and powers
18 previously vested in the district board of education] in accordance
19 with the improvement plan established pursuant to section 15 of
20 P.L.1975, c.212 (C.18A:7A-15).

21 (cf: P.L.1987, c.398, s.5)

22

23 7. Section 2 of P.L.1987, c.400 (C.18A:7A-31.1) is amended to
24 read as follows:

25 2. Whenever the Commissioner of Education directs the
26 Department of Education to undertake a comprehensive compliance
27 investigation of a local school district pursuant to section 14 of
28 P.L.1975, c.212 (C.18A:7A-14), the commissioner shall immediately
29 inform the Joint Committee on the Public Schools, created pursuant to
30 P.L.1975, c.16 (C.52:9R-1), of that directive. The commissioner shall
31 make the **[evaluation and monitoring]** reports **[regarding the district]**
32 submitted by the district pursuant to section 11 of P.L.1975, c.212
33 (C.18A:7A-11) available to the committee, and shall keep the
34 committee apprised of the progress and the final outcome of the
35 comprehensive compliance investigation.

36 (cf: P.L.1987, c.400, s.2)

37

38 8. Section 3 of P.L.1987, c.400 (C.18A:7A-31.2) is amended to
39 read as follows:

40 3. Whenever the State Board of Education issues an administrative
41 order establishing a **[State-operated]** school district under full State
42 control pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15), the
43 commissioner shall immediately inform the Joint Committee on the
44 Public Schools of that administrative order, and shall advise the
45 committee as to the causes of the district's failure to achieve
46 **[certification through local district initiatives]** the requisite

1 compliance with the quality performance indicators.

2 (cf: P.L.1987, c.400, s.3)

3

4 9. Section 4 of P.L.1987, c.400 (C.18A:7A-31.3) is amended to
5 read as follows:

6 4. a. Within six months following the establishment of a
7 **[State-operated]** school district under full State control, the
8 commissioner shall present to the Joint Committee on the Public
9 Schools the **[corrective action]** improvement plan developed for the
10 district.

11 b. On **[a periodic]** an annual basis[, but not less than once each
12 year,] the commissioner shall provide a **[detailed]** report to the
13 committee on the progress made in the implementation of the
14 **[corrective action]** improvement plan and the prospects for the return
15 of the district to local control.

16 c. The Joint Committee on the Public Schools, in cooperation with
17 the commissioner, may develop a plan for monitoring the
18 administration of a **[State-operated]** school district under full State
19 control and the implementation of the **[corrective action]**
20 improvement plan. The plan developed by the committee shall include
21 provisions for independent documentation and assessment.

22 (cf: P.L.1987, c.400, s.4)

23

24 10. Section 1 of P.L.1987, c.399 (C.18A:7A-34) is amended to
25 read as follows:

26 1. Whenever the Commissioner of Education shall determine after
27 the issuance of an administrative order that a local school district has
28 failed to assure a thorough and efficient system of education, the State
29 Board of Education may issue an administrative order as set forth in
30 section 15 of P.L.1975, c.212 (C.18A:7A-15) which shall **[remove the**
31 **district board of education and]** create a **[State-operated]** school
32 district under full State control. The **[State-operated]** school district
33 under full State control shall become effective immediately upon
34 issuance of the administrative order by the State board.

35 (cf: P.L.1987, c.399, s.1)

36

37 11. Section 2 of P.L.1987, c.399 (C.18A:7A-35) is amended to
38 read as follows:

39 2. a. The schools of a **[State-operated]** school district **[shall]**
40 under full State control may be conducted by and under the
41 supervision of a State district superintendent of schools appointed by
42 the State board upon recommendation of the commissioner. The
43 individual selected shall be qualified by training and experience for the
44 particular district and shall work collaboratively with any highly skilled
45 professionals appointed by the commissioner.

1 The State board may, upon the recommendation of the
2 commissioner, choose to retain the person who holds the position of
3 superintendent of schools in the school district at the time the State
4 board issues the administrative order pursuant to section 15 of
5 P.L.1975, c.212 (C.18A:7A-15). If the State board chooses to retain
6 the superintendent of schools, the person shall comply with the
7 directives of the commissioner or his designee, including any highly
8 skilled professional appointed by the commissioner.

9 b. ~~[The]~~ If the State board appoints a State district superintendent
10 the appointment shall be ~~[appointed]~~ for an original term not to
11 exceed ~~[five]~~ three years. Notwithstanding any other provision of
12 law, no person so appointed shall acquire tenure nor shall the
13 commissioner, with approval of the State board, be precluded from
14 terminating the superintendent's services pursuant to the terms of the
15 superintendent's individual contract of employment. For the purpose
16 of the New Jersey Tort Claims Act, N.J.S.59:1-1 et seq., the State
17 district superintendent shall be considered a State officer.

18 c. The salary of the State district superintendent shall be fixed by
19 the commissioner and adjusted from time to time as the commissioner
20 deems appropriate. The cost for said salary and for the salaries of all
21 persons appointed pursuant to this amendatory and supplementary act,
22 except the highly skilled professionals, shall be an expense of the local
23 school district.

24 d. The State district superintendent shall perform ~~[all the]~~ such
25 duties and possess ~~[all the]~~ such powers ~~[heretofore and hereafter~~
26 assigned in Title 18A of the New Jersey Statutes to central
27 administrative and supervisory staff, instructional and noninstructional,
28 which shall include but not be limited to the superintendent of schools,
29 secretary of the board of education, school business administrator,
30 school business manager, and assistants and clerks thereto] as deemed
31 appropriate by the commissioner.

32 e. Except as otherwise provided in this amendatory and
33 supplementary act, the State district superintendent shall have the
34 power to perform all acts and do all things ~~[consistent with law]~~ that
35 the commissioner deems necessary for the proper conduct,
36 maintenance and supervision of the schools in the district.

37 f. The State district superintendent may, if deemed appropriate by
38 the commissioner, make, amend and repeal district rules, policies and
39 guidelines, not inconsistent with law for the proper conduct,
40 maintenance and supervision of the schools in the district.

41 g. The State district superintendent ~~[shall]~~ may, if deemed
42 appropriate by the commissioner, provide in each school a mechanism
43 for parent, teacher and community involvement. In addition, the State
44 district superintendent ~~[shall]~~ may provide for at least one public
45 meeting in both the fall and the spring semesters to advise parents and

1 members of the community on the activities within the district and to
2 provide an opportunity for those parents, teachers and community
3 members who wish to be heard. The meetings shall be at such times
4 and places as to ensure maximum public participation.

5 h. The State district superintendent, or such other person as the
6 commissioner shall designate, shall ensure that the district is in
7 compliance with all federal and State laws, rules and regulations
8 relating to equal employment opportunities, affirmative action and
9 minority business opportunities.

10 (cf: P.L.1995, c.179, s.1)

11

12 12. Section 4 of P.L.1987, c.399 (C.18A:7A-37) is amended to
13 read as follows:

14 4. **[Notwithstanding the absence of a]** If the State board, upon the
15 recommendation of the commissioner, chooses to remove the board of
16 education in a school district under full State control, **[a**
17 State-operated] the school district shall remain a corporate entity.

18 (cf: P.L.1987, c.399, s.4)

19

20 13. Section 5 of P.L.1987, c.399 (C.18A:7A-38) is amended to
21 read as follows:

22 5. Except as otherwise provided in this amendatory and
23 supplementary act, the State district superintendent in a
24 **[State-operated]** school district **[shall have]** under full State control
25 or any other person designated by the commissioner may be given the
26 power to:

27 a. Enforce the rules of the State board; and

28 b. Perform all acts and do all things, consistent with law and the
29 rules of the State board, necessary for the lawful and proper conduct,
30 equipment and maintenance of the public schools of the district.

31 (cf: P.L.1987, c.399, s.5)

32

33 14. Section 6 of P.L.1987, c.399 (C.18A:7A-39) is amended to
34 read as follows:

35 6. a. The State district superintendent **[of a State-operated school**
36 **district]** or any other person designated by the commissioner may in
37 a school district under full State control:

38 (1) Sue in the district's corporate name and likewise submit to
39 arbitration and determination disputes and controversies in the manner
40 provided by law;

41 (2) Cause a report of the condition of the public schools and the
42 public school property **[under the superintendent's control]** and an
43 itemized account of the condition of the finances of the district to be
44 printed and published as soon as practicable after the close of each
45 school year; and

46 (3) Cause an exact census to be taken annually of all children

1 residing in the district between the ages of five and 18 years, including
2 such other information as he or she may deem necessary or proper and
3 appoint, for the purpose of taking that census, as many suitable
4 persons as may be necessary to act as enumerators and fix their
5 compensation, which compensation shall be paid as a current expense.

6 b. A [State-operated] school district under full State control may
7 be sued under its corporate name.

8 c. [State-operated school] School districts under full State control
9 may join with local boards of education for the purpose of affording
10 the districts those benefits which may accrue pursuant to P.L.1983,
11 c.108 (C.18A:18B-1 et seq.).

12 d. A [State-operated] school district under full State control shall
13 be subject to all provisions of chapter 19 of Title 18A of the New
14 Jersey Statutes except that all warrants for claims or expenditures
15 approvable by a district board of education or any action required of
16 a district board of education pursuant to chapter 19 [shall] may be
17 authorized by the State district superintendent or any other person
18 designated by the commissioner.

19 e. Authority for the implementation of any provision of chapter 20
20 of Title 18A of the New Jersey Statutes relative to the acquisition and
21 disposition of property which requires action by a district board of
22 education [shall] may, in a [State-operated] school district under full
23 State control, be exercised by the State district superintendent or any
24 other person designated by the commissioner .

25 f. The authority vested in boards of education by chapter 21 of
26 Title 18A of the New Jersey Statutes [shall] may in a
27 [State-operated] school district under full State control be vested in
28 the State district superintendent or any other person designated by the
29 commissioner.

30 g. [State-operated school] School districts under full State control
31 shall be subject to all requirements set forth in chapter 18A of Title
32 18A of the New Jersey Statutes except that such determination as may
33 be required of a district board of education by the provisions of said
34 law [shall] may be rendered by the State district superintendent or any
35 other person designated by the commissioner.

36 (cf: P.L.1987, c.399, s.6)

37

38 15. Section 7 of P.L.1987, c.399 (C.18A:7A-40) is amended as
39 follows:

40 7. a. When [the board of education is removed and] a
41 [State-operated] district under full State control is established,
42 pursuant to section 1 of [this amendatory and supplementary act]
43 P.L.1987, c.399 (C.18A:7A-34), or when local control is
44 reestablished, pursuant to section 16 of [this amendatory and
45 supplementary act] P.L.1987, c.399 (C.18A:7A-49), collective

1 bargaining agreements entered into by the school district shall remain
2 in force, except where otherwise expressly provided in [this
3 amendatory and supplementary act] P.L.1987, c.399 (C.18A:7A-34
4 et seq.).

5 b. Except where otherwise expressly provided in [this amendatory
6 and supplementary act] P.L.1987, c.399 (C.18A:7A-34 et seq.), all
7 teaching staff members and other employees of a [State-operated]
8 district under full State control shall retain and continue to acquire all
9 rights and privileges acquired pursuant to Title 18A of the New Jersey
10 Statutes. After the reestablishment of local control in the district, the
11 board shall preserve and recognize all rights and privileges acquired
12 prior to and during the State [operation] control of the district.
13 (cf: P.L.1987, c.399, s.7)

14

15 16. Section 8 of P.L.1987, c.399 (C.18A:7A-41) is amended to
16 read as follows:

17 8. There [shall] may be established within a [State-operated]
18 school district under full State control an internal audit team which
19 shall monitor the business functions of the district and report its
20 findings to [the State district superintendent and] the commissioner
21 and any district personnel deemed appropriate by the commissioner.
22 The cost of providing this internal audit function shall be borne by the
23 State.

24 (cf: P.L.1987, c.399, s.8)

25

26 17. Section 9 of P.L.1987, c.399 (C.18A:7A-42) is amended to
27 read as follows:

28 9. a. In a [State-operated] school district under full State control,
29 all officers, employees and consultants, professional and
30 nonprofessional, certified and noncertified, shall be employed or
31 retained, transferred and removed [as provided below] in accordance
32 with the improvement plan which has been approved by the
33 commissioner. In accordance with that plan:

34 (1) The State district superintendent or any other person
35 designated by the commissioner may appoint, transfer and remove
36 clerks, pursuant to the provisions of Title 11A (Civil Service) of the
37 New Jersey Statutes and the provisions of N.J.S.18A:17-1 et seq.

38 (2) The State district superintendent or any other person
39 designated by the commissioner, subject to the approval of the
40 commissioner, shall appoint and set the salaries of such State assistant
41 superintendents as the superintendent shall deem necessary and assign
42 to them their duties and responsibilities. No State assistant
43 superintendent shall acquire tenure, notwithstanding any other
44 provision of law.

45 (3) The State district superintendent of schools or any other person

1 designated by the commissioner shall, subject to the approval of the
2 commissioner or his designee, make all personnel determinations
3 relative to employment, transfer and removal of all officers and
4 employees, professional and nonprofessional, except that the services
5 of the district auditor or auditors and attorney or attorneys shall be
6 immediately terminated by creation of a [State-operated] school
7 district [pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15)]
8 under full State control.

9 b. The State district superintendent or any other person designated
10 by the commissioner may delegate to subordinate officers or
11 employees in the district any of [the superintendent's] his powers and
12 duties as [the superintendent] he may deem desirable to be exercised
13 under [the superintendent's] his supervision and direction.

14 (cf: P.L.1987, c.399, s.9)

15

16 18. Section 10 of P.L.1987, c.399 (C.18A:7A-43) is amended to
17 read as follows:

18 10. Except as otherwise provided in this amendatory and
19 supplementary act, any person serving under tenure or permanent civil
20 service status shall retain all tenure rights and may continue to serve
21 in the district pursuant to the provisions of this section. However,
22 they shall perform only such duties as prescribed [or delegated by the
23 State district superintendent] in the improvement plan which has been
24 approved by the commissioner and those duties for which they may be
25 appropriately certified.

26 (cf: P.L.1987, c.399, s.10)

27

28 19. Section 11 of P.L.1987, c.399 (C.18A:7A-44) is amended to
29 read as follows:

30 11. a. Notwithstanding any other provision of law or contract, the
31 positions of the district's chief school administrator and those
32 executive administrators responsible for curriculum, business and
33 finance, and personnel [shall] may be abolished upon creation of the
34 [State-operated] school district under full State control. The affected
35 individuals shall be given 60 days' notice of termination or 60 days'
36 pay. The notice or payment shall be in lieu of any other claim or
37 recourse against the employing board or the school district based on
38 law or contract. Any individual whose position is abolished by
39 operation of this subsection shall be entitled to assert a claim to any
40 position or to placement upon a preferred eligibility list for any
41 position to which the individual may be entitled by virtue of tenure or
42 seniority within the district. No individual whose position is abolished
43 by operation of this subsection shall retain any right to tenure or
44 seniority in the positions abolished herein.

45 b. Within [one year] 120 days of the establishment of the

1 [State-operated] school district under State control, the State district
2 superintendent [shall] or any other person designated by the
3 commissioner may prepare a reorganization of the district's central
4 administrative and supervisory staff and [shall] may evaluate all
5 individuals employed in central administrative and supervisory staff
6 positions. The State district superintendent [shall] or any other
7 person designated by the commissioner may implement the
8 reorganization on the July 1 next following its preparation, unless
9 otherwise directed by the commissioner. The State district
10 superintendent or any other person designated by the commissioner
11 shall retain the authority to prepare a reorganization and to evaluate
12 all employed individuals after the expiration of the 120 day period.

