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"Corzine backs new look at spending on schools," 4-18-2006, Star Ledger, p.15

"Districts could get \$10M each," 4-18-2006, Asbury Park Press, p.A3

"Corzine: monitor school spending," 4-18-2006, The Times, p.A10

"Law offers districts financial bailouts," 4-18-2006, Courier News, p.A3

RWH 2/28/08

Title 18A.
Chapter 7A.
ARTICLE IV
FISCAL
ACCOUNTABILITY
(NEW)
§§1-6
C.18A:7A-54 to
18A:7A-59
§7
Approp.

P.L. 2006, CHAPTER 15, *approved April 17, 2006*
Assembly, No. 2684 (*First Reprint*)
(*Corrected Copy*)

1 AN ACT concerning the appointment of a State monitor in school
2 districts with serious fiscal deficiencies, supplementing Title
3 18A of the New Jersey Statutes, and making an appropriation.

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

7
8 ¹1. This act shall be known and may be cited as the “School
9 District Fiscal Accountability Act.”¹

10
11 **[1.] 2.**¹ a. In addition to the powers provided pursuant to
12 P.L.2005, c.235 and P.L.1996, c.138 (C.18A:7F-1 et seq.) or any
13 other law, the Commissioner of Education shall have the authority
14 to appoint a State monitor and additional staff, as necessary, to
15 provide direct oversight of a board of education’s business
16 operations and personnel matters if the school district receives an
17 adverse or a disclaimer of opinion by its independent auditor in the
18 annual audit required pursuant to N.J.S.18A:23-1 or if any two or
19 more of the following circumstances apply to the school district:

20 (1) the school district ends the fiscal year with a deficit balance
21 as calculated for budgetary purposes in the general fund, special
22 revenue fund, or capital projects fund, with the exception of a
23 capital projects fund deficit caused by the issuance of bond
24 anticipation notes;

25 (2) the school district receives a qualified opinion by its
26 independent auditor in the annual audit required pursuant to
27 N.J.S.18A:23-1;

28 (3) the school district receives audit findings by its independent
29 auditor identified as material weaknesses in internal controls;

30 (4) the school district fails to develop and implement a plan
31 acceptable to the commissioner or his designee to address a
32 potential or actual deficit balance in the general fund, special
33 revenue fund, or capital projects fund, with the exception of a
34 capital projects fund deficit caused by the issuance of bond
35 anticipation notes; or

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted March 13, 2006.

- 1 (5) the school district fails to implement a plan from the prior
2 year which causes findings from the independent auditor to be
3 repeated.
- 4 b. The State monitor shall:
- 5 (1) oversee the fiscal management and expenditures of school
6 district funds, including, but not limited to, budget reallocations and
7 reductions, approvals of purchase orders, budget transfers, and
8 payment of bills and claims;
- 9 (2) oversee the operation and fiscal management of school
10 district facilities, including the development and implementation of
11 recommendations for redistricting and restructuring of schools;
- 12 (3) ensure development and implementation of an acceptable
13 plan to address the circumstances set forth in subsection a. of this
14 section which resulted in the appointment of the State monitor. The
15 plan shall include measurable benchmarks and specific activities to
16 address the deficiencies of the school district;
- 17 (4) oversee all district staffing, including the ability to hire,
18 promote, and terminate employees;
- 19 (5) have authority to override a chief school administrator's
20 action and a vote by the board of education on any of the matters set
21 forth in this subsection ¹, except that all actions of the State monitor
22 shall be subject to the education, labor, and employment laws and
23 regulations, including the "New Jersey Employer-Employee
24 Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), and collective
25 bargaining agreements entered into by the school district¹; ¹**[and]**¹
- 26 (6) attend all meetings of the board of education, including
27 closed sessions¹; and
- 28 (7) meet with the board of education on at least a quarterly basis
29 to discuss with the members of the board the past actions of the
30 board which led to the appointment of the State monitor and to
31 provide board members with education and training that address the
32 deficiencies identified in board actions¹.
- 33 c. The Commissioner of Education shall notify the State Board
34 of Education following the appointment of a State monitor pursuant
35 to subsection a. of this section. The State monitor shall report
36 directly to the commissioner or his designee on a weekly basis. The
37 State monitor shall also report monthly to the board of education
38 and members of the public at the regularly scheduled board of
39 education meeting.
- 40 d. For purposes of the "New Jersey Tort Claims Act,"
41 N.J.S.59:1-1 et seq., the State monitor shall be considered a State
42 officer.
- 43 e. The State monitor shall provide oversight in the school
44 district until the commissioner determines that all remedial actions
45 required under the plan have been implemented and the necessary
46 local capacity and fiscal controls have been restored to school
47 district operations.