13 c. Notwithstanding any other provision of law or contract, the
14 positions of the central administrative and supervisory staff,
15 instructional and noninstructional, other than those positions abolished
16 pursuant to subsection a. of this section, [shall] may be abolished
17 upon the reorganization of the [State-operated] staff of the school
18 [district's staff] district under full State control. The State district
19 superintendent or any other person designated by the commissioner
20 may hire an individual whose position is so abolished, based upon the
21 evaluation of the individual and the staffing needs of the reorganized
22 district staff. These individuals shall be hired with tenure if they had
23 tenure in their prior position. If they did not have tenure in their prior
24 position, they may obtain tenure pursuant to the provisions of N.J.S.
25 18A:28-6. Individuals hired as State assistant superintendents shall
26 not be hired with tenure and shall not acquire tenure. Employees or
27 officers not hired for the reorganized staff shall be given 60 days'
28 notice of termination or 60 days' pay. The notice or payment shall be
29 in lieu of any other claim or recourse against the employing board or
30 the school district based on law or contract. Notwithstanding this
31 limitation, nothing herein shall preclude an individual from asserting
32 upon separation from service any legal contractual right to health care
33 coverage, annuities, accrued vacation days, accrued sick leave,
34 insurance and approved tuition costs. Any employee whose position
35 is abolished by operation of this subsection shall be entitled to assert
36 a claim to any position or to placement upon a preferred eligibility list
37 for any position to which the employee may be entitled by virtue of
38 tenure or seniority within the district. No employee whose position is
39 abolished by operation of this subsection shall retain any right to
40 tenure or seniority in the positions abolished herein.

41 (cf: P.L.1995, c.179, s.2)

42

43 20. Section 12 of P.L.1987, c.399 (C.18A:7A-45) is amended to
44 read as follows:

45 12. a. The Commissioner of Education shall adopt criteria for the
46 evaluation of building principals and vice-principals in a

1 [State-operated] school district under full State control.

2 b. Upon appointment, the State district superintendent [shall] or
3 other person designated by the commissioner may establish an
4 assessment unit [which shall] to conduct on-site evaluations of each
5 building principal and vice-principal in accordance with the criteria
6 established by the commissioner and render evaluation reports to the
7 State district superintendent or any other person designated by the
8 commissioner. No less than three evaluations shall be performed for
9 each building principal and vice-principal within 18 months following
10 the establishment of [State operation] the school district under full
11 State control. All personnel records for building principals and
12 vice-principals prepared before the establishment of the
13 [State-operated] district under full State control shall be sealed upon
14 issuance of the State Board of Education order establishing the
15 [State-operated] school district under full State control.

16 c. Notwithstanding any other provision of law or contract, the
17 State district superintendent or any other person designated by the
18 commissioner, after completion of an assessment cycle of not less than
19 12 months, may dismiss any tenured building principal or
20 vice-principal for inefficiency, incapacity, unbecoming conduct or
21 other just cause as defined by the criteria for principal or vice-principal
22 performance in [State-operated] districts under full State control
23 established by the commissioner pursuant to subsection a. of this
24 section. Nothing herein shall preclude the dismissal of a tenured
25 building principal or vice-principal prior to the completion of an
26 assessment cycle of not less than 12 months if the basis for the
27 dismissal is incapacity or unbecoming conduct. All dismissals of
28 tenured building principals or vice-principals shall be conducted in
29 accordance with the procedures set forth in sections 10, 11, 13, 14, 16
30 and 17 of chapter 6 of Title 18A of the New Jersey Statutes, except
31 that the State district superintendent or any other person designated
32 by the commissioner shall act as the board of education in all respects.

33 d. The commissioner and the Office of Administrative Law are
34 empowered and directed to take any necessary action to expedite
35 hearings for dismissal of tenured principals or vice-principals,
36 including relaxation of any time requirements established by law or
37 practice. In no event shall a hearing commence later than 45 days
38 after certification of charges. Hearings shall be completed within 45
39 days of commencement. In no event shall a final decision be issued
40 later than 120 days following the certification of charges.

41 e. Evaluations of building principals or vice-principals conducted
42 by district personnel prior to the establishment of the [State-operated]
43 school district under full State control shall not be admissible in a
44 tenure hearing for any building principal or vice-principal except in the
45 following circumstances:

46 (1) Evaluations of building principals or vice-principals performed

1 by members of the [State-operated school district's] central
2 administrative and supervisory staff who are hired [by the State
3 district superintendent] to fill one of the positions in the reorganized
4 central office of the [State-operated] district under full State control
5 shall be admissible;

6 (2) Evaluations of building principals or vice-principals made by
7 individuals who were no longer employed by the school district as of
8 the date it became a [State-operated] school district under full State
9 control shall be admissible only if the evaluation was performed more
10 than five years preceding the date of the establishment of the
11 [State-operated] district under full State control.

12 (cf: P.L.1995, c.179, s.3)

13

14 21. Section 13 of P.L.1987, c.399 (C.18A:7A-46) is amended to
15 read as follows:

16 13. a. [State-operated school] School districts under full State
17 control shall be created only as provided pursuant to section 15 of
18 P.L.1975, c.212 (C.18A:7A-15).

19 b. [State-operated school] School districts [shall] under full State
20 control may be conducted by and under the supervision of a State
21 district superintendent appointed by the State Board of Education
22 upon recommendation of the commissioner.

23 (cf: P.L.1987, c.399, s.13)

24

25 22. Section 1 of P.L.1991, c.139 (C.18A:7A-46.1) is amended to
26 read as follows:

27 1. a. In any [State-operated] State-controlled school district
28 created pursuant to the provisions of P.L.1975, c.212 (C.18A:7A-1 et
29 seq.) there [shall] may be established a Capital Project Control Board,
30 hereinafter the board, [which shall] to be responsible for the review
31 of any capital project proposed by the State district superintendent or
32 a person designated by the commissioner, provided that the State
33 district superintendent or person designated by the commissioner
34 proposes that the capital project be financed in whole or in part by
35 school bonds or notes, or through a lease purchase agreement pursuant
36 to subsection f. of N.J.S.18A:20-4.2. The board shall also be
37 responsible for the certification to the State district superintendent of
38 schools or person designated by the Commissioner of Education and
39 the [Commissioner of Education] commissioner of the necessity for
40 the capital project and the certification of the appropriation to be made
41 by the governing body of the municipality.

42 b. The board shall consist of five voting members. One member
43 shall be appointed by the Commissioner of Education and two
44 members shall be appointed by the chief executive officer with the
45 consent of a majority of the full membership of the local governing

1 body of the municipality or municipalities in which the school district
2 is located. If the school district is comprised of two municipalities,
3 each municipality shall be entitled to one member, appointed by the
4 executive officer with the consent of the governing body. If the school
5 district is comprised of more than two municipalities, each of the two
6 municipalities with the largest population according to the most recent
7 federal decennial census shall be entitled to one member, appointed by
8 the executive officer with the consent of the governing body.
9 However, if a local governing body fails to agree upon the selection of
10 either board member appointed by an executive officer, then the
11 Commissioner of Education shall make the appointment. One member
12 shall be appointed by the Director of the Division of Local
13 Government Services in the Department of Community Affairs who
14 shall have experience in the area of local finance and capital projects.
15 The fifth member shall be the State district superintendent of schools
16 or any other person designated by the commissioner who shall serve
17 ex-officio and shall act as chairperson of the board. The board
18 members, except for the State district superintendent or the person
19 designated by the commissioner, shall each serve for a term of one
20 year commencing on July 1 of each year and expiring on June 30 of the
21 following year. Any vacancy in the membership of the board shall be
22 filled for the unexpired term in the manner provided by the original
23 appointment. Members of the board may be employees of the State or
24 any subdivision thereof. All members of the board shall serve without
25 compensation.

26 c. The board shall meet from time to time upon the request of the
27 State district superintendent or person designated by the
28 commissioner. All meetings of the board shall be conducted pursuant
29 to the provisions of the "Open Public Meetings Act," P.L.1975, c.231
30 (C.10:4-6 et seq.). The State district superintendent , or [his
31 designee] the person designated by the commissioner, shall be charged
32 with the responsibility of preparing a transcript of the proceedings and
33 all votes shall be recorded in writing.

34 (cf: P.L.2000, c.72, s.32)

35

36 23. Section 2 of P.L.1991, c.139 (C.18A:7A-46.2) is amended to
37 read as follows:

38 2. [The] In the event that a capital projects review board is
39 established pursuant to section 1 of P.L.1991, c.139 (C.18A:7A-46.1)
40 the board shall hear the recommendation of the State district
41 superintendent or the person designated by the commissioner
42 concerning any proposed capital project, which is to be financed in
43 whole or in part by school bonds or notes, or through a lease purchase
44 agreement pursuant to subsection f. of N.J.S.18A:20-4.2, and shall
45 undertake all actions necessary to review the proposed capital project
46 to determine whether the project will assist the [State-operated]

1 school district under full State control in providing a thorough and
2 efficient system of education in that district. In making this
3 determination it may take into consideration factors such as the
4 conditions in the school district, any applicable educational goals, the
5 objectives and standards established by the State, the need for the
6 capital project, the reasonableness of the amount to be expended for
7 the capital project, the estimated time for the undertaking and
8 completion of the capital project, and any other factors which the
9 board may deem necessary including the relationship of the capital
10 project to the long-term capital budget or plan of the school district
11 and the fiscal implications thereof.

12 Following its review and within 60 days of the date on which the
13 State district superintendent or the person designated by the
14 commissioner submits the recommendation to the board, the board
15 shall adopt a resolution as to whether the [State-operated] school
16 district under full State control should undertake the capital project
17 and providing its reasons therefor. The board shall adopt a resolution
18 indicating the necessity for the capital project and shall also fix and
19 determine by resolution the amount necessary to be raised locally for
20 the capital project. If the board fails to act within 60 days of the
21 submission date, the State district superintendent or the person
22 designated by the commissioner shall submit the recommendation to
23 the commissioner who shall approve or disapprove the capital project.
24 If the board makes a decision which is contrary to the recommendation
25 of the superintendent or the person designated by the commissioner,
26 the superintendent or the person designated by the commissioner may,
27 within 30 days from the date of the board's action, submit the matter
28 to the commissioner for final decision. If the commissioner determines
29 that a capital project should be undertaken, the commissioner shall so
30 notify the board and shall indicate the amount necessary to be raised
31 locally for the capital project. Upon notification, the board shall adopt
32 a resolution indicating the necessity for the capital project and shall
33 also fix and determine by resolution the amount necessary for the
34 capital project as indicated by the commissioner. Certified copies of
35 any resolution requesting the authorization and issuance of bonds and
36 notes or the authorization of a lease purchase agreement shall be
37 delivered to the State district superintendent or the person designated
38 by the Commissioner of Education, the Commissioner of Education,
39 the Director of the Division of Local Government Services in the
40 Department of Community Affairs and the governing body of the
41 municipality or municipalities in which the school district is located.
42 The board shall not approve or recommend any capital project which
43 is inconsistent with the provisions of N.J.S.18A:21-1.

44 (cf: P.L.2000, c.72, s.33)

45

46 24. Section 3 of P.L.1991, c.139 (C.18A:7A-46.3) is amended to

1 read as follows:

2 3. Notwithstanding the provisions of any law to the contrary, the
3 cost of any capital project authorized pursuant to this act which is to
4 be funded by bonds or notes and certified by the board to the State
5 district superintendent or the person designated by the commissioner,
6 the Commissioner of Education, the Director of the Division of Local
7 Government Services in the Department of Community Affairs and the
8 governing body of the municipality or municipalities in which the
9 school district is located shall be financed by the issuance of school
10 bonds or notes pursuant to the provisions of chapter 24 of Title 18A
11 of the New Jersey Statutes and the "Local Bond Law" (N.J.S.40A:2-1
12 et seq.) and the notes, school bonds or other obligations shall be
13 authorized, issued, sold and delivered in the manner prescribed by the
14 "Local Bond Law" (N.J.S.40A:2-1 et seq.).
15 (cf: P.L.2000, c.72, s.34)

16

17 25. Section 4 of P.L.1991, c.139 (C.18A:7A-46.4) is amended to
18 read as follows:

19 4. Any authorization of notes or bonds effective prior to the date
20 of the appointment of the State district superintendent or the person
21 designated by the commissioner shall be issued in the manner
22 prescribed by the "Local Bond Law," (N.J.S.40A:2-1 et seq.).
23 (cf: P.L.1991, c.139, s.4)

24

25 26. Section 6 of P.L.1991, c.139 (C.18A:7A-46.6) is amended to
26 read as follows:

27 6. The debt service on bonds, notes and other obligations
28 authorized pursuant to [this act] P.L.1991, c.139 (C.18A:7A-46.1 et
29 seq.) shall be appropriated and made part of the municipal budget and
30 raised through the annual municipal tax levy. However, all debt
31 service payments shall be included in the budget of the
32 [State-operated] school district under full State control as the sum
33 necessary for interest and debt redemption charges and shall be eligible
34 for State education aid in the year in which the appropriation and
35 expenditure are made.
36 (cf: P.L.1991, c.139, s.6)

37

38 27. Section 14 of P.L.1987, c.399 (C.18A:7A-47) is amended to
39 read as follows:

40 14. a. Within 60 days, the commissioner [shall] may establish a
41 board of education consisting of not more than 15 persons from
42 among the residents of the district. The membership of the board shall
43 be representative of the community's racial and ethnic balance.
44 Previous members of the board of education shall not be precluded
45 from consideration for membership on this board. Of the 15 members,
46 13 shall be appointed by the commissioner and two shall be appointed

1 by the local governing body of the municipality in which the school
2 district is located. If the school district includes more than one
3 municipality, then the governing body of each constituent municipality
4 shall have one appointment to the board and the number of
5 appointments by the commissioner shall be reduced accordingly. If the
6 local governing body fails to agree upon the selection of board
7 members within 60 days of the establishment of the [State-operated]
8 school district under full State control, then the commissioner may
9 make the additional two appointments. Any vacancies on the board
10 shall be filled by the appropriate appointing authority within 45 days
11 of the occurrence of the vacancy. All individuals appointed to the
12 board shall meet all of the statutory requirements for membership on
13 a board of education and shall be required to attend all meetings of the
14 board, all meetings of standing board committees to which the member
15 is appointed, and all in-service training sessions provided for board
16 members. Any member of the board who, during the course of any
17 school year, fails to attend eighty percent of all meetings of the board
18 and of standing board committees and in-service training sessions shall
19 be removed upon recommendation of the State district superintendent
20 or the person designated by the commissioner to the appropriate
21 appointing authority. Members of the board of education shall serve
22 for two-year terms, unless removed from the board as provided herein.
23 The board shall meet as soon as may be possible after its appointment
24 and shall select a chairman and a vice-chairman from among its
25 members.

26 b. The State board, upon the recommendation of the commissioner,
27 may retain the board of education in place at the time that the State
28 board issues the administrative order creating the school district under
29 full State control. In this case the commissioner may appoint up to
30 three additional members to the board of education. If the State board
31 determines to retain the board of education, the board shall have only
32 those rights, powers and privileges of the advisory board established
33 pursuant to subsection a. of this section. Any vacancy in the
34 membership appointed by the commissioner shall be filled in the same
35 manner as the original appointment.