1 f. The salary of the State monitor shall be fixed by the
2 commissioner and adjusted from time to time as the commissioner
3 deems appropriate. The school district shall assume the total cost of
4 the State monitor and necessary additional staff appointed pursuant
5 to subsection a. of this section.

6
7 **'[2.] 3.'** a. The Commissioner of Education shall recommend to
8 the State Treasurer whether an advance State aid payment should be
9 made to a school district for which a State monitor has been
10 appointed. The commissioner's recommendation shall be based on
11 whether the payment is necessary to ensure the provision of a
12 thorough and efficient education. 'An advance State aid payment
13 shall be recorded by the school district as revenue for budget
14 purposes in the school year in which the advance State aid payment
15 is provided.'

16 b. The advance State aid payment shall be repaid by the school
17 district through automatic reductions in the State aid provided to the
18 school district in subsequent years. The term of the repayment shall
19 not exceed 10 years, but may be for a shorter term as determined by
20 the State Treasurer. At any time during the term of the repayment
21 the State Treasurer, in consultation with the Commissioner of
22 Education, may determine to impose interest on the unpaid
23 balance '; except that interest shall not be imposed in the case of a
24 school district for which a State monitor is appointed within 90
25 days of the effective date of this act'. The commissioner shall
26 transfer the amount of the reduction in State aid to the account
27 established pursuant to section **'[4] 5'** of this act.

28 c. In any year in which the school district's undesignated
29 general fund balance is greater than 1.5% of general fund
30 expenditures, the amount which exceeds 1.5% shall be an additional
31 amount applied to the following year's repayment of the advance
32 State aid payment and the school district's State aid shall be
33 reduced by this additional amount in that following year.

34
35 **'[3.] 4.'** a. The Office of the State Auditor shall conduct a
36 forensic audit of the fiscal operations of any school district which
37 has a year-end general fund deficit and also meets one of the other
38 criteria in subsection a. of section **'[1] 2'** of this act. The audit
39 shall be of the fiscal year in which the general fund deficit occurred
40 and shall be in addition to the audit required of school districts
41 pursuant to N.J.S.18A:23-1.

42 b. Notwithstanding the provisions of R.S.52:24-1 et seq. to the
43 contrary, the Office of the State Auditor shall submit the audit to
44 the commissioner, the Governor, and the Legislature. The Office of
45 the State Auditor shall also present the audit to the district's board
46 of education and the public at the board's next regularly scheduled
47 monthly meeting.

1 c. The Office of the State Auditor shall forward any findings of
2 fraudulent activities discovered as a result of the audit to the
3 appropriate law enforcement agency.

4 d. Within 30 days of the presentation of the audit by the Office
5 of the State Auditor to the board of education, the board shall
6 submit to the commissioner a plan that addresses all of the findings,
7 conclusions, and recommendations of the Office of the State
8 Auditor which have not been previously addressed by the school
9 district.

10
11 '[4.] 5.' There is established in the Department of '[the
12 Treasury] Education' a nonlapsing¹, revolving dedicated account
13 designated the¹ "School District' Deficit Relief Account"¹ which
14 shall be credited with the monies 'as may be' appropriated
15 pursuant to section '[6 of this act] 7 of P.L. , (pending before
16 the Legislature as this bill)', monies transferred by the
17 Commissioner of Education pursuant to subsection b. of section '[2
18 of this act] 3 of P.L. , (C.) (pending before the Legislature
19 as this bill)', and such other monies as may be appropriated¹,
20 transferred' or 'otherwise' made available for the purposes of
21 providing an advance State aid payment to a school district pursuant
22 to subsection a. of section '[2 of this act] 3 of P.L. ,
23 c. (pending before the Legislature as this bill)'. Any interest that
24 shall accrue on the monies in the account shall be credited to the
25 account.

26
27 '[5.] 6.' The State Board of Education may promulgate rules
28 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
29 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

30
31 '[6.] 7. a. The amount of any unexpended balance in the
32 Emergency Fund appropriation from the General Fund in the
33 Miscellaneous Grants-In-Aid program classification in the category
34 of State aid made to the Department of Education in P.L.2005,
35 c.132 is appropriated to the "School District Deficit Relief
36 Account" for the purpose of that account, subject to the approval of
37 the Director of the Division of Budget and Accounting in the
38 Department of the Treasury.

39 b.' There is appropriated from '[the General Fund \$10,000,000
40 for deposit in]' the "School District' Deficit Relief Account"¹
41 established pursuant to section '[4] 5' of P.L. , c. (C.)
42 (pending before the Legislature as this bill) 'such sums as the
43 Commissioner of Education determines are necessary' for the
44 purposes of providing an advance State aid payment to a school
45 district pursuant to subsection a. of section '[2 of this act] 3 of
46 P.L. , c. (pending before the Legislature as this bill), subject to

1 the approval of the Director of the Division of Budget and
2 Accounting in the Department of the Treasury¹.

3

4 ¹[7.] 8.¹ This act shall take effect immediately.

5

6

7

8 Establishes the “School District Fiscal Accountability Act;”
9 provides for appointment of a State monitor in certain school
10 districts and advance State aid payments to those districts;
11 authorizes reappropriation of budgeted funds.

ASSEMBLY, No. 2684

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 27, 2006

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington and Camden)

Assemblyman JACK CONNERS

District 7 (Burlington and Camden)

SYNOPSIS

Provides for appointment of a State monitor in certain school districts; allows for an advance State aid payment to certain districts and requires repayment of that advance; appropriates \$10 million.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the appointment of a State monitor in school
2 districts with serious fiscal deficiencies, supplementing Title
3 18A of the New Jersey Statutes, and making an appropriation.

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

7
8 1. a. In addition to the powers provided pursuant to P.L.2005,
9 c.235 and P.L.1996, c.138 (C.18A:7F-1 et seq.) or any other law,
10 the Commissioner of Education shall have the authority to appoint a
11 State monitor and additional staff, as necessary, to provide direct
12 oversight of a board of education's business operations and
13 personnel matters if the school district receives an adverse or a
14 disclaimer of opinion by its independent auditor in the annual audit
15 required pursuant to N.J.S.18A:23-1 or if any two or more of the
16 following circumstances apply to the school district:

17 (1) the school district ends the fiscal year with a deficit balance
18 as calculated for budgetary purposes in the general fund, special
19 revenue fund, or capital projects fund, with the exception of a
20 capital projects fund deficit caused by the issuance of bond
21 anticipation notes;

22 (2) the school district receives a qualified opinion by its
23 independent auditor in the annual audit required pursuant to
24 N.J.S.18A:23-1;

25 (3) the school district receives audit findings by its independent
26 auditor identified as material weaknesses in internal controls;

27 (4) the school district fails to develop and implement a plan
28 acceptable to the commissioner or his designee to address a
29 potential or actual deficit balance in the general fund, special
30 revenue fund, or capital projects fund, with the exception of a
31 capital projects fund deficit caused by the issuance of bond
32 anticipation notes; or

33 (5) the school district fails to implement a plan from the prior
34 year which causes findings from the independent auditor to be
35 repeated.

36 b. The State monitor shall:

37 (1) oversee the fiscal management and expenditures of school
38 district funds, including, but not limited to, budget reallocations and
39 reductions, approvals of purchase orders, budget transfers, and
40 payment of bills and claims;

41 (2) oversee the operation and fiscal management of school
42 district facilities, including the development and implementation of
43 recommendations for redistricting and restructuring of schools;

44 (3) ensure development and implementation of an acceptable
45 plan to address the circumstances set forth in subsection a. of this
46 section which resulted in the appointment of the State monitor. The
47 plan shall include measurable benchmarks and specific activities to
48 address the deficiencies of the school district;

1 (4) oversee all district staffing, including the ability to hire,
2 promote, and terminate employees;

3 (5) have authority to override a chief school administrator's
4 action and a vote by the board of education on any of the matters set
5 forth in this subsection; and

6 (6) attend all meetings of the board of education, including
7 closed sessions.

8 c. The Commissioner of Education shall notify the State Board
9 of Education following the appointment of a State monitor pursuant
10 to subsection a. of this section. The State monitor shall report
11 directly to the commissioner or his designee on a weekly basis. The
12 State monitor shall also report monthly to the board of education
13 and members of the public at the regularly scheduled board of
14 education meeting.

15 d. For purposes of the "New Jersey Tort Claims Act,"
16 N.J.S.59:1-1 et seq., the State monitor shall be considered a State
17 officer.

18 e. The State monitor shall provide oversight in the school
19 district until the commissioner determines that all remedial actions
20 required under the plan have been implemented and the necessary
21 local capacity and fiscal controls have been restored to school
22 district operations.