36 c. The State district superintendent [shall meet with the board of
37 education at least once in each month and] or the person designated
38 by the commissioner may meet [more] with the board as frequently as
39 necessary for the effective operation of the school district. The
40 meetings of the board shall be convened and scheduled at the direction
41 of the State district superintendent or the person designated by the
42 commissioner, and the State district superintendent or the person
43 designated by the commissioner shall determine the agenda. At the
44 meetings, the State district superintendent or the person designated by
45 the commissioner shall report to the board on all actions taken and on
46 pending actions in a timely fashion, and provide an opportunity for a

1 full discussion by the board and by the public of those actions.
2 Meetings shall be conducted pursuant to the provisions of the "Open
3 Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). On a
4 regular basis, but no less than twice each year, the board of education
5 shall report in writing directly to the State district superintendent or
6 the person designated by the commissioner concerning its assessment
7 of the progress of the district. Copies of the report shall be forwarded
8 to the commissioner and the State board. The State district
9 superintendent or the person designated by the commissioner shall
10 make such clerical and other resources available as are necessary for
11 the effective operation of the board of education.

12 d. The commissioner, in consultation with the New Jersey School
13 Boards Association, shall provide the members of the board of
14 education with appropriate in-service training in school matters.
15 (cf: P.L.1995, c.179, s.4)

16

17 28. Section 15 of P.L.1987, c.399 (C.18A:7A-48) is amended to
18 read as follows:

19 15. [a. At] If the commissioner has established a board of
20 education pursuant to subsection a. of section 14 of P.L.1987, c.399
21 (C.18A:7A-47), at the April school election in the fourth full academic
22 year following the creation of a [State-operated] school district under
23 full State control, nine board members shall be elected from among the
24 15 appointed board members, three to serve a one-year term, three to
25 serve a two-year term, and three to serve a three-year term. If there
26 are not nine members from the 15 appointed members who are willing
27 to run for election, the commissioner shall retain the right to appoint
28 the remaining members of the board. In each subsequent year, board
29 members shall be elected from the community at large.

30 [b. Beginning in the second year of State operation, the State
31 district superintendent shall bring matters of curriculum before the
32 board and may bring other matters before the board for a vote.
33 Beginning in the third year of State operation, the State district
34 superintendent shall bring legal matters before the board for a vote.
35 Beginning in the fourth year of State operation, the State district
36 superintendent shall bring fiscal matters before the board for a vote.
37 However, the State district superintendent shall retain veto power until
38 the reestablishment of local control.]

39 (cf: P.L.1995, c.179, s.5)

40

41 29. Section 16 of P.L.1987, c.399 (C.18A:7A-49) is amended to
42 read as follows:

43 16. a. [The State district superintendent shall annually provide to
44 the commissioner an assessment of the progress of the district toward
45 meeting the requirements necessary for State certification. In addition,
46 the commissioner shall ensure that the district is regularly monitored

1 by the Department of Education in the manner provided for all school
2 districts in level III monitoring pursuant to section 14 of P.L.1975,
3 c.212 (C.18A:7A-14).] A school district under full State control shall
4 make an annual report of its progress in complying with the quality
5 performance indicators adopted pursuant to section 10 of P.L.1975,
6 c.212 (C.18A:7A-10). The commissioner shall formally report to the
7 State board and to the Governor and the Legislature on the district's
8 progress.

9 b. Based upon the annual [assessment] report of progress [and the
10 district's having received State certification], but not sooner than
11 [five] three years after the establishment of the [State-operated]
12 school district under full State control, the commissioner may
13 [recommend to the State board that local control be reestablished]
14 place the school district under partial State control or elsewhere on the
15 performance continuum as the commissioner deems appropriate. If the
16 [State board] commissioner so determines, [local control shall be
17 reestablished] the school district shall be placed under partial State
18 control or designated as a highly performing or performing district
19 effective on the July 1 next ensuing.

20 c. [Upon the reestablishment of local control, the board of
21 education shall assume full responsibility for the operation of the
22 school district; however, the State district superintendent and those
23 members of the superintendent's staff appointed by operation of these
24 laws relating to State-operated school districts shall continue to serve
25 for a one-year transition period upon conclusion of which their term
26 of service shall expire without prejudice to the right of the district
27 board of education to reappoint any or all such persons to similar
28 positions within the district. During the transition period, the State
29 district superintendent may place matters before the board for a vote.
30 The board of education shall act upon all such matters brought before
31 it by the State district superintendent] In the event that the State
32 board, upon the recommendation of the commissioner, has appointed
33 a State district superintendent in a district under full State control and
34 if the district is placed under partial State control or is designated as
35 a highly performing or performing district, then the board of
36 education shall be permitted to extend the contract of the
37 superintendent who holds the position at the time that the district is
38 placed under partial State control or is designated a highly performing
39 or performing district, provide 18-months notice to the superintendent
40 to modify the contract, or allow the contract in effect to expire with
41 the appropriate statutory notice pursuant to subsection b. of section
42 4 of P.L.1991, c.267 (C.18A:17-20.1).

43 d. Not more than one year following the [reestablishment of local
44 control] placement of the district under partial State control or
45 designation as a highly performing or performing district, the board

1 shall call a special election for purposes of placing the question of
2 classification status before the voters of the district, which election
3 shall be conducted in accordance with the provisions of Title 19 of the
4 Revised Statutes concerning school elections.

5 e. If the voters of the district shall elect to become a type I district,
6 it shall be governed by the provisions of chapter 9 of Title 18A of the
7 New Jersey Statutes relating to type I districts after January 31 next
8 ensuing, unless the district is established in a city of the first class, in
9 which case it shall be governed after June 30 next ensuing. The
10 members of the district board of education at the time of said election
11 shall continue in office until expiration of their respective terms and
12 the qualification in office of their successors.

13 f. If the voters of the district shall so select that the district shall
14 become a type II district, it shall be governed by the provisions of
15 chapter 9 of Title 18A relating to type II districts and the members of
16 the board of education at the time of said election shall remain and
17 continue in office until the expiration of their respective terms and the
18 qualification of their respective successors.

19 g. If the commissioner cannot recommend that [local control be
20 reestablished in a district five years after the establishment of a
21 State-operated] the school district under full State control be placed
22 under partial State control within three years, then the commissioner
23 shall provide a comprehensive report to the State board and to the
24 Governor and the Legislature, including a detailed analysis of the
25 causes for the failure of the district to [achieve certification] comply
26 with the quality performance indicators and an assessment of the
27 amount of time necessary for the continuation of the [State-operated]
28 school district under full State control. On the basis of that report the
29 State board shall determine whether to continue the [State-operated]
30 school district under full State control or return the district to [local
31 control pursuant to this section] partial State control.

32 (cf: P.L.1995, c.278, s.25)

33

34 30. Section 17 of P.L.1987, c.399 (C.18A:7A-50) is amended to
35 read as follows:

36 17. The State district superintendent [of a State-operated school
37 district] or the person designated by the commissioner in a school
38 district under full State control shall develop a budget on or before
39 March 22 and shall present this budget to the board of education to
40 elicit the board's comments and recommendations. This budget shall
41 conform in all respects with the requirements of chapter 22 of Title
42 18A of the New Jersey Statutes and shall be subject to the limitations
43 on spending by local school districts otherwise required by P.L.1996,
44 c.138 (C.18A:7F-1 et al.).

45 (cf: P.L.1996, c.138, s.39)

1 31. Section 18 of P.L.1987, c.399 (C.18A:7A-51) is amended to
2 read as follows:

3 18. Upon the preparation of its budget, the State district
4 superintendent or the person designated by the commissioner shall fix
5 a date, place and time for the holding of a public hearing upon the
6 budget and the amounts of money necessary to be appropriated for the
7 use of the public schools for the ensuing school year, and the various
8 items and purposes for which the same are to be appropriated, which
9 hearing shall be held between March 22 and March 29. Notice of the
10 hearing, contents of the notice and the format and purpose of the
11 hearing shall be as provided in N.J.S.18A:22-11, N.J.S.18A:22-12 and
12 N.J.S.18A:22-13.

13 (cf: P.L.1995, c.278, s.40)

14

15 32. Section 19 of P.L.1987, c.399 (C.18A:7A-52) is amended to
16 read as follows:

17 19. a. After the public hearing provided for by section 18 of
18 P.L.1987, c.399 (C.18A:7A-51) but not later than April 8, the State
19 district superintendent or the person designated by the commissioner
20 shall fix and determine the amount of money necessary to be
21 appropriated for the ensuing school year and shall certify the amounts
22 to be raised by special district tax for school purposes as well as the
23 sum necessary for interest and debt redemption, if any, to the county
24 board of taxation and the amount or amounts so certified shall be
25 included in the taxes assessed, levied and collected in the municipality
26 or municipalities comprising the district. The State district
27 superintendent or the person designated by the commissioner shall
28 follow the procedures established pursuant to section 5 of P.L.1996,
29 c.138 (C.18A:7F-5).

30 b. (Deleted by amendment, P.L.1996, c.138).

31 c. (Deleted by amendment, P.L.1996, c.138).

32 (cf: P.L.1996, c.138, s.40)

33

34 33. Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended to read
35 as follows:

36 3. As used in sections 1 through 30 and 57 through 71 of this act,
37 unless the context clearly requires a different meaning:

38 "Abbott district" means an Abbott district as defined in section 3 of
39 P.L.1996, c.138 (C.18A:7F-3);

40 "Area cost allowance" means \$138 per square foot for the school
41 year 2000-2001 and shall be inflated by an appropriate cost index for
42 the 2001-2002 school year. For the 2002-2003 school year and
43 subsequent school years, the area cost allowance shall be as
44 established in the biennial Report on the Cost of Providing a Thorough
45 and Efficient Education and inflated by an appropriate cost index for
46 the second year to which the report applies. The area cost allowance

1 used in determining preliminary eligible costs of school facilities
2 projects shall be that of the year of application for approval of the
3 project;

4 "Authority means the New Jersey Economic Development
5 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

6 "Community provider" means a private entity which has contracted
7 to provide early childhood education programs for an ECPA district
8 and which (a) is licensed by the Department of Human Services to
9 provide day care services pursuant to P.L.1983, c.492 (C.30:5B-1 et
10 seq.); and (b) is a tax exempt nonprofit organization;

11 "Community early childhood education facilities project" means a
12 school facilities project consisting of facilities in which early childhood
13 education programs are provided to 3 or 4-year old children under
14 contract with the ECPA district but which are owned and operated by
15 a community provider;

16 "Commissioner" means the Commissioner of Education;

17 "Core curriculum content standards" means the standards
18 established pursuant to the provisions of subsection a. of section 4 of
19 P.L.1996, c.138 (C.18A:7F-4);

20 "Cost index" means the average annual increase, expressed as a
21 decimal, in actual construction cost factors for the New York City and
22 Philadelphia areas during the second fiscal year preceding the budget
23 year as determined pursuant to regulations promulgated by the
24 authority pursuant to section 26 of this act;

25 "Debt service" means and includes payments of principal and
26 interest upon school bonds issued to finance the acquisition of school
27 sites and the purchase or construction of school facilities, additions to
28 school facilities, or the reconstruction, remodeling, alteration,
29 modernization, renovation or repair of school facilities, including
30 furnishings, equipment, architect fees and the costs of issuance of such
31 obligations and shall include payments of principal and interest upon
32 school bonds heretofore issued to fund or refund such obligations, and
33 upon municipal bonds and other obligations which the commissioner
34 approves as having been issued for such purposes. Debt service
35 pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.),
36 P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177
37 (C.18A:58-33.2 et seq.) is excluded;

38 "Demonstration project" means a school facilities project selected
39 by the State Treasurer for construction by a redevelopment entity
40 pursuant to section 6 of this act;

41 "District" means a local or regional school district established
42 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey
43 Statutes, a county special services school district established pursuant
44 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a
45 county vocational school district established pursuant to article 3 of
46 chapter 54 of Title 18A of the New Jersey Statutes, and a

1 State-operated school district established pursuant to P.L.1987, c.399
2 (C.18A:7A-34 et seq.);

3 "District aid percentage" means the number expressed as a
4 percentage derived from dividing the district's core curriculum
5 standards aid calculated pursuant to section 15 of P.L.1996, c.138
6 (C.18A:7F-15) as of the date of the commissioner's determination of
7 preliminary eligible costs by the district's T & E budget calculated
8 pursuant to subsection d. of section 13 of P.L.1996, c.138
9 (C.18A:7F-13) as of the date of the commissioner's determination of
10 preliminary eligible costs;

11 "ECPA district" means a district that qualifies for early childhood
12 program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16);

13 "Excess costs" means the additional costs, if any, which shall be
14 borne by the district, of a school facilities project which result from
15 design factors that are not required to meet the facilities efficiency
16 standards and not approved pursuant to paragraph (1) of subsection
17 g. of section 5 of this act or are not authorized as community design
18 features included in final eligible costs pursuant to subsection c. of
19 section 6 of this act;

20 "Facilities efficiency standards" means the standards developed by
21 the commissioner pursuant to subsection h. of section 4 of this act;

22 "Final eligible costs" means for school facilities projects to be
23 constructed by the authority, the final eligible costs of the school
24 facilities project as determined by the commissioner, in consultation
25 with the authority, pursuant to section 5 of this act; for demonstration
26 projects, the final eligible costs of the project as determined by the
27 commissioner and reviewed by the authority which may include the
28 cost of community design features determined by the commissioner to
29 be an integral part of the school facility and which do not exceed the
30 facilities efficiency standards, and which were reviewed by the
31 authority and approved by the State Treasurer pursuant to section 6
32 of this act; and for districts whose district aid percentage is less than
33 55% and which elect not to have the authority construct a school
34 facilities project, final eligible costs as determined pursuant to
35 paragraph (1) of subsection h. of section 5 of this act;

36 "FTE" means a full-time equivalent student which shall be
37 calculated as follows: in districts that qualify for early childhood
38 program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16),
39 each student in grades kindergarten through 12 shall be counted at
40 100% of the actual count of students, and each preschool student
41 approved by the commissioner to be served in the district shall be
42 counted at 50% or 100% of the actual count of preschool students for
43 an approved half-day or full-day program, respectively; in districts that
44 do not qualify for early childhood program aid pursuant to section 16
45 of P.L.1996, c.138 (C.18A:7F-16), each student in grades 1 through
46 12 shall be counted at 100% of the actual count of students, in the

1 case of districts which operate a half-day kindergarten program each
2 kindergarten student shall be counted at 50% of the actual count of
3 kindergarten students, in the case of districts which operate a full-day
4 kindergarten program or which currently operate a half-day
5 kindergarten program but propose to build facilities to house a full-day
6 kindergarten program each kindergarten student shall be counted at
7 100% of the actual count of kindergarten students, and preschool
8 students shall not be counted. In addition, each preschool
9 handicapped child who is entitled to receive a full-time program
10 pursuant to N.J.S.18A:46-6 shall be counted at 100% of the actual
11 count of these students in the district;

12 "Functional capacity" means the number of students that can be
13 housed in a building in order to have sufficient space for it to be
14 educationally adequate for the delivery of programs and services
15 necessary for student achievement of the core curriculum content
16 standards. Functional capacity is determined by dividing the existing
17 gross square footage of a school building by the minimum area
18 allowance per FTE student pursuant to subsection b. of section 8 of
19 this act for the grade level students contained therein. The difference
20 between the projected enrollment determined pursuant to subsection
21 a. of section 8 of this act and the functional capacity is the unhoused
22 students that are the basis upon which the additional costs of space to
23 provide educationally adequate facilities for the entire projected
24 enrollment are determined. The existing gross square footage for the
25 purposes of defining functional capacity is exclusive of existing spaces
26 that are not contained in the facilities efficiency standards but which
27 are used to deliver programs and services aligned to the core
28 curriculum content standards, used to provide support services directly
29 to students, or other existing spaces that the district can demonstrate
30 would be structurally or fiscally impractical to convert to other uses
31 contained in the facilities efficiency standards;