23 f. The salary of the State monitor shall be fixed by the
24 commissioner and adjusted from time to time as the commissioner
25 deems appropriate. The school district shall assume the total cost of
26 the State monitor and necessary additional staff appointed pursuant
27 to subsection a. of this section.

28
29 2. a. The Commissioner of Education shall recommend to the
30 State Treasurer whether an advance State aid payment should be
31 made to a school district for which a State monitor has been
32 appointed. The commissioner's recommendation shall be based on
33 whether the payment is necessary to ensure the provision of a
34 thorough and efficient education.

35 b. The advance State aid payment shall be repaid by the school
36 district through automatic reductions in the State aid provided to the
37 school district in subsequent years. The term of the repayment shall
38 not exceed 10 years, but may be for a shorter term as determined by
39 the State Treasurer. At any time during the term of the repayment
40 the State Treasurer, in consultation with the Commissioner of
41 Education, may determine to impose interest on the unpaid balance.
42 The commissioner shall transfer the amount of the reduction in
43 State aid to the account established pursuant to section 4 of this act.

44 c. In any year in which the school district's undesignated
45 general fund balance is greater than 1.5% of general fund
46 expenditures, the amount which exceeds 1.5% shall be an additional
47 amount applied to the following year's repayment of the advance
48 State aid payment and the school district's State aid shall be
49 reduced by this additional amount in that following year.

1 3. a. The Office of the State Auditor shall conduct a forensic
2 audit of the fiscal operations of any school district which has a
3 year-end general fund deficit and also meets one of the other
4 criteria in subsection a. of section 1 of this act. The audit shall be
5 of the fiscal year in which the general fund deficit occurred and
6 shall be in addition to the audit required of school districts pursuant
7 to N.J.S.18A:23-1.

8 b. Notwithstanding the provisions of R.S.52:24-1 et seq. to the
9 contrary, the Office of the State Auditor shall submit the audit to
10 the commissioner. The Office of the State Auditor shall also
11 present the audit to the district's board of education and the public
12 at the board's next regularly scheduled monthly meeting.

13 c. The Office of the State Auditor shall forward any findings of
14 fraudulent activities discovered as a result of the audit to the
15 appropriate law enforcement agency.

16 d. Within 30 days of the presentation of the audit by the Office
17 of the State Auditor to the board of education, the board shall
18 submit to the commissioner a plan that addresses all of the findings,
19 conclusions, and recommendations of the Office of the State
20 Auditor which have not been previously addressed by the school
21 district.

22

23 4. There is established in the Department of the Treasury a
24 nonlapsing "Deficit Relief Account" which shall be credited with
25 the monies appropriated pursuant to section 6 of this act, monies
26 transferred by the Commissioner of Education pursuant to
27 subsection b. of section 2 of this act, and such other monies as may
28 be appropriated or made available for the purposes of providing an
29 advance State aid payment to a school district pursuant to
30 subsection a. of section 2 of this act. Any interest that shall accrue
31 on the monies in the account shall be credited to the account.

32

33 5. The State Board of Education may promulgate rules pursuant
34 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
35 1 et seq.), to effectuate the purposes of this act.

36

37 6. There is appropriated from the General Fund \$10,000,000 for
38 deposit in the "Deficit Relief Account" established pursuant to
39 section 4 of P.L. , c. (C.) (pending before the Legislature as
40 this bill) for the purposes of providing an advance State aid
41 payment to a school district pursuant to subsection a. of section 2 of
42 this act.

43

44 7. This act shall take effect immediately.

45

46

STATEMENT

47

48 This bill is designed to address the increasing problem of school
49 districts failing to correct serious deficiencies identified in their

1 annual audits. In order to immediately address these deficiencies
2 this bill provides statutory authority to the Commissioner of
3 Education to appoint a State monitor to provide direct oversight of a
4 board of education's business operations and personnel matters if
5 the school district receives an adverse or a disclaimer of opinion by
6 its independent auditor or if any two or more of the following
7 circumstances apply to the school district:

8 --(1) the school district ends the fiscal year with a deficit balance,
9 as calculated for budgetary purposes, in the general fund, special
10 revenue fund, or capital projects fund, with the exception of a
11 capital projects fund deficit caused by the issuance of bond
12 anticipation notes;

13 --(2) the school district receives a qualified opinion by its
14 independent auditor in its annual audit;

15 --(3) the school district receives audit findings identified as
16 material weaknesses in internal controls in its annual audit;

17 --(4) the school district fails to develop and implement a plan
18 acceptable to the commissioner or his designee to address a
19 potential or actual deficit in the general fund, special revenue fund,
20 or capital projects fund, with the exception of a capital projects
21 fund deficit caused by the issuance of bond anticipation notes;

22 --(5) the school district fails to implement a plan from the prior
23 year which causes findings from the independent auditor to be
24 repeated.

25 The State monitor is provided various responsibilities under the
26 bill including:

27 --(1) overseeing the fiscal management and expenditures of school
28 district funds;

29 --(2) overseeing the operation and fiscal management of school
30 district facilities, including the development and implementation of
31 of recommendations for redistricting and restructuring of schools;

32 --(3) ensuring the development and implementation of an
33 acceptable plan to address the circumstances which resulted in the
34 appointment of the State monitor;

35 --(4) overseeing all district staffing, including the ability to hire,
36 promote, and terminate employees;

37 --(5) having the authority to override a chief school administrator's
38 action and a vote by the board of education on any of the matters
39 for which he has oversight responsibilities; and

40 --(6) attending all school board meetings, including closed
41 sessions.

42 The Commissioner of Education must notify the State Board of
43 Education following the appointment of a State monitor. The State
44 monitor must report weekly to the commissioner and monthly to the
45 district's board of education and to the public at the regularly
46 scheduled board meetings. The commissioner has the authority to
47 fix and adjust the salary of the State monitor. All the costs of the
48 State monitor must be borne by the school district.

1 The bill also provides financial relief to districts for which a
2 State monitor has been appointed if the commissioner determines
3 that the payment is necessary to ensure the provision of a thorough
4 and efficient education. The advance payment must be repaid by
5 the district through automatic reductions in the State aid provided to
6 the district over a term not greater than 10 years. The bill also
7 contains a provision that requires the district to apply a certain
8 amount of any undesignated general fund balances to the repayment
9 of the advance payment.

10 The bill establishes a nonlapsing account in the Department of
11 the Treasury to be called the “Deficit Relief Account.” It is from
12 this account that the advance payment to a district will be made.
13 The account will be credited with the \$10 million appropriation
14 included in the bill, along with amounts equaling the reductions in
15 State aid the district will incur in repaying the advance payment
16 which will be transferred to the account by the Commissioner of
17 Education.

18 The bill also requires the Office of the State Auditor to conduct
19 forensic audits of the fiscal operations of any school district with a
20 year-end general fund deficit, if that district also meets another
21 criteria used for determining whether a State monitor should be
22 appointed for a district. This audit is in addition to the annual audit
23 already required for school districts. The audit by the State Auditor
24 will be submitted to the Commissioner of Education and to the
25 school board at its next regularly scheduled monthly meeting; and
26 within 30 days of its presentation to the board, the board must
27 submit to the commissioner a plan to address all of the audit’s
28 unaddressed findings, conclusions and recommendations.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2684

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 13, 2006

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2684, with committee amendments.

Assembly Bill No. 2684, as amended, named the "School District Fiscal Accountability Act;" is designed to address the increasing problem of school districts failing to correct serious deficiencies identified in their annual audits. In order to immediately address these deficiencies this bill provides statutory authority to the Commissioner of Education to appoint a State monitor to provide direct oversight of a board of education's business operations and personnel matters if the school district receives an adverse or a disclaimer of opinion by its independent auditor or if any two or more of the following circumstances apply to the school district:

- (1) the school district ends the fiscal year with a deficit balance, as calculated for budgetary purposes, in the general fund, special revenue fund, or capital projects fund, with the exception of a capital projects fund deficit caused by the issuance of bond anticipation notes;
- (2) the school district receives a qualified opinion by its independent auditor in its annual audit;
- (3) the school district receives audit findings identified as material weaknesses in internal controls in its annual audit;
- (4) the school district fails to develop and implement a plan acceptable to the commissioner or his designee to address a potential or actual deficit in the general fund, special revenue fund, or capital projects fund, with the exception of a capital projects fund deficit caused by the issuance of bond anticipation notes;
- (5) the school district fails to implement a plan from the prior year which causes findings from the independent auditor to be repeated.

The State monitor is provided various responsibilities under the bill including:

- (1) overseeing the fiscal management and expenditures of school district funds;
- (2) overseeing the operation and fiscal management of school district facilities, including the development and implementation of recommendations for redistricting and restructuring of schools;

- (3) ensuring the development and implementation of an acceptable plan to address the circumstances which resulted in the appointment of the State monitor;
- (4) overseeing all district staffing, including the ability to hire, promote, and terminate employees subject to tenure laws and collective bargaining agreements entered into by the school district;
- (5) having the authority to override a chief school administrator's action and a vote by the board of education on any of the matters for which he has oversight responsibilities;
- (6) meeting with the board of education on at least a quarterly basis to discuss with the members of the board the past actions of the board which led to the appointment of the State monitor and to provide board members with education and training that address the deficiencies identified in board actions ; and
- (7) attending all school board meetings, including closed sessions.