32 "Lease purchase payment" means and includes payment of principal
33 and interest for lease purchase agreements in excess of five years
34 approved pursuant to subsection f. of N.J.S.18A:20-4.2 prior to the
35 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) to finance the
36 purchase or construction of school facilities, additions to school
37 facilities, or the reconstruction, remodeling, alteration, modernization,
38 renovation or repair of school facilities, including furnishings,
39 equipment, architect fees and issuance costs. Approved lease purchase
40 agreements in excess of five years shall be accorded the same
41 accounting treatment as school bonds;

42 ["Level II district" means a district which is directed by the
43 commissioner to enter level II monitoring pursuant to the provisions
44 of section 14 of P.L.1975, c.212 (C.18A:7A-14);]

45 "Local share" means, in the case of a school facilities project to be
46 constructed by the authority, the total costs less the State share as

1 determined pursuant to section 5 of this act; in the case of a
2 demonstration project, the total costs less the State share as
3 determined pursuant to sections 5 and 6 of this act; and in the case of
4 a school facilities project not to be constructed by the authority, but
5 which shall be financed pursuant to section 15 of this act, the total
6 costs less the State share as determined pursuant to that section;

7 "Local unit" means a county, municipality, board of education or
8 any other political subdivision or instrumentality authorized to
9 construct, operate and maintain a school facilities project and to
10 borrow money for those purposes pursuant to law;

11 "Local unit obligations" means bonds, notes, refunding bonds,
12 refunding notes, lease obligations and all other obligations of a local
13 unit which are issued or entered into for the purpose of paying for all
14 or a portion of the costs of a school facilities project, including
15 moneys payable to the authority;

16 "Long-range facilities plan" means the plan required to be submitted
17 to the commissioner by a district pursuant to section 4 of this act;

18 "Maintenance" means expenditures which are approved for repairs
19 and replacements for the purpose of keeping a school facility open and
20 safe for use or in its original condition, including repairs and
21 replacements to a school facility's heating, lighting, ventilation,
22 security and other fixtures to keep the facility or fixtures in effective
23 working condition. Maintenance shall not include contracted custodial
24 or janitorial services, expenditures for the cleaning of a school facility
25 or its fixtures, the care and upkeep of grounds or parking lots, and the
26 cleaning of, or repairs and replacements to, movable furnishings or
27 equipment, or other expenditures which are not required to maintain
28 the original condition over the school facility's useful life. Approved
29 maintenance expenditures shall be as determined by the commissioner
30 pursuant to regulations to be adopted by the commissioner pursuant
31 to section 26 of this act;

32 "Other allowable costs" means the costs of site development,
33 acquisition of land or other real property interests necessary to
34 effectuate the school facilities project, fees for the services of design
35 professionals, including architects, engineers, construction managers
36 and other design professionals, legal fees, financing costs and the
37 administrative costs of the authority or the district incurred in
38 connection with the school facilities project;

39 "Preliminary eligible costs" means the initial eligible costs of a
40 school facilities project as calculated pursuant to the formulas set forth
41 in section 7 of this act which shall be deemed to include the costs of
42 construction and other allowable costs;

43 "Redevelopment entity" means a redevelopment entity authorized
44 by a municipal governing body to implement plans and carry out
45 redevelopment projects in the municipality pursuant to the "Local
46 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
47 seq.);

1 "Report on the Cost of Providing a Thorough and Efficient
2 Education" or "Report" means the report issued by the commissioner
3 pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4);

4 "School bonds" means, in the case of a school facilities project
5 which is to be constructed by the authority, a redevelopment entity,
6 or a district under section 15 of this act, bonds, notes or other
7 obligations issued by a district to finance the local share; and, in the
8 case of a school facilities project which is not to be constructed by the
9 authority or a redevelopment entity, or financed under section 15 of
10 this act, bonds, notes or other obligations issued by a district to
11 finance the total costs;

12 "School enrollment" means the number of FTE students other than
13 evening school students, including post-graduate students and
14 post-secondary vocational students, who, on the last school day prior
15 to October 16 of the current school year, are recorded in the registers
16 of the school;

17 "School facility" means and includes any structure, building or
18 facility used wholly or in part for academic purposes by a district, but
19 shall exclude athletic stadiums, grandstands, and any structure,
20 building or facility used solely for school administration;

21 "School facilities project" means the acquisition, demolition,
22 construction, improvement, repair, alteration, modernization,
23 renovation, reconstruction or maintenance of all or any part of a
24 school facility or of any other personal property necessary for, or
25 ancillary to, any school facility, and shall include fixtures, furnishings
26 and equipment, and shall also include, but is not limited to, site
27 acquisition, site development, the services of design professionals,
28 such as engineers and architects, construction management, legal
29 services, financing costs and administrative costs and expenses
30 incurred in connection with the project;

31 "Special education services pupil" means a pupil receiving specific
32 services pursuant to chapter 46 of Title 18A of the New Jersey
33 Statutes;

34 "State aid" means State municipal aid and State school aid;

35 "State debt service aid" means for school bonds issued for school
36 facilities projects approved by the commissioner after the effective
37 date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect not
38 to have the authority or a redevelopment entity construct the project
39 or which elect not to finance the project under section 15 of this act,
40 the amount of State aid determined pursuant to section 9 of this act;
41 and for school bonds or certificates of participation issued for school
42 facilities projects approved by the commissioner prior to the effective
43 date of P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid
44 determined pursuant to section 10 of this act;

45 "State municipal aid" means business personal property tax
46 replacement revenues, State urban aid and State revenue sharing, as

1 these terms are defined in section 2 of P.L.1976, c.38 (C.40A:3-3), or
2 other similar forms of State aid payable to the local unit and to the
3 extent permitted by federal law, federal moneys appropriated or
4 apportioned to the municipality or county by the State;

5 "State school aid" means the funds made available to school
6 districts pursuant to sections 15 and 17 of P.L.1996, c.138
7 (C.18A:7F-15 and 17);

8 "State share" means the State's proportionate share of the final
9 eligible costs of a school facilities project to be constructed by the
10 authority as determined pursuant to section 5 of this act; in the case of
11 a demonstration project, the State's proportionate share of the final
12 eligible costs of the project as determined pursuant to sections 5 and
13 6 of this act; and in the case of a school facilities project to be financed
14 pursuant to section 15 of this act, the State share as determined
15 pursuant to that section;

16 "Total costs" means, in the case of a school facilities project which
17 is to be constructed by the authority or a redevelopment entity or
18 financed pursuant to section 15 of this act, the final eligible costs plus
19 excess costs if any; and in the case of a school facilities project which
20 is not to be constructed by the authority or a redevelopment entity or
21 financed pursuant to section 15 of this act, the total cost of the project
22 as determined by the district.

23 (cf: P.L.2000, c.72, s.3)

24

25 34. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to read
26 as follows:

27 5. a. The authority shall construct and finance the school facilities
28 projects of Abbott districts, districts in level II [districts] monitoring
29 pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) as of the
30 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), and districts with
31 a district aid percentage equal to or greater than 55%.

32 b. Any district whose district aid percentage is less than 55% may
33 elect to have the authority undertake the construction of a school
34 facilities project in the district and the State share shall be determined
35 pursuant to this section. In the event that the district elects not to
36 have the authority undertake the construction of the project, State
37 support for the project shall be determined pursuant to section 9 or
38 section 15 of this act, as applicable.

39 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the
40 contrary, the procedures for obtaining approval of a school facilities
41 project shall be as set forth in this act; provided that any district whose
42 district aid percentage is less than 55%, which elects not to have the
43 authority or a redevelopment entity undertake the construction of the
44 project, shall also be required to comply with the provisions of
45 N.J.S.18A:18A-16.

46 d. Any district seeking to initiate a school facilities project shall

1 apply to the commissioner for approval of the project. The application
2 shall, at a minimum, contain the following information: a description
3 of the school facilities project; a schematic drawing of the project or,
4 at the option of the district, preliminary plans and specifications; a
5 delineation and description of each of the functional components of the
6 project; the number of unhoused students to be housed in the project;
7 the area allowances per FTE student as calculated pursuant to section
8 8 of this act; and the estimated cost to complete the project as
9 determined by the district.

10 e. The commissioner shall review each proposed school facilities
11 project to determine whether it is consistent with the district's
12 long-range facilities plan and whether it complies with the facilities
13 efficiency standards and the area allowances per FTE student derived
14 from those standards. The commissioner shall make a decision on a
15 district's application within 90 days from the date he determines that
16 the application is fully and accurately completed and that all
17 information necessary for a decision has been filed by the district, or
18 from the date of the last revision made by the district. If the
19 commissioner is not able to make a decision within 90 days, he shall
20 notify the district in writing explaining the reason for the delay and
21 indicating the date on which a decision on the project will be made,
22 provided that the date shall not be later than 60 days from the
23 expiration of the original 90 days set forth in this subsection. If the
24 decision is not made by the subsequent date indicated by the
25 commissioner, then the project shall be deemed approved and the
26 preliminary eligible costs for new construction shall be calculated by
27 using the proposed square footage of the building as the approved area
28 for unhoused students.

29 f. If the commissioner determines that the school facilities project
30 complies with the facilities efficiency standards and the district's
31 long-range facilities plan and does not exceed the area allowance per
32 FTE student derived from those standards, the commissioner shall
33 calculate the preliminary eligible costs of the project pursuant to the
34 formulas set forth in section 7 of this act; except that in the case of a
35 county special services school district or a county vocational school
36 district, the commissioner shall calculate the preliminary eligible costs
37 to equal the amount determined by the board of school estimate and
38 approved by the board of chosen freeholders pursuant to section 14 of
39 P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate.

40 g. If the commissioner determines that the school facilities project
41 is inconsistent with the facilities efficiency standards or exceeds the
42 area allowances per FTE student derived from those standards, the
43 commissioner shall notify the district.

44 (1) The commissioner shall approve area allowances in excess of
45 the area allowances per FTE student derived from the facilities
46 efficiency standards if the board of education or State district

1 superintendent, as appropriate, demonstrates that school facilities
2 needs related to required programs cannot be addressed within the
3 facilities efficiency standards and that all other proposed spaces are
4 consistent with those standards. The commissioner shall approve area
5 allowances in excess of the area allowances per FTE student derived
6 from the facilities efficiency standards if the additional area allowances
7 are necessary to accommodate centralized facilities to be shared
8 among two or more school buildings within the district and the
9 centralized facilities represent a more cost effective alternative.

10 (2) The commissioner may waive a facilities efficiency standard if
11 the board of education or State district superintendent, as appropriate,
12 demonstrates to the commissioner's satisfaction that the waiver will
13 not adversely affect the educational adequacy of the school facility,
14 including the ability to deliver the programs and services necessary to
15 enable all students to achieve the core curriculum content standards.

16 (3) To house the district's central administration, a district may
17 request an adjustment to the approved areas for unhoused students of
18 2.17 square feet for each FTE student in the projected total district
19 school enrollment if the proposed administrative offices will be housed
20 in a school facility and the district demonstrates either that the existing
21 central administrative offices are obsolete or that it is more practical
22 to convert those offices to instructional space. To the extent that
23 existing administrative space will continue to be used for
24 administrative purposes, the space shall be included in the formulas set
25 forth in section 7 of this act.

26 If the commissioner approves excess facilities efficiency standards
27 or additional area allowances pursuant to paragraph (1), (2), or (3) of
28 this subsection, the commissioner shall calculate the preliminary
29 eligible costs based upon the additional area allowances or excess
30 facilities efficiency standards pursuant to the formulas set forth in
31 section 7 of this act. In the event that the commissioner does not
32 approve the excess facilities efficiency standards or additional area
33 allowances, the district may either: modify its submission so that the
34 school facilities project meets the facilities efficiency standards; or pay
35 for the excess costs.

36 (4) The commissioner shall approve spaces in excess of, or
37 inconsistent with, the facilities efficiency standards, hereinafter
38 referred to as nonconforming spaces, upon a determination by the
39 district that the spaces are necessary to comply with State or federal
40 law concerning individuals with disabilities. A district may apply for
41 additional State aid for nonconforming spaces that will permit pupils
42 with disabilities to be educated to the greatest extent possible in the
43 same buildings or classes with their nondisabled peers. The
44 nonconforming spaces may: (a) allow for the return of pupils with
45 disabilities from private facilities; (b) permit the retention of pupils
46 with disabilities who would otherwise be placed in private facilities; (c)

1 provide space for regional programs in a host school building that
2 houses both disabled and nondisabled pupils; and (d) provide space for
3 the coordination of regional programs by a county special services
4 school district, educational services commission, jointure commission,
5 or other agency authorized by law to provide regional educational
6 services in a school building that houses both disabled and nondisabled
7 pupils. A district's State support ratio shall be adjusted to equal the
8 lesser of the sum of its district aid percentage as defined in section 3
9 of this act plus 0.25, or 100% for any nonconforming spaces approved
10 by the commissioner pursuant to this paragraph.

11 h. Upon approval of a school facilities project and determination
12 of the preliminary eligible costs:

13 (1) In the case of a district whose district aid percentage is less
14 than 55% and which has elected not to have the authority undertake
15 the construction of the school facilities project, the commissioner shall
16 notify the district whether the school facilities project is approved and,
17 if so approved, the preliminary eligible costs and the excess costs, if
18 any. Following the determination of preliminary eligible costs and the
19 notification of project approval, the district may appeal to the
20 commissioner for an increase in those costs if the detailed plans and
21 specifications completed by a design professional for the school
22 facilities project indicate that the cost of constructing that portion of
23 the project which is consistent with the facilities efficiency standards
24 and does not exceed the area allowances per FTE student exceeds the
25 preliminary eligible costs as determined by the commissioner for the
26 project by 10% or more. The district shall file its appeal within 30
27 days of the preparation of the plans and specifications. If the district
28 chooses not to file an appeal, then the final eligible costs shall equal
29 the preliminary eligible costs.

30 The appeal shall outline the reasons why the preliminary eligible
31 costs calculated for the project are inadequate and estimate the amount
32 of the adjustment which needs to be made to the preliminary eligible
33 costs. The commissioner shall forward the appeal information to the
34 authority for its review and recommendation. If the additional costs
35 are the result of factors that are within the control of the district or are
36 the result of design factors that are not required to meet the facilities
37 efficiency standards, the authority shall recommend to the
38 commissioner that the preliminary eligible costs be accepted as the
39 final eligible costs. If the authority determines the additional costs are
40 not within the control of the district or are the result of design factors
41 required to meet the facilities efficiency standards, the authority shall
42 recommend to the commissioner a final eligible cost based on its
43 experience for districts with similar characteristics, provided that,
44 notwithstanding anything to the contrary, the commissioner shall not
45 approve an adjustment to the preliminary eligible costs which exceeds
46 10% of the preliminary eligible costs. The commissioner shall make

1 a determination on the appeal within 30 days of its receipt. If the
2 commissioner does not approve an adjustment to the school facilities
3 project's preliminary eligible costs, the commissioner shall issue his
4 findings in writing on the reasons for the denial and on why the
5 preliminary eligible costs as originally calculated are sufficient.

6 (2) In all other cases, the commissioner shall promptly prepare and
7 submit to the authority a preliminary project report which shall consist,
8 at a minimum, of the following information: a complete description of
9 the school facilities project; the actual location of the project; the total
10 square footage of the project together with a breakdown of total
11 square footage by functional component; the preliminary eligible costs
12 of the project; the project's priority ranking determined pursuant to
13 subsection m. of this section; any other factors to be considered by the
14 authority in undertaking the project; and the name and address of the
15 person from the district to contact in regard to the project.