The Commissioner of Education must notify the State Board of Education following the appointment of a State monitor. The State monitor must report weekly to the commissioner and monthly to the district's board of education and to the public at the regularly scheduled board meetings. The commissioner has the authority to fix and adjust the salary of the State monitor. All the costs of the State monitor must be borne by the school district.

The bill also provides financial relief to districts for which a State monitor has been appointed if the commissioner determines that the payment is necessary to ensure the provision of a thorough and efficient education. The advance payment must be repaid by the district through automatic reductions in the State aid provided to the district over a term not greater than 10 years. The bill also contains a provision that requires the district to apply a certain amount of any undesignated general fund balances to the repayment of the advance payment.

The bill establishes a nonlapsing, revolving dedicated account for the advance State aid payment program, designated the School District Deficit Relief Account in the Department of Education. It is from this account that the advance payment to a district will be made. The account will be credited with an appropriation of the unexpended balances from the fiscal year 2006 appropriation to the Emergency Fund State aid appropriation in the Department of Education. The account may receive other appropriations or transfers of appropriation along with amounts equaling the reductions in State aid a district will incur in repaying the advance payment which will be transferred to the account by the Commissioner of Education.

The bill also requires the Office of the State Auditor to conduct forensic audits of the fiscal operations of any school district with a year-end general fund deficit, if that district also meets another criteria used for determining whether a State monitor should be appointed for a district. This audit is in addition to the annual audit already required

for school districts. The audit by the State Auditor will be submitted to the Commissioner of Education, the Legislature, the Governor, and to the school board at its next regularly scheduled monthly meeting; and within 30 days of its presentation to the board, the board must submit to the commissioner a plan to address all of the audit's unaddressed findings, conclusions and recommendations.

FISCAL IMPACT:

The bill, as amended, replaces the proposed \$10 million General Fund appropriation for the advance State aid payments with an appropriation from the unexpended balances from the fiscal year 2006 \$200,000 appropriation to the Emergency Fund Miscellaneous Grants-In-Aid appropriation to the Department of Education, and allows for further appropriations for such payments to be made from a dedicated account that may receive other appropriations or transfers of appropriations.

COMMITTEE AMENDMENTS:

The amendments: 1) designate the bill the "School District Fiscal Accountability Act;" 2) clarify that a State monitor's duty to oversee all district staffing, including the ability to hire, promote, and terminate employees is subject to tenure laws and collective bargaining agreements entered into by the school district; 3) require the monitor to meet with the board of education on at least a quarterly basis to discuss with the members of the board the past actions of the board which led to the appointment of the State monitor and to provide board members with education and training that address the deficiencies identified in board actions; 4) require that an advance State aid payment be recorded by the school district as revenue for budget purposes in the school year in which the advance State aid payment is provided; 5) provide that interest not be imposed in the case of advance State aid paid to a school district for which a State monitor is appointed within 90 days of the effective date of the bill; 6) clarify the provisions for the funding of the nonlapsing, revolving dedicated account for the advance State aid payment program, designated the School District Deficit Relief Account in the Department of Education; 7) replace the \$10 million General Fund appropriation with an appropriation to the advance State aid payment account from the unexpended balances from the fiscal year 2006 appropriation to the Emergency Fund State aid appropriation in the Department of Education; and 8) provide appropriation authority to pay such advance State aid payments from the School District Deficit Relief Account as the Commissioner of Education determines are necessary, subject to the approval of the Director of the Division of Budget and Accounting.

SENATE, No. 1469

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 27, 2006

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Senator DIANE B. ALLEN

District 7 (Burlington and Camden)

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

SYNOPSIS

Provides for appointment of a State monitor in certain school districts; allows for an advance State aid payment to certain districts and requires repayment of that advance; appropriates \$10 million.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the appointment of a State monitor in school
2 districts with serious fiscal deficiencies, supplementing Title
3 18A of the New Jersey Statutes, and making an appropriation.

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

7
8 1. a. In addition to the powers provided pursuant to P.L.2005,
9 c.235 and P.L.1996, c.138 (C.18A:7F-1 et seq.) or any other law,
10 the Commissioner of Education shall have the authority to appoint a
11 State monitor and additional staff, as necessary, to provide direct
12 oversight of a board of education's business operations and
13 personnel matters if the school district receives an adverse or a
14 disclaimer of opinion by its independent auditor in the annual audit
15 required pursuant to N.J.S.18A:23-1 or if any two or more of the
16 following circumstances apply to the school district:

17 (1) the school district ends the fiscal year with a deficit balance
18 as calculated for budgetary purposes in the general fund, special
19 revenue fund, or capital projects fund, with the exception of a
20 capital projects fund deficit caused by the issuance of bond
21 anticipation notes;

22 (2) the school district receives a qualified opinion by its
23 independent auditor in the annual audit required pursuant to
24 N.J.S.18A:23-1;

25 (3) the school district receives audit findings by its independent
26 auditor identified as material weaknesses in internal controls;

27 (4) the school district fails to develop and implement a plan
28 acceptable to the commissioner or his designee to address a
29 potential or actual deficit balance in the general fund, special
30 revenue fund, or capital projects fund, with the exception of a
31 capital projects fund deficit caused by the issuance of bond
32 anticipation notes; or

33 (5) the school district fails to implement a plan from the prior
34 year which causes findings from the independent auditor to be
35 repeated.

36 b. The State monitor shall:

37 (1) oversee the fiscal management and expenditures of school
38 district funds, including, but not limited to, budget reallocations and
39 reductions, approvals of purchase orders, budget transfers, and
40 payment of bills and claims;

41 (2) oversee the operation and fiscal management of school
42 district facilities, including the development and implementation of
43 recommendations for redistricting and restructuring of schools;

44 (3) ensure development and implementation of an acceptable
45 plan to address the circumstances set forth in subsection a. of this
46 section which resulted in the appointment of the State monitor. The
47 plan shall include measurable benchmarks and specific activities to
48 address the deficiencies of the school district;

1 (4) oversee all district staffing, including the ability to hire,
2 promote, and terminate employees;

3 (5) have authority to override a chief school administrator's
4 action and a vote by the board of education on any of the matters set
5 forth in this subsection; and

6 (6) attend all meetings of the board of education, including
7 closed sessions.

8 c. The Commissioner of Education shall notify the State Board
9 of Education following the appointment of a State monitor pursuant
10 to subsection a. of this section. The State monitor shall report
11 directly to the commissioner or his designee on a weekly basis. The
12 State monitor shall also report monthly to the board of education
13 and members of the public at the regularly scheduled board of
14 education meeting.

15 d. For purposes of the "New Jersey Tort Claims Act,"
16 N.J.S.59:1-1 et seq., the State monitor shall be considered a State
17 officer.

18 e. The State monitor shall provide oversight in the school
19 district until the commissioner determines that all remedial actions
20 required under the plan have been implemented and the necessary
21 local capacity and fiscal controls have been restored to school
22 district operations.

23 f. The salary of the State monitor shall be fixed by the
24 commissioner and adjusted from time to time as the commissioner
25 deems appropriate. The school district shall assume the total cost of
26 the State monitor and necessary additional staff appointed pursuant
27 to subsection a. of this section.

28
29 2. a. The Commissioner of Education shall recommend to the
30 State Treasurer whether an advance State aid payment should be
31 made to a school district for which a State monitor has been
32 appointed. The commissioner's recommendation shall be based on
33 whether the payment is necessary to ensure the provision of a
34 thorough and efficient education.

35 b. The advance State aid payment shall be repaid by the school
36 district through automatic reductions in the State aid provided to the
37 school district in subsequent years. The term of the repayment shall
38 not exceed 10 years, but may be for a shorter term as determined by
39 the State Treasurer. At any time during the term of the repayment
40 the State Treasurer, in consultation with the Commissioner of
41 Education, may determine to impose interest on the unpaid balance.
42 The commissioner shall transfer the amount of the reduction in
43 State aid to the account established pursuant to section 4 of this act.

44 c. In any year in which the school district's undesignated
45 general fund balance is greater than 1.5% of general fund
46 expenditures, the amount which exceeds 1.5% shall be an additional
47 amount applied to the following year's repayment of the advance
48 State aid payment and the school district's State aid shall be
49 reduced by this additional amount in that following year.

1 3. a. The Office of the State Auditor shall conduct a forensic
2 audit of the fiscal operations of any school district which has a
3 year-end general fund deficit and also meets one of the other
4 criteria in subsection a. of section 1 of this act. The audit shall be
5 of the fiscal year in which the general fund deficit occurred and
6 shall be in addition to the audit required of school districts pursuant
7 to N.J.S.18A:23-1.