16 i. Upon receipt by the authority of the preliminary project report,
17 the authority, upon consultation with the district, shall prepare detailed
18 plans and specifications and schedules which contain the authority's
19 estimated cost and schedule to complete the school facilities project.
20 The authority shall transmit to the commissioner the authority's
21 recommendations in regard to the project which shall, at a minimum,
22 contain the detailed plans and specifications; whether the school
23 facilities project can be completed within the preliminary eligible costs;
24 and any other factors which the authority determines should be
25 considered by the commissioner.

26 (1) In the event that the authority determines that the school
27 facilities project can be completed within the preliminary eligible costs:
28 the final eligible costs shall be deemed to equal the preliminary eligible
29 costs; the commissioner shall be deemed to have given final approval
30 to the project; and the preliminary project report shall be deemed to be
31 the final project report delivered to the authority pursuant to
32 subsection j. of this section.

33 (2) In the event that the authority determines that the school
34 facilities project cannot be completed within the preliminary eligible
35 costs, prior to the submission of the authority's recommendations to
36 the commissioner, the authority shall, in consultation with the district
37 and the commissioner, determine whether changes can be made in the
38 project which will result in a reduction in costs while at the same time
39 meeting the facilities efficiency standards approved by the
40 commissioner.

41 (a) If the authority determines that changes in the school facilities
42 project are possible so that the project can be accomplished within the
43 scope of the preliminary eligible costs while still meeting the facilities
44 efficiency standards, the authority shall so advise the commissioner,
45 whereupon the commissioner shall: calculate the final eligible costs to
46 equal the preliminary eligible costs; give final approval to the project

1 with the changes noted; and issue a final project report to the authority
2 pursuant to subsection j. of this section.

3 (b) If the authority determines that it is not possible to make
4 changes in the school facilities project so that it can be completed
5 within the preliminary eligible costs either because the additional costs
6 are the result of factors outside the control of the district or the
7 additional costs are required to meet the facilities efficiency standards,
8 the authority shall recommend to the commissioner that the
9 preliminary eligible costs be increased accordingly, whereupon the
10 commissioner shall: calculate the final eligible costs to equal the sum
11 of the preliminary eligible costs plus the increase recommended by the
12 authority; give final approval to the project; and issue a final project
13 report to the authority pursuant to subsection j. of this section.

14 (c) If the additional costs are the result of factors that are within
15 the control of the district or are the result of design factors that are
16 not required to meet the facilities efficiency standards or approved
17 pursuant to paragraph (1) of subsection g. of this section, the authority
18 shall recommend to the commissioner that the preliminary eligible
19 costs be accepted, whereupon the commissioner shall: calculate the
20 final eligible costs to equal the preliminary eligible costs and specify
21 the excess costs which are to be borne by the district; give final
22 approval to the school facilities project; and issue a final project report
23 to the authority pursuant to subsection j. of this section; provided that
24 the commissioner may approve final eligible costs which are in excess
25 of the preliminary eligible costs if, in his judgment, the action is
26 necessary to meet the educational needs of the district.

27 (d) For a school facilities project constructed by the authority, the
28 authority shall be responsible for any costs of construction, but only
29 from the proceeds of bonds issued by the authority pursuant to this
30 act, which exceed the amount originally projected by the authority and
31 approved for financing by the authority, provided that the excess is the
32 result of an underestimate of labor or materials costs by the authority.
33 After receipt by the authority of the final project report, the district
34 shall be responsible only for the costs associated with changes, if any,
35 made at the request of the district to the scope of the school facilities
36 project.

37 j. The authority shall not commence the acquisition or construction
38 of a school facilities project unless the commissioner transmits to the
39 authority a final project report and the district complies with the
40 approval requirements for the local share, if any, pursuant to section
41 11 of this act. The final project report shall contain all of the
42 information contained in the preliminary project report and, in
43 addition, shall contain: the final eligible costs; the excess costs, if any;
44 the total costs which equals the final eligible costs plus excess costs,
45 if any; the State share; and the local share.

46 k. For the Abbott districts, the State share shall be 100% of the

1 final eligible costs. For all other districts, the State share shall be an
2 amount equal to 115% of the district aid percentage; except that the
3 State share shall not be less than 40% of the final eligible costs.

4 If any district which is included in district factor group A or B,
5 other than an Abbott district, is having difficulty financing the local
6 share of a school facilities project, the district may apply to the
7 commissioner to receive 100% State support for the project and the
8 commissioner may request the approval of the Legislature to increase
9 the State share of the project to 100%.

10 1. The local share for school facilities projects constructed by the
11 authority or a redevelopment entity shall equal the final eligible costs
12 plus any excess costs less the State share.

13 m. The commissioner shall establish, in consultation with the
14 Abbott districts, a priority ranking of all school facilities projects in the
15 Abbott districts based upon his determination of critical need, and shall
16 establish priority categories for all school facilities projects in
17 non-Abbott districts. The commissioner shall rank projects from Tier
18 I to Tier IV in terms of critical need according to the following
19 prioritization:

20 Tier I: health and safety, including electrical system upgrades;
21 required early childhood education programs; unhoused students/class
22 size reduction as required to meet the standards of the
23 "Comprehensive Educational Improvement and Financing Act of
24 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.);

25 Tier II: educational adequacy - specialized instructional spaces,
26 media centers, cafeteriums, and other non-general classroom spaces
27 contained in the facilities efficiency standards; special education spaces
28 to achieve the least restrictive environment;

29 Tier III: technology projects; regionalization or consolidation
30 projects;

31 Tier IV: other local objectives.

32 n. The provisions of the "Public School Contracts Law,"
33 N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities
34 project constructed by a district but shall not be applicable to projects
35 constructed by the authority or a redevelopment entity pursuant to the
36 provisions of this act.

37 o. In the event that a district whose district aid percentage is less
38 than 55% elects not to have the authority undertake construction of a
39 school facilities project, any proceeds of school bonds issued by the
40 district for the purpose of funding the project which remain unspent
41 upon completion of the project shall be used by the district to reduce
42 the outstanding principal amount of the school bonds.

43 p. Upon completion by the authority of a school facilities project,
44 if the cost of construction and completion of the project is less than
45 the total costs, the district shall be entitled to receive a portion of the
46 local share based on a pro rata share of the difference based on the

1 ratio of the State share to the local share.

2 q. The authority shall determine the cause of any costs of
3 construction which exceed the amount originally projected by the
4 authority and approved for financing by the authority.

5 r. In the event that a district has engaged architectural services to
6 prepare the documents required for initial proposal of a school
7 facilities project, the district shall, if permitted by the terms of the
8 district's contract for architectural services, and at the option of the
9 authority assign the contract for architectural services to the authority
10 if the authority determines that the assignment would be in the best
11 interest of the school facilities project.

12 s. Notwithstanding anything to the contrary contained in P.L.2000,
13 c.72 (C.18A:7G-1 et al.), an ECPA district, at its option, may provide
14 in its long-range facilities plan submitted pursuant to section 4 of this
15 act, for one or more community early childhood education facilities
16 projects. If the district has requested designation of a demonstration
17 project pursuant to section 6 of this act and is eligible to submit a plan
18 for a community early childhood education facilities project pursuant
19 to this section, the district shall be permitted to include the community
20 early childhood education facilities project as part of the
21 demonstration project.

22 (1) An ECPA district seeking to initiate a community early
23 childhood education facilities project shall apply to the commissioner
24 for approval of the project. The application shall, at a minimum,
25 contain the following information: the name of the community
26 provider; evidence that the community provider is licensed by the
27 Department of Human Services pursuant to P.L.1983, c.492
28 (C.30:5B-1 et seq.) and is a tax exempt nonprofit organization;
29 evidence that the community provider is or shall provide early
30 childhood education programs for the district; a description of the
31 community early childhood education facilities project; a schematic
32 drawing of the project, or at the option of the district, preliminary
33 plans and specifications; a delineation and description of each of the
34 functional components of the project; identification of those portions
35 of the proposed project which shall be devoted in whole or in part to
36 the provision of early childhood education programs to 3 or 4-year old
37 children from the ECPA district; the estimated cost to complete the
38 project as determined by the district in consultation with the
39 community provider; and whether the facility provides services other
40 than early childhood education programs for 3 and 4-year old children,
41 pursuant to a contract with the ECPA district.

42 (2) The commissioner shall review the proposed early childhood
43 education facilities project to determine whether it is consistent with
44 the district's long-range facilities plan, whether it will provide a facility
45 which is structurally adequate and safe and capable of providing a
46 program which will enable preschool children being served pursuant

1 to the ECPA district's approved early childhood education operational
2 plan to meet the standards for early childhood education programs
3 established by the department and whether there is a need for
4 increased capacity or to rehabilitate existing space to meet these
5 standards. Only those facilities which are used for 3 or 4-year old
6 children pursuant to a contract with the ECPA district shall be eligible
7 for approval, provided that facilities which are jointly used by 3 or
8 4-year old children from the ECPA district and from other districts
9 shall also be eligible for approval.

10 (3) If the commissioner approves the project, the commissioner
11 shall determine, in consultation with the authority, the cost to
12 complete the approved project, which shall be the reasonable,
13 estimated cost of the renovation or new construction necessary to
14 provide a facility which is structurally adequate and safe and capable
15 of providing a program which will enable preschool children being
16 served pursuant to the ECPA district's approved early childhood
17 education operation plan to meet the standards for early childhood
18 education programs established by the department. For projects
19 initiated by an Abbott district, the State support shall be 100% of such
20 reasonable, estimated cost. For projects initiated by an ECPA district
21 that is not an Abbott district, the State support shall be an amount
22 equal to 115% of the district aid percentage of that ECPA district, of
23 such reasonable, estimated cost, except that the State support shall not
24 be less than 40% of such reasonable, estimated cost. The
25 commissioner shall issue a final project report to the authority which
26 shall contain a complete description of the project, the actual location
27 of the project, the total square footage of the project together with a
28 breakdown of total square footage by functional component; any other
29 factors to be considered by the authority in undertaking the project;
30 the names and addresses of the people to contact from the district and
31 the community provider; the amount of State support for the project;
32 and the amount of local support required from the community provider
33 to pay for costs, if any, of the project which have not been approved
34 by the commissioner for State support.

35 (4) Upon submission to the authority of a final project report, the
36 authority shall undertake the financing, acquisition, construction and
37 all other appropriate actions necessary to complete the community
38 early childhood education facilities project, provided, that if there is
39 local support required for the project, such actions shall not commence
40 until the authority receives the local support from the community
41 provider. The authority may, in its discretion, and upon consultation
42 with the commissioner, authorize a community provider to undertake
43 the acquisition, construction and all other appropriate action necessary
44 to complete the project, in which case the authority shall not provide
45 State support until the community provider provides the local support,
46 if any.

1 (5) In order to implement the arrangements established for
2 community early childhood education facilities projects, the authority
3 shall enter into an agreement with the district, the commissioner and
4 the community provider containing the terms and conditions
5 determined by the parties to be necessary to effectuate the project.

6 (6) The authority shall require as a condition of providing State
7 support for any community early childhood education facilities project
8 that the State support must be repaid by the community provider in the
9 event that (a) the commissioner determines that the project is no
10 longer being used for the purposes for which it was intended; or (b)
11 the project is sold, leased or otherwise conveyed to an individual or
12 organization that does not have tax exempt nonprofit or government
13 status.

14 (cf: P.L.2000, c.72, s.5)

15
16 35. Section 14 of P.L.2000, c.72 (C.18A:7G-14) is amended to
17 read as follows:

18 14. Notwithstanding any other provisions of law to the contrary:

19 a. The authority shall have the power, pursuant to the provisions
20 of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and
21 refunding bonds, incur indebtedness and borrow money secured, in
22 whole or in part, by moneys received pursuant to sections 17, 18 and
23 19 of this act for the purposes of: financing all or a portion of the
24 costs of school facilities projects and any costs related to the issuance
25 thereof, including, but not limited to, the administrative, insurance,
26 operating and other expenses of the authority to undertake the
27 financing, design, construction and maintenance of school facilities
28 projects; lending moneys to local units to pay the costs of all or a
29 portion of school facilities projects and any costs related to the
30 issuance thereof; funding the grants to be made pursuant to section 15
31 of this act; and financing the acquisition of school facilities projects to
32 permit the refinancing of debt by the district pursuant to section 16 of
33 this act. The aggregate principal amount of the bonds, notes or other
34 obligations issued by the facilities authority shall not exceed:
35 \$100,000,000 for the State share of costs for county vocational
36 school district school facilities projects; \$6,000,000,000 for the State
37 share of costs for Abbott district school facilities projects; and
38 \$2,500,000,000 for the State share of costs for school facilities
39 projects in all other districts. This limitation shall not include any
40 bonds, notes or other obligations issued for refunding purposes.

41 The authority may establish reserve funds to further secure bonds
42 and refunding bonds issued pursuant to this section and may issue
43 bonds to pay for the administrative, insurance and operating costs of
44 the authority in carrying out the provisions of this act. In addition to
45 its bonds and refunding bonds, the authority shall have the power to
46 issue subordinated indebtedness, which shall be subordinate in lien to

1 the lien of any or all of its bonds or refunding bonds as the authority
2 may determine.

3 b. The authority shall issue the bonds or refunding bonds in such
4 manner as it shall determine in accordance with the provisions of this
5 act and P.L.1974, c.80 (C.34:1B-1 et seq.); provided that
6 notwithstanding any other law to the contrary, no resolution adopted
7 by the authority authorizing the issuance of bonds or refunding bonds
8 pursuant to this section shall be adopted or otherwise made effective
9 without the approval in writing of the State Treasurer; and refunding
10 bonds issued to refund bonds issued pursuant to this section shall be
11 issued on such terms and conditions as may be determined by the
12 authority and the State Treasurer. The authority may, in any
13 resolution authorizing the issuance of bonds or refunding bonds issued
14 pursuant to this section, pledge the contract with the State Treasurer
15 provided for pursuant to section 18 of this act, or any part thereof, or
16 may pledge all or any part of the repayments of loans made to local
17 units pursuant to section 19 of this act for the payment or redemption
18 of the bonds or refunding bonds, and covenant as to the use and
19 disposition of money available to the authority for payment of the
20 bonds and refunding bonds. All costs associated with the issuance of
21 bonds and refunding bonds by the authority for the purposes set forth
22 in this act may be paid by the authority from amounts it receives from
23 the proceeds of the bonds or refunding bonds, and from amounts it
24 receives pursuant to sections 17, 18, and 19 of this act. The costs may
25 include, but shall not be limited to, any costs relating to the issuance
26 of the bonds or refunding bonds, administrative costs of the authority
27 attributable to the making and administering of loans and grants to
28 fund school facilities projects, and costs attributable to the agreements
29 entered into pursuant to subsection d. of this section.

30 c. Each issue of bonds or refunding bonds of the authority shall be
31 special obligations of the authority payable out of particular revenues,
32 receipts or funds, subject only to any agreements with the holders of
33 bonds or refunding bonds, and may be secured by other sources of
34 revenue, including, but not limited to, one or more of the following:

35 (1) Pledge of the revenues and other receipts to be derived from
36 the payment of local unit obligations and any other payment made to
37 the authority pursuant to agreements with any local unit, or a pledge
38 or assignment of any local unit obligations, and the rights and interest
39 of the authority therein;

40 (2) Pledge of rentals, receipts and other revenues to be derived
41 from leases or other contractual arrangements with any person or
42 entity, public or private, including one or more local units, or a pledge
43 or assignment of those leases or other contractual arrangements and
44 the rights and interests of the authority therein;

45 (3) Pledge of all moneys, funds, accounts, securities and other
46 funds, including the proceeds of the bonds;

1 (4) Pledge of the receipts to be derived from payments of State aid
2 to the authority pursuant to section 21 of this act;

3 (5) Pledge of the contract or contracts with the State Treasurer
4 pursuant to section 18 of this act;

5 (6) Pledge of any sums remitted to the local unit by donation from
6 any person or entity, public or private, subject to the approval of the
7 State Treasurer;

8 (7) A mortgage on all or any part of the property, real or personal,
9 comprising a school facilities project then owned or thereafter to be
10 acquired, or a pledge or assignment of mortgages made to the
11 authority by any person or entity, public or private, including one or
12 more local units and rights and interests of the authority therein; and

13 (8) The receipt of any grants, reimbursements or other payments
14 from the federal government.

15 d. The resolution authorizing the issuance of bonds or refunding
16 bonds pursuant to this section may also provide for the authority to
17 enter into any revolving credit agreement, agreement establishing a
18 line of credit or letter of credit, reimbursement agreement, interest rate
19 exchange agreement, currency exchange agreement, interest rate floor
20 or cap, options, puts or calls to hedge payment, currency, rate, spread
21 or similar exposure or similar agreements, float agreements, forward
22 agreements, insurance contracts, surety bonds, commitments to
23 purchase or sell bonds, purchase or sale agreements, or commitments
24 or other contracts or agreements and other security agreements
25 approved by the authority in connection with the issuance of the bonds
26 or refunding bonds pursuant to this section. In addition, the authority
27 may, in anticipation of the issuance of the bonds or the receipt of
28 appropriations, grants, reimbursements or other funds, including,
29 without limitation, grants from the federal government for school
30 facilities projects, issue notes, the principal of or interest on which, or
31 both, shall be payable out of the proceeds of notes, bonds or other
32 obligations of the authority or appropriations, grants, reimbursements
33 or other funds or revenues of the authority.

34 e. The authority is authorized to engage, subject to the approval of
35 the State Treasurer and in such manner as the State Treasurer shall
36 determine, the services of financial advisors and experts, placement
37 agents, underwriters, appraisers, and other advisors, consultants and
38 agents as may be necessary to effectuate the financing of school
39 facilities projects.

40 f. Bonds and refunding bonds issued by the authority pursuant to
41 this section shall be special and limited obligations of the authority
42 payable from, and secured by, funds and moneys determined by the
43 authority in accordance with this section. Notwithstanding any other
44 provision of law or agreement to the contrary, any bonds and
45 refunding bonds issued by the authority pursuant to this section shall
46 not be secured by the same property as bonds and refunding bonds

1 issued by the authority to finance projects other than school facilities
2 projects. Neither the members of the authority nor any other person
3 executing the bonds or refunding bonds shall be personally liable with
4 respect to payment of interest and principal on these bonds or
5 refunding bonds. Bonds or refunding bonds issued pursuant to this
6 section shall not be a debt or liability of the State or any agency or
7 instrumentality thereof, except as otherwise provided by this
8 subsection, either legal, moral or otherwise, and nothing contained in
9 this act shall be construed to authorize the authority to incur any
10 indebtedness on behalf of or in any way to obligate the State or any
11 political subdivision thereof, and all bonds and refunding bonds issued
12 by the authority shall contain a statement to that effect on their face.

13 g. The State hereby pledges and covenants with the holders of any
14 bonds or refunding bonds issued pursuant to this act that it will not
15 limit or alter the rights or powers vested in the authority by this act,
16 nor limit or alter the rights or powers of the State Treasurer in any
17 manner which would jeopardize the interest of the holders or any
18 trustee of the holders, or inhibit or prevent performance or fulfillment
19 by the authority or the State Treasurer with respect to the terms of any
20 agreement made with the holders of the bonds or refunding bonds or
21 agreements made pursuant to subsection d. of this section; except that
22 the failure of the Legislature to appropriate moneys for any purpose
23 of this act shall not be deemed a violation of this section.

24 h. The authority may charge to and collect from local units,
25 districts, the State and any other person, any fees and charges in
26 connection with the authority's actions undertaken with respect to
27 school facilities projects, including, but not limited to, fees and charges
28 for the authority's administrative, organization, insurance, operating
29 and other expenses incident to the financing, planning, design,
30 construction management, acquisition, construction, completion and
31 placing into service and maintenance of school facilities projects.
32 Notwithstanding any provision of this act to the contrary, no district
33 in Level II [district] monitoring pursuant to section 14 of P.L.1975,
34 c.212 (C.18A:7A-14) as of the effective date of P.L.2000, c.72
35 (C.18A:7G-1 et al.), or a district whose district aid percentage is
36 greater than or equal to 55% but less than 100% shall be responsible
37 for the payment of any fees and charges related to the authority's
38 operating expenses.

39 (cf: P.L.2000, c.72, s.14)

40

41 36. (New section) If the State board, upon the recommendation of
42 the commissioner, decides not to appoint a State district
43 superintendent in a school district under full State control, then the
44 commissioner shall designate a person who may exercise the powers
45 and authorities set forth in chapter 7A of Title 18A of the New Jersey
46 Statutes in accordance with the improvement plan.

1 37. (New section) a. A district which has been certified as a Level
2 I district by the State Board of Education as of the effective date of
3 this act, shall, in accordance with a schedule established by the
4 commissioner, be evaluated by the commissioner in the five key
5 components of school district effectiveness as set forth in section 10
6 of P.L.1975, c.212 (C.18A:7A-10). Based on a district's compliance
7 with the quality performance indicators, the commissioner shall assess
8 district effectiveness and place the district on the performance
9 continuum.

10 b. A State-operated district or a district which has been certified
11 as a Level II or a Level III district by the State Board of Education as
12 of the effective date of this act, shall be evaluated by a team of highly
13 skilled professionals in the five key components of school district
14 effectiveness as set forth in section 10 of P.L.1975, c.212 (C.18A:7A-
15 10). The evaluation shall be completed within 45 days of the effective
16 date of this act. The commissioner shall establish a process for the
17 receipt of comments from the public during the evaluation. The
18 commissioner shall provide a report of the evaluation to the district
19 within 15 days of the completion of the evaluation. The report shall
20 contain the commissioner's determination of the district's placement on
21 the performance continuum. The district shall have 30 days from the
22 date of receipt of the report to appeal the placement decision to the
23 commissioner. The commissioner shall make a recommendation to the
24 State Board of Education if the recommendation is to place the district
25 under partial or full State control. The commissioner and State board
26 shall take whatever action is appropriate based on the district's
27 placement on the performance continuum.

28 c. If a State-operated school district evaluated pursuant to
29 subsection b. of this section successfully meets the quality performance
30 indicators for the governance component of school district
31 effectiveness, then three years following the return to local control, the
32 board of education shall call a special election for purposes of placing
33 the question of classification status before the voters of the district,
34 which election shall be conducted in accordance with the provisions
35 of Title 19 of the Revised Statutes concerning school elections.

36 If the voters of the district elect to become a type I district, it shall
37 be governed by the provisions of chapter 9 of Title 18A of the New
38 Jersey Statutes relating to type I districts after January 31 next
39 ensuing, unless the district is established in a city of the first class, in
40 which case it shall be governed after June 30 next ensuing. The
41 members of the district board of education at the time of said election
42 shall continue in office until expiration of their respective terms and
43 the qualification in office of their successors.

44 If the voters of the district elect to become a type II district, it shall
45 be governed by the provisions of chapter 9 of Title 18A relating to
46 type II districts and the members of the board of education at the time

1 of said election shall remain and continue in office until the expiration
2 of their respective terms and the qualification of their respective
3 successors.

4 d. The board of education of a State-operated school district that
5 successfully meets the quality performance indicators for the
6 governance component of school district effectiveness shall be
7 permitted to extend the contract of the superintendent who holds the
8 position at the time of the evaluation conducted pursuant to subsection
9 b. of this section, provide 18-months notice to the superintendent to
10 modify the contract, or allow the contract in effect to expire with the
11 appropriate statutory notice pursuant to subsection b. of section 4 of
12 P.L.1991, c.267 (C.18A:17-20.1).

13

14 38. The following sections are hereby repealed:

15 Section 1 of P.L.1991, c.3 (C.18A:7A-14.3);

16 P.L.1997, c.432 (C.18A:7A-14.4 et seq.);

17 Section 5 of P.L.1987, c.400 (C.18A:7A-31.4).

18

19 39. This act shall take effect immediately.

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21

22

STATEMENT

23

24 This bill establishes the New Jersey Quality Single Accountability
25 Continuum (NJ QSAC), a new system for monitoring public school
26 districts in the State. Under this new system each school district will
27 provide an annual report to the Department of Education on its
28 progress in complying with the quality performance indicators. The
29 quality performance indicators are the standards to be met in five key
30 components of school district effectiveness: instructional and program;
31 personnel; fiscal management; operations; and governance. Based on
32 the district's compliance with the indicators, the Commissioner of
33 Education will assess district effectiveness and place the district on a
34 performance continuum that will determine the type and level of
35 oversight and technical assistance and support the district will receive.

36 A district that is found to be 80% to 100% compliant with the
37 quality performance indicators will be issued a letter of recognition
38 designating the district as a high performing district. In this case, the
39 commissioner will make a recommendation to the State Board of
40 Education to certify the school district for a period of seven years as
41 providing a thorough and efficient system of education, contingent on
42 continued progress in meeting the quality performance indicators.

43 A district that is found to be 50% to 79% compliant with the quality
44 performance indicators will be considered a performing district. This
45 type of district will be required to develop and submit to the
46 commissioner for his approval an improvement plan. The

1 improvement plan will address the quality performance indicators with
2 which the district has not complied. In accordance with the
3 improvement plan the commissioner will provide targeted assistance,
4 technical assistance, or both, to the district. The commissioner may
5 also authorize, if necessary, an in-depth examination of the district to
6 determine the causes for the district's noncompliance with the quality
7 performance indicators.

8 A performing district that implements its improvement plan and is
9 able to attain 80% to 100% compliance with the quality performance
10 indicators will be issued a letter of recognition designating it as a high
11 performing district and the commissioner will make a recommendation
12 to the State board to certify the district for a period of seven years,
13 contingent on continued progress in meeting the quality performance
14 indicators. If the district fails to effectively implement its improvement
15 plan, the commissioner will issue the district a letter detailing the areas
16 in which the district remains deficient. The district will then be
17 required to report to the department on a periodic basis detailing its
18 progress in implementing the improvement plan.

19 If a district is less than 50% compliant with the quality performance
20 indicators, the district will be placed under partial or full State control,
21 depending upon how many of the five key components of school
22 district effectiveness are implicated in the district's noncompliance. If
23 the district is less than 50% compliant in four or fewer of the five key
24 components, the commissioner will place the district under partial
25 State control. The district may appeal this decision to the State Board
26 of Education and the board's decision will be considered final. In the
27 case of a district under partial State control, the commissioner will
28 authorize an in-depth examination of the district to determine the
29 causes for the district's noncompliance with the quality performance
30 indicators and the district will be required to develop and submit to the
31 commissioner for his approval an improvement plan. The
32 commissioner is required to assure that the district's budget provides
33 the resources necessary to implement the improvement plan.

34 In the case of a district under partial State control, if the position
35 of superintendent is vacant when the district comes under partial State
36 control, the commissioner may appoint a superintendent to serve a
37 two-year term. The commissioner may also appoint highly skilled
38 professionals to provide direct oversight in the district regarding the
39 quality performance indicators with which the district has failed to
40 comply. The highly skilled professionals will have authority in the
41 areas of oversight that the commissioner designates and they will work
42 collaboratively with the superintendent and the board of education to
43 address areas identified in the improvement plan. The commissioner
44 will also have the authority to appoint up to three additional members
45 to the district's board of education and they will serve at the pleasure
46 of the commissioner.

1 For a district under partial State control, the commissioner will
2 conduct periodic reviews of the improvement plan and the district's
3 progress in addressing deficiencies noted in the improvement plan,
4 including on-site visits. Based on the district's success in
5 implementing its improvement plan, the commissioner will make a
6 determination to return to local control one or more of the areas that
7 have been under State control, to leave one or more areas under State
8 control or to recommend to the State board that the district be placed
9 under full State control. If the commissioner determines that a district
10 which has been under partial State control has successfully
11 implemented its improvement plan, he will issue a letter of recognition
12 designating the district as a high performing district and recommend
13 that the State board certify the district for seven years.

14 A district that is less than 50% compliant with the quality
15 performance indicators in all of the five key components of school
16 district effectiveness will be directed to enter full State control. The
17 department will conduct a comprehensive compliance investigation in
18 these districts entailing a thorough and detailed examination in the
19 five key components of school district effectiveness. Based on the
20 investigation the commissioner will issue a report, a copy of which will
21 be provided to the district. As is required under current law prior to
22 the establishment of a State-operated district, the bill requires that a
23 plenary hearing before a judge of the Office of Administrative Law be
24 conducted and in this proceeding the State will have the burden of
25 showing that the recommended administrative order by the State board
26 directing the district to enter full State control is not arbitrary,
27 unreasonable or capricious.

28 As in the case of a performing district and a district under partial
29 State control, a district under full State control will be required to
30 develop an improvement plan and submit it to the commissioner for his
31 approval. As with a district under partial State control, the
32 commissioner will be permitted to appoint highly skilled professionals
33 in the district. The bill also permits the State board to appoint, upon
34 the recommendation of the commissioner, a State district
35 superintendent of schools. The State district superintendent will serve
36 a term of three years and will have such powers as deemed appropriate
37 by the commissioner. The bill also allows the State board, upon the
38 recommendation of the commissioner, to retain the person who holds
39 the position of superintendent of schools in the district at the time the
40 district is placed under full State control.

41 The bill provides that the State board may retain the board of
42 education in place at the time that the school district is placed under
43 full State control, in which case he may appoint up to 3 additional
44 members. The State board may alternatively establish a new board of
45 education of not more than 15 persons. In either case, the board will
46 be advisory in nature.

1 A school district under full State control will report annually on its
2 progress in complying with the quality performance indicators and
3 based on this report, but not sooner than three years after the
4 establishment of the district under full State control, the commissioner
5 may place the school district under partial State control or elsewhere
6 on the performance continuum. On the basis of the report the State
7 board will determine whether to continue the full State control or
8 return the district to partial State control. In the case of a district
9 which successfully implements its improvement plan, the commissioner
10 will issue a letter of recognition to the district designating it a high
11 performing district and recommend to the State board that the district
12 be certified for seven years.

13 Under the provisions of the bill the Joint Committee on the Public
14 Schools will retain the role it held in regard to State-operated school
15 districts.

16 The bill sets forth a plan to transition districts to the new
17 monitoring system of NJ QSAC. A district which has been certified
18 as a Level I district will, in accordance with a schedule established by
19 the commissioner, be evaluated by the commissioner in the five key
20 components of school district effectiveness and based on a district's
21 compliance with the quality performance indicators, will be placed on
22 the performance continuum. A State-operated district or a district
23 which has been certified as a Level II or a Level III district will be
24 evaluated by a team of highly skilled professionals in the five key
25 components of school district effectiveness within 45 days of the
26 effective date of the bill. Within 15 days of the completion of the
27 evaluation, the commissioner will provide a report of the evaluation to
28 the district. The report will contain the commissioner's determination
29 as to where on the performance continuum the district should be
30 placed. The district will have 30 days from its receipt of the report to
31 appeal the placement decision to the commissioner. The commissioner
32 will make a recommendation to the State board if the recommendation
33 is to place the district under partial or full State control. The
34 commissioner and the State board will then take whatever action is
35 appropriate based on the district's placement on the performance
36 continuum.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2643

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 22, 2004

The Assembly Education Committee favorably reports Assembly Bill No. 2643 with committee amendments.

As amended, this bill establishes the New Jersey Quality Single Accountability Continuum (NJ QSAC), a new system for monitoring public school districts in the State. The goal of NJ QSAC is to ensure that all New Jersey school districts are operating at a high level of performance. Under this new system each school district will provide an annual report to the Department of Education on its progress in satisfying the quality performance indicators. The quality performance indicators are the standards to be met in five key components of school district effectiveness: instruction and program; personnel; fiscal management; operations; and governance. Based on the district's satisfaction of the indicators, the Commissioner of Education will assess district capacity and effectiveness and place the district on a performance continuum that will determine the type and level of oversight and technical assistance and support the district will receive.

A district that is found to satisfy 80% to 100% of the quality performance indicators in each of the five key components of school district effectiveness will be issued a letter of recognition designating the district as a high performing district. In this case, the commissioner will make a recommendation to the State Board of Education to certify the school district for a period of seven years as providing a thorough and efficient system of education, contingent on continued progress in meeting the quality performance indicators.

A district that is found to satisfy 50% to 79% of the quality performance indicators will be considered a moderate performing district. This type of district will be required to develop and submit to the commissioner for his approval an improvement plan. The improvement plan will be designed to increase district capacity and address the quality performance indicators with which the district has not complied. In accordance with the improvement plan the commissioner will provide targeted assistance, technical assistance, or both, to the district. The commissioner may also authorize, if necessary, an in-depth examination of the district to determine the

causes for the district's noncompliance with the quality performance indicators.

The commissioner will review the district's progress in implementing the improvement plan not less than every six months. If the commissioner finds, based on those reviews, that after two years the district has not satisfied 80% to 100% of the quality performance indicators in each of the five key components of school district effectiveness, then the commissioner will require the district to amend the improvement plan.

A moderate performing district that implements its improvement plan and is able to satisfy 80% to 100% of the quality performance indicators in each of the five components of school district effectiveness will be issued a letter of recognition designating it as a high performing district. The commissioner will then make a recommendation to the State board to certify the district for a period of seven years, contingent on continued progress in meeting the quality performance indicators. If the district fails to effectively implement its improvement plan, the commissioner will issue the district a letter detailing the areas in which the district remains deficient.

If a district satisfies less than 50% of the quality performance indicators in four or fewer of the five key components of school district effectiveness, the commissioner will authorize an in-depth evaluation of the district's performance and capacity. Based on the evaluation, the district, in cooperation with the department, will develop an improvement plan. The improvement plan will be designed to increase district capacity and address the quality performance indicators with which the district has not complied. The improvement plan may include the appointment by the commissioner of one or more highly skilled professionals to provide technical assistance in the areas in which the district has failed to satisfy the quality performance indicators. The cost of the highly skilled professionals will be shared on an equal basis by the State and the district. Upon approval of the improvement plan by the commissioner, the commissioner will provide the district with the technical assistance outlined in the plan and will assure that the district's budget provides the resources necessary to implement the plan.

The commissioner will review the district's progress not less than every six months. The review will include on-site visits. If the commissioner finds that after two years the district has not satisfied at least 50% of the quality performance indicators in one or more of the five key components of school district effectiveness, the commissioner will require the district to amend its improvement plan.

If the district satisfies less than 50% of the quality performance indicators in two to four of the five key components of school district effectiveness, the commissioner may also order the district board of education to show cause why an administrative order placing the district under partial State intervention should not be implemented.

A plenary hearing will be held on an expedited basis before a judge of the Office of Administrative Law. If the board fails to show cause why the order should not be implemented, the commissioner will recommend to the State board that it issue such an order placing the district under partial State intervention.

If a district is under partial State intervention and the position of superintendent is vacant, the commissioner may appoint a superintendent to serve a two-year term. In addition to the highly skilled professionals appointed to provide technical assistance to the district in implementing its improvement plan, the commissioner, in consultation with the district, may also appoint highly skilled professionals to provide direct oversight in the district regarding the quality performance indicators with which the district has failed to comply. The highly skilled professionals will have authority in the areas of oversight that the commissioner designates and they will work collaboratively with the superintendent, the board of education and the employees of the district working in the area of the oversight to address areas identified in the improvement plan. The commissioner will have the authority to appoint up to three additional nonvoting members to the district's board of education. These members will serve for a term of two years, and the commissioner will be permitted to obtain the approval of the State board for any extension of the two-year term.

Based on the district's success in implementing its improvement plan, the commissioner will make a determination to withdraw from intervention in one or more of the areas that have been under State intervention or to recommend to the State board that the district be placed under full State intervention. If the commissioner determines that a district which has been under partial State intervention has successfully implemented its improvement plan, he will issue a letter of recognition designating the district as a high performing district and recommend that the State board certify the district for seven years.

If a district that satisfies less than 50% of the quality performance indicators in each of the five key components of school district effectiveness, the same interim step will occur that takes place if the district satisfies less than 50% of the quality performance indicators in four or less of the components. An in-depth evaluation of the district will take place and based on that the district, in cooperation with the department, will develop an improvement plan. The improvement plan may include the appointment of highly skilled professionals to provide technical assistance in the areas in which the district has failed to satisfy the quality performance indicators. The cost of the highly skilled professionals will be shared on an equal basis by the State and the district.

The commissioner may also order the district board of education to show cause why an administrative order placing the district under full State intervention should not be implemented. A plenary hearing will be held on an expedited basis. If the board fails to show cause

why the order should not be implemented, such an order will be issued by the State board.

If the district is under full State intervention, the bill permits the State board to appoint, upon the recommendation of the commissioner, a State district superintendent of schools. The State district superintendent will serve a term of three years and will have such powers as deemed appropriate by the commissioner. The bill also allows the State board, upon the recommendation of the commissioner, to retain the person who holds the position of superintendent of schools in the district at the time the district is placed under full State intervention.

The bill provides that the board of education in place at the time that the State board issues the administrative order creating the district under full State intervention will be retained as an advisory board. With the State board's approval, the commissioner will be permitted to appoint up to three additional nonvoting members to the board. These additional members will serve a two-year term, and the commissioner will be permitted to obtain approval from the State board for an extension of this term.

A school district under full State intervention will report annually on its progress in complying with the quality performance indicators and based on this report, but not sooner than three years after the establishment of the district under full State intervention, the commissioner may recommend that the State board place the school district under partial State intervention or elsewhere on the performance continuum. On the basis of the report, the State board will determine whether to continue the full State intervention or return the district to partial State intervention. In the case of a district which successfully implements its improvement plan, the commissioner will issue a letter of recognition to the district designating it a high performing district and recommend to the State board that the district be certified for seven years.

Under the provisions of the bill, the Joint Committee on the Public Schools will retain the role it held in regard to State-operated school districts.

The bill sets forth a plan to transition districts to the new monitoring system of NJ QSAC. A district which has been certified as a Level I district will, in accordance with a schedule established by the commissioner, be evaluated by the commissioner in the five key components of school district effectiveness and based on a district's compliance with the quality performance indicators, will be placed on the performance continuum. A State-operated district or a district which has been certified as a Level II or a Level III district will be evaluated by a team of highly skilled professionals in the five key components of school district effectiveness within 45 days of the effective date of regulations promulgated by the State Board of Education. Within 15 days of the completion of the evaluation, the commissioner will provide a report of the evaluation to the district.

The report will contain the commissioner's determination as to where on the performance continuum the district should be placed. The district will have 30 days from its receipt of the report to appeal the placement decision to the commissioner. The commissioner will make a recommendation to the State board if the recommendation is to place the district under partial or full State intervention. The commissioner and the State board will then take whatever action is appropriate based on the district's placement on the performance continuum.

The committee amended the bill to do the following:

- change certain terminology. Districts will now be under full or partial "intervention" rather than "control." Districts that are 50% to 79% compliant with the quality performance indicators will be considered "moderate performing" districts rather than "performing" districts;
- include a definition of "highly skilled professional" that provides for both the technical assistance and oversight responsibilities of that position;
- provide that the system for evaluating the performance of schools will be based on not only the five key components of school district effectiveness (instruction and program, personnel, fiscal management, operations, and governance), but also on an assessment of the degree to which the thoroughness and efficiency standards are being achieved;
- provide for two types of highly skilled professional - one that provides technical assistance to the district and the other that provides oversight in areas in which the district has not satisfied at least 50% of the quality performance indicators in one or more of the key components of school district effectiveness. The highly skilled professionals under partial and full State intervention who are providing oversight will be appointed by the commissioner in consultation with the local board of education and will work collaboratively with the employees of the district who are working in the area of oversight. The amendments also specify the formula for sharing the costs of all highly skilled professionals - the State will pay one-half of the cost of the salaries and the district will pay one-half;
- provide that steps to initiate partial State intervention will only occur if the district satisfies less than 50% of the quality performance indicators in two to four of the components of school district effectiveness. Partial intervention will not be initiated if a district is below 50% in only one of the components;
- provide for an interim step prior to the decision to place a district under partial or full State intervention. The interim step includes an in-depth evaluation, the development of the improvement plan, and perhaps the assignment of one or more highly skilled professionals to provide technical assistance;
- require a plenary hearing on an expedited basis before a judge of the Office of Administrative Law prior to initiating partial intervention; The hearing conducted prior to initiating full State intervention would also be conducted on an expedited basis;

- provide that the additional members of the school board in districts under partial and full State intervention will be nonvoting and that they will serve a two-year term, with the possibility of an extension if approved by the State board. The commissioner is to make every effort to appoint residents of the school district. In a district under partial State intervention additional members will be required to report to the commissioner on the activities of the board and will provide assistance to the board on certain matters;
- eliminate the option of removing the school board in a district under full State intervention;
- provide that the reorganization plan in a district under full State intervention will be prepared within 180 days, rather than 120 days, after the establishment of full State intervention;
- clarify that it is the State board, upon the recommendation of the commissioner, that decides no sooner than three years after the establishment of a district under full State intervention exactly where on the performance continuum a district should be placed based on an annual report of the district's progress;
- add a provision that requires the State Board of Education to promulgate rules to effectuate the provisions of the bill;
- provide that within 45 days of the effective date of rules promulgated by the State Board of Education, the evaluation of current State-operated districts and districts certified as a Level II or a Level III district will be completed by a team of highly skilled professionals;
- provide that in the case of a district under partial State control which is contiguous with a "qualified municipality," the membership of the school board will be controlled by the provisions of the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.), not the provisions of NJ QSAC. A board of education of a district that is contiguous with a "qualified municipality" and that was subject to Level II or Level III monitoring prior to the effective date of NJ QSAC, will continue to be subject to the provisions of the "Municipal Rehabilitation and Economic Recovery Act," in regard to the board configuration;
- exempt school districts under full State intervention from the provisions of the "Municipal Rehabilitation and Economic Recovery Act," regarding the configuration of the school board, which is the way that State-operated districts are treated currently under that law.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2643

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2005

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2643 (1R), with committee amendments.

Assembly Bill No. 2643 (1R), as amended, establishes the New Jersey Quality Single Accountability Continuum (NJ QSAC), a new system for monitoring public school districts in the State. The goal of NJ QSAC is to ensure that all New Jersey school districts are operating at a high level of performance. Under this new system each school district will provide an annual report to the Department of Education on its progress in satisfying the quality performance indicators. The quality performance indicators are the standards to be met in five key components of school district effectiveness: instruction and program; personnel; fiscal management; operations; and governance. Based on the district's satisfaction of the indicators, the Commissioner of Education will assess district capacity and effectiveness and place the district on a performance continuum that will determine the type and level of oversight and technical assistance and support the district will receive.

A district that is found to satisfy 80% to 100% of the quality performance indicators in each of the five key components of school district effectiveness will be issued a letter of recognition designating the district as a high performing district. In this case, the commissioner will make a recommendation to the State Board of Education to certify the school district for a period of seven years as providing a thorough and efficient system of education, contingent on continued progress in meeting the quality performance indicators.

A district that is found to satisfy 50% to 79% of the quality performance indicators will be considered a moderate performing district. This type of district will be required to develop and submit to the commissioner for his approval an improvement plan. The improvement plan will be designed to increase district capacity and address the quality performance indicators with which the district has not complied. In accordance with the improvement plan the commissioner will provide targeted assistance, technical assistance, or

both, to the district. The commissioner may also authorize, if necessary, an in-depth examination of the district to determine the causes for the district's noncompliance with the quality performance indicators.

The commissioner will review the district's progress in implementing the improvement plan not less than every six months. If the commissioner finds, based on those reviews, that after two years the district has not satisfied 80% to 100% of the quality performance indicators in each of the five key components of school district effectiveness, then the commissioner will require the district to amend the improvement plan.

A moderate performing district that implements its improvement plan and is able to satisfy 80% to 100% of the quality performance indicators in each of the five components of school district effectiveness will be issued a letter of recognition designating it as a high performing district. The commissioner will then make a recommendation to the State board to certify the district for a period of seven years, contingent on continued progress in meeting the quality performance indicators. If the district fails to effectively implement its improvement plan, the commissioner will issue the district a letter detailing the areas in which the district remains deficient.

If a district satisfies less than 50% of the quality performance indicators in four or fewer of the five key components of school district effectiveness, the commissioner will authorize an in-depth evaluation of the district's performance and capacity. Based on the evaluation, the district, in cooperation with the department, will develop an improvement plan. The improvement plan will be designed to increase district capacity and address the quality performance indicators with which the district has not complied. The improvement plan may include the appointment by the commissioner of one or more highly skilled professionals to provide technical assistance in the areas in which the district has failed to satisfy the quality performance indicators. The cost of the highly skilled professionals will be shared on an equal basis by the State and the district. Upon approval of the improvement plan by the commissioner, the commissioner will provide the district with the technical assistance outlined in the plan and will assure that the district's budget provides the resources necessary to implement the plan.

The commissioner will review the district's progress not less than every six months. The review will include on-site visits. If the commissioner finds that after two years the district has not satisfied at least 50% of the quality performance indicators in one or more of the five key components of school district effectiveness, the commissioner will require the district to amend its improvement plan.

If the district satisfies less than 50% of the quality performance indicators in two to four of the five key components of school district effectiveness, the commissioner may also order the district board of

education to show cause why an administrative order placing the district under partial State intervention should not be implemented. A plenary hearing will be held on an expedited basis before a judge of the Office of Administrative Law. If the board fails to show cause why the order should not be implemented, the commissioner will recommend to the State board that it issue such an order placing the district under partial State intervention.

If a district is under partial State intervention and the position of superintendent is vacant, the commissioner may appoint a superintendent to serve a two-year term. In addition to the highly skilled professionals appointed to provide technical assistance to the district in implementing its improvement plan, the commissioner, in consultation with the district, may also appoint highly skilled professionals to provide direct oversight in the district regarding the quality performance indicators with which the district has failed to comply. The highly skilled professionals will have authority in the areas of oversight that the commissioner designates and they will work collaboratively with the superintendent, the board of education and the employees of the district working in the area of the oversight to address areas identified in the improvement plan.

The commissioner will have the authority to appoint up to three additional nonvoting members to the district's board of education. These members will serve for a term of two years, and the commissioner will be permitted to obtain the approval of the State board for any extension of the two-year term.

Six months following the placement of the district under partial State intervention, the commissioner will determine, in accordance with criteria promulgated by the State Board of Education, whether or not the additional members should become voting members. If the commissioner determines that the members the commissioner has appointed should be voting members, and a majority of the remaining members of the board object, the commissioner will order the board of education to show cause why an administrative order granting voting rights to the appointed board members should not be implemented. The plenary hearing before an Administrative Law Judge will be conducted on an expedited basis and the State will have the burden of showing that the recommended administrative order is not arbitrary, unreasonable, or capricious. If the board fails to show cause why the administrative order should not be implemented, the commissioner will grant voting rights to the commissioner's appointed board members. Nothing will limit the right of any party to appeal the commissioner's decision to the State board.

Based on the district's success in implementing its improvement plan, the commissioner will make a determination to withdraw from intervention in one or more of the areas that have been under State intervention or to recommend to the State board that the district be placed under full State intervention. If the commissioner determines that a district which has been under partial State intervention has

successfully implemented its improvement plan, he will issue a letter of recognition designating the district as a high performing district and recommend that the State board certify the district for seven years.

If a district that satisfies less than 50% of the quality performance indicators in each of the five key components of school district effectiveness, the same interim step will occur that takes place if the district satisfies less than 50% of the quality performance indicators in four or less of the components. An in-depth evaluation of the district will take place and based on that, the district, in cooperation with the department, will develop an improvement plan. The improvement plan may include the appointment of highly skilled professionals to provide technical assistance in the areas in which the district has failed to satisfy the quality performance indicators. The cost of the highly skilled professionals will be shared on an equal basis by the State and the district.

The commissioner may also order the district board of education to show cause why an administrative order placing the district under full State intervention should not be implemented. A plenary hearing will be held on an expedited basis. If the board fails to show cause why the order should not be implemented, such an order will be issued by the State board.

If the district is under full State intervention, the bill permits the State board to appoint, upon the recommendation of the commissioner, a State district superintendent of schools. The State district superintendent will serve a term of three years and will have such powers as deemed appropriate by the commissioner. The bill also allows the State board, upon the recommendation of the commissioner, to retain the person who holds the position of superintendent of schools in the district at the time the district is placed under full State intervention.

The bill provides that the board of education in place at the time that the State board issues the administrative order creating the district under full State intervention will be retained as an advisory board. With the State board's approval, the commissioner will be permitted to appoint up to three additional nonvoting members to the board. These additional members will serve a two-year term, and the commissioner will be permitted to obtain approval from the State board for an extension of this term.

Six months following the placement of the district full State intervention, the commissioner will determine, in accordance with criteria promulgated by the State Board of Education, whether or not the additional members should be voting members. If the commissioner determines that the appointed members should be voting members, and a majority of the remaining members of the board object, the commissioner will order the board of education to show cause why an administrative order granting voting rights to the board members the commissioner has appointed should not be implemented. The proceeding will be conducted in the same manner as provided for

in a district under partial State intervention.

A school district under full State intervention will report annually on its progress in complying with the quality performance indicators and based on this report, but not sooner than three years after the establishment of the district under full State intervention, the commissioner may recommend that the State board place the school district under partial State intervention or elsewhere on the performance continuum. On the basis of the report, the State board will determine whether to continue the full State intervention or return the district to partial State intervention. In the case of a district which successfully implements its improvement plan, the commissioner will issue a letter of recognition to the district designating it a high performing district and recommend to the State board that the district be certified for seven years.

Under the provisions of the bill, the Joint Committee on the Public Schools will retain the role it held in regard to State-operated school districts.

The bill sets forth a plan to transition districts to the new monitoring system of NJ QSAC. A district which has been certified as a Level I district will, in accordance with a schedule established by the commissioner, be evaluated by the commissioner in the five key components of school district effectiveness and based on a district's compliance with the quality performance indicators, will be placed on the performance continuum. A State-operated district or a district which has been certified as a Level II or a Level III district will be evaluated by a team of highly skilled professionals in the five key components of school district effectiveness within 45 days of the effective date of regulations promulgated by the State Board of Education. Within 15 days of the completion of the evaluation, the commissioner will provide a report of the evaluation to the district. The report will contain the commissioner's determination as to where on the performance continuum the district should be placed. The district will have 30 days from its receipt of the report to appeal the placement decision to the commissioner. The commissioner will make a recommendation to the State board if the recommendation is to place the district under partial or full State intervention. The commissioner and the State board will then take whatever action is appropriate based on the district's placement on the performance continuum.

FISCAL IMPACT:

The Department of Education has not made any cost or expense data concerning this program available to the Office of Legislative Services.

COMMITTEE AMENDMENTS:

The amendments:

Revise the bill's provisions concerning the nonvoting members appointed to the board of education by the commissioner in a school

district under partial or full State intervention, to provide that six months following the placement of the district under partial or full State intervention, the commissioner will determine whether or not the additional members should be voting members;

Amend existing law at N.J.S.A.18A:7A-37 to clarify that a school district placed under partial or full State intervention remains a corporate entity; and

Eliminate reference to "thorough and efficient" in the description of NJ QSAC.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 2643

with Assembly Floor Amendments
(Proposed By Assemblyman STANLEY)

ADOPTED: MARCH 14, 2005

These Assembly floor amendment do the following:

1) clarify that the provision in the bill giving a district two years prior to the commissioner requiring it to amend its improvement plan if the district has not satisfied at least 50% of the quality performance indicators in one or more of the key components of school district effectiveness, does not preclude the commissioner or the State Board of Education, as appropriate, from directing the district to enter partial or full State intervention prior to the expiration of the two-year period;

2) clarify that a school district that satisfies less than 50% of the quality performance indicators in one of the key components of school district effectiveness may be ordered by the commissioner to enter partial State intervention. The district that is ordered into partial State intervention under these circumstances will be able to appeal the commissioner's decision to the State Board of Education, which decision will be considered final;

3) provide that in the case of a Type II school district which is placed under partial or full State intervention, of the three additional members who may be appointed to the board of education, one will be appointed by the commissioner from a list of three candidates provided by the local governing body of the municipality in which the school district is located;

4) provide that in the case of a Type I school district which is placed under partial or full State intervention, of the three additional members who may be appointed to the board of education, one will be appointed by the commissioner after at least one public hearing in the district to receive residents' recommendations on the appointment. The commissioner will use the input received at the public hearing in making the one appointment;

5) provide that rather than requiring an administrative hearing if a school district under partial or full State intervention objects to the commissioner's decision to make his additional appointments to the board of education voting members of the board, the district may appeal the commissioner's decision to the State Board of Education within 30 days;

6) provide that the commissioner in reviewing a district's annual report will examine all relevant data, including student assessment data, to determine where on the performance continuum the district should be placed; and

7) make a technical correction to an internal reference.

STATEMENT TO
[Third Reprint]
ASSEMBLY, No. 2643

with Assembly Floor Amendments
(Proposed by Assemblyman STANLEY)

ADOPTED: MAY 16, 2005

This floor amendment eliminates the requirement for the Commissioner of Education to hold a public hearing to receive recommendations from residents in a Type I school district on one of the three additional members he may appoint to the board of education of a Type I school district which is placed under partial or full State intervention. It also eliminates the requirement that he use input from the hearing in making the appointment. Under the bill, there is currently no such requirement for commissioner appointments made to Type II school district boards of education; rather one of the three appointments is required to be made from a list supplied by the local governing body. This requirement will now apply to both Type I and Type II districts. The adoption of this floor amendment will make A-2643 (3R) identical to the Senate Committee Substitute for S-1431.

LEGISLATIVE FISCAL ESTIMATE
 [Fourth Reprint]
ASSEMBLY, No. 2643
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: JUNE 23, 2005

SUMMARY

Synopsis: Establishes the New Jersey Quality Single Accountability Continuum (NJQSAC), a new State monitoring system for public school districts.

Type of Impact: Indeterminate

Agencies Affected: Department of Education and Local School Districts

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate	Indeterminate	Indeterminate
Local Cost	Indeterminate	Indeterminate	Indeterminate

- ! Establishes the New Jersey Quality Single Accountability Continuum, a new system of monitoring school districts. The New Jersey Quality Single Accountability Continuum will evaluate a school district's compliance with the quality performance indicators in the five key components of school district effectiveness: instruction and program; personnel; fiscal management; operations; and governance. Based on the school district's satisfaction of the indicators, the Commissioner of Education will assess district capacity and effectiveness and place the district on a performance continuum that will determine the type and level of oversight and technical assistance and support the district receives.
- ! State and local costs associated with the implementation of the New Jersey Quality Single Accountability Continuum are indeterminate and will depend on a variety of factors. Areas of potential cost are discussed below.
- ! State costs will be dependent upon the Department of Education (DOE) staffing requirements of implementing the new system as opposed to the current seven-year monitoring cycle. State costs will also be dependent upon the number of school districts directed to enter partial or full State intervention, the number of highly skilled professionals assigned to those districts and the salaries of those professionals as the State is responsible for one-half of their salary costs, and the level of other technical assistance required to be provided by the department. Local costs will be dependent upon the number of school districts directed to enter partial or full State intervention, the number of highly skilled professionals assigned to those districts and the salaries of those professionals as the district

is responsible for one-half of their salary costs, and the number of districts Statewide which are required to develop improvement plans.

BILL DESCRIPTION

Assembly Bill No. 2643 (4R) of 2004 establishes the New Jersey Quality Single Accountability Continuum, a new system for monitoring public school districts in the State.

The goal of the New Jersey Quality Single Accountability Continuum is to ensure that all New Jersey school districts are operating at a high level of performance. Under this new system each school district will provide an annual report to the DOE on its progress in satisfying the quality performance indicators. The quality performance indicators are the standards to be met in five key components of school district effectiveness: instruction and program; personnel; fiscal management; operations; and governance. Based on the district's satisfaction of the indicators, the Commissioner of Education will assess district capacity and effectiveness and place the district on a performance continuum that will determine the type and level of oversight and technical assistance and support the district will receive.

A district that is found to satisfy 80 percent to 100 percent of the quality performance indicators in each of the five key components of school district effectiveness will be issued a letter of recognition designating the district as a high performing district. In this case, the commissioner will make a recommendation to the State Board of Education to certify the school district for a period of seven years as providing a thorough and efficient system of education, contingent on continued progress in meeting the quality performance indicators.

A district that is found to satisfy 50 percent to 79 percent of the quality performance indicators will be considered a moderate performing district. This type of district will be required to develop and submit to the commissioner for his approval an improvement plan designed to increase district capacity and address the quality performance indicators with which the district has not complied. In accordance with the improvement plan, the commissioner will provide targeted assistance, technical assistance, or both, to the district. The commissioner may also authorize, if necessary, an in-depth examination of the district to determine the causes for the district's noncompliance with the quality performance indicators.

If a district satisfies less than 50 percent of the quality performance indicators in four or fewer of the five key components of school district effectiveness, the commissioner will authorize an in-depth evaluation of the district's performance and capacity. Based on the evaluation, the district, in cooperation with the department, will develop an improvement plan designed to increase district capacity and address the quality performance indicators with which the district has not complied. The improvement plan may include the appointment by the commissioner of one or more highly skilled professionals to provide technical assistance in the areas in which the district has failed to satisfy the quality performance indicators. The cost of the highly skilled professionals will be shared on an equal basis by the State and the district. Upon approval of the improvement plan by the commissioner, the commissioner will provide the district with the technical assistance outlined in the plan.

If the district satisfies less than 50 percent of the quality performance indicators in only one of the five key components of school district effectiveness, the commissioner may order the district to enter partial State intervention. The board of education may appeal this decision to the State Board of Education, whose decision will be considered final.

For a district that satisfies less than 50 percent of the quality performance indicators in two to four of the five key components of school district effectiveness, being placed under partial State intervention entails a more detailed procedural process. For these districts the

commissioner may order the district board of education to show cause why an administrative order placing the district under partial State intervention should not be implemented. A plenary hearing will be held on an expedited basis before a judge of the Office of Administrative Law. If the board fails to show cause why the order should not be implemented, the commissioner will recommend to the State board that it issue such an order placing the district under partial State intervention.

If a district satisfies less than 50 percent of the quality performance indicators in each of the five key components of school district effectiveness, the same interim step will occur that takes place if the district satisfies less than 50 percent of the quality performance indicators in four or less of the components. An in-depth evaluation of the district will take place and based on that, the district, in cooperation with the department, will develop an improvement plan. The improvement plan may include the appointment of highly skilled professionals to provide technical assistance in the areas in which the district has failed to satisfy the quality performance indicators.

The commissioner may also order the district board of education to show cause why an administrative order placing the district under full State intervention should not be implemented. A plenary hearing will be held on an expedited basis. If the board fails to show cause why the order should not be implemented, such an order will be issued by the State board.

The bill also sets forth a plan to transition districts to the new monitoring system of the New Jersey Quality Single Accountability Continuum. A district which has been certified as a Level I district will, in accordance with a schedule established by the commissioner, be evaluated by the commissioner in the five key components of school district effectiveness and based on a district's compliance with the quality performance indicators, will be placed on the performance continuum. A State-operated district or a district which has been certified as a Level II or a Level III district will be evaluated by a team of highly skilled professionals in the five key components of school district effectiveness within 45 days of the effective date of regulations promulgated by the State Board of Education. Within 15 days of completing the evaluation, the commissioner will provide a report of the evaluation to the district. The report will contain the commissioner's determination as to where on the performance continuum the district should be placed. The district will have 30 days from its receipt of the report to appeal the placement decision to the commissioner. The commissioner will make a recommendation to the State board if the recommendation is to place the district under partial or full State intervention. The commissioner and the State board will then take whatever action is appropriate based on the district's placement on the performance continuum.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The fiscal impact of Assembly Bill No.2643 (4R) on the State and local school districts is indeterminate. Areas of potential cost under the bill would include the following:

1) the State and local school districts are to share equally in the salary costs associated with highly skilled professionals selected to provide technical assistance and oversight in school districts placed under partial or full State intervention. The required number of highly skilled

professionals and the scope of their responsibilities will be dependent upon the number of districts in which the State determines such intervention may be warranted as well as the nature of the intervention;

2) State costs associated with the implementation of the New Jersey Quality Single Accountability Continuum will be dependent upon the staffing requirements of implementing the new system as opposed to the current seven-year monitoring cycle. One of the stated purposes of the New Jersey Quality Single Accountability Continuum is to provide the DOE with the ability to intervene in problems as soon as they are identified, and the potential impact of the new system on department operations is unclear at this point. While New Jersey Quality Single Accountability Continuum will relieve the department of the necessity of organizing a monitoring team to visit districts and evaluate their operations on a seven-year schedule for purposes of district certification, the need to react more immediately under the New Jersey Quality Single Accountability Continuum may necessitate staffing increases and realignment;

3) State costs associated with the New Jersey Quality Single Accountability Continuum will also be dependent upon the number of districts directed to enter partial State intervention. Under current law, a full scale takeover of a school district is authorized and has only been invoked in the case of three school districts. Under the New Jersey Quality Single Accountability Continuum, more districts may be subject to State intervention in one or more areas, and the availability of this option may again impact on DOE staffing. Also, placement under partial State intervention in two or more areas requires a hearing before the Office of Administrative Law and consequently the State and school districts will incur any costs associated with such hearings;

4) any school district which is a moderate performing district or a district under partial or full State intervention is required to develop an improvement plan. Under current law, districts in Level II or III monitoring and State-operated districts are required to develop corrective action plans. Under the New Jersey Quality Single Accountability Continuum the number of districts required to develop plans is likely to increase and districts would be subject to any costs that may be associated with the preparation of such plans; and

5) the plan to transition districts to the new monitoring system of the New Jersey Quality Single Accountability Continuum requires the Commissioner of Education to assemble a team of highly skilled professionals to evaluate districts which are in Level II or Level III or are State-operated districts. Presumably there will be salary and other costs associated with the work of the highly skilled professionals during this transition.

Section: *Education*

Analyst: *Kathleen Fazzari*
Section Chief

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.