8 b. Notwithstanding the provisions of R.S.52:24-1 et seq. to the
9 contrary, the Office of the State Auditor shall submit the audit to
10 the commissioner, the Governor, and the Legislature. The Office of
11 the State Auditor shall also present the audit to the district's board
12 of education and the public at the board's next regularly scheduled
13 monthly meeting.

14 c. The Office of the State Auditor shall forward any findings of
15 fraudulent activities discovered as a result of the audit to the
16 appropriate law enforcement agency.

17 d. Within 30 days of the presentation of the audit by the Office
18 of the State Auditor to the board of education, the board shall
19 submit to the commissioner a plan that addresses all of the findings,
20 conclusions, and recommendations of the Office of the State
21 Auditor which have not been previously addressed by the school
22 district.

23

24 4. There is established in the Department of the Treasury a
25 nonlapsing "Deficit Relief Account" which shall be credited with
26 the monies appropriated pursuant to section 6 of this act, monies
27 transferred by the Commissioner of Education pursuant to
28 subsection b. of section 2 of this act, and such other monies as may
29 be appropriated or made available for the purposes of providing an
30 advance State aid payment to a school district pursuant to
31 subsection a. of section 2 of this act. Any interest that shall accrue
32 on the monies in the account shall be credited to the account.

33

34 5. The State Board of Education may promulgate rules pursuant
35 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
36 1 et seq.), to effectuate the purposes of this act.

37

38 6. There is appropriated from the General Fund \$10,000,000 for
39 deposit in the "Deficit Relief Account" established pursuant to
40 section 4 of P.L. , c. (C.) (pending before the Legislature as
41 this bill) for the purposes of providing an advance State aid
42 payment to a school district pursuant to subsection a. of section 2 of
43 this act.

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45 7. This act shall take effect immediately.

STATEMENT

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This bill is designed to address the increasing problem of school districts failing to correct serious deficiencies identified in their annual audits. In order to immediately address these deficiencies this bill provides statutory authority to the Commissioner of Education to appoint a State monitor to provide direct oversight of a board of education's business operations and personnel matters if the school district receives an adverse or a disclaimer of opinion by its independent auditor or if any two or more of the following circumstances apply to the school district:

- (1) the school district ends the fiscal year with a deficit balance, as calculated for budgetary purposes, in the general fund, special revenue fund, or capital projects fund, with the exception of a capital projects fund deficit caused by the issuance of bond anticipation notes;
- (2) the school district receives a qualified opinion by its independent auditor in its annual audit;
- (3) the school district receives audit findings identified as material weaknesses in internal controls in its annual audit;
- (4) the school district fails to develop and implement a plan acceptable to the commissioner or his designee to address a potential or actual deficit in the general fund, special revenue fund, or capital projects fund, with the exception of a capital projects fund deficit caused by the issuance of bond anticipation notes;
- (5) the school district fails to implement a plan from the prior year which causes findings from the independent auditor to be repeated.

The State monitor is provided various responsibilities under the bill including:

- (1) overseeing the fiscal management and expenditures of school district funds;
- (2) overseeing the operation and fiscal management of school district facilities, including the development and implementation of recommendations for redistricting and restructuring of schools;
- (3) ensuring the development and implementation of an acceptable plan to address the circumstances which resulted in the appointment of the State monitor;
- (4) overseeing all district staffing, including the ability to hire, promote, and terminate employees;
- (5) having the authority to override a chief school administrator's action and a vote by the board of education on any of the matters for which he has oversight responsibilities; and
- (6) attending all school board meetings, including closed sessions.

The Commissioner of Education must notify the State Board of Education following the appointment of a State monitor. The State monitor must report weekly to the commissioner and monthly to the district's board of education and to the public at the regularly

1 scheduled board meetings. The commissioner has the authority to
2 fix and adjust the salary of the State monitor. All the costs of the
3 State monitor must be borne by the school district.

4 The bill also provides financial relief to districts for which a
5 State monitor has been appointed if the commissioner determines
6 that the payment is necessary to ensure the provision of a thorough
7 and efficient education. The advance payment must be repaid by
8 the district through automatic reductions in the State aid provided to
9 the district over a term not greater than 10 years. The bill also
10 contains a provision that requires the district to apply a certain
11 amount of any undesignated general fund balances to the repayment
12 of the advance payment.

13 The bill establishes a nonlapsing account in the Department of
14 the Treasury to be called the "Deficit Relief Account." It is from
15 this account that the advance payment to a district will be made.
16 The account will be credited with the \$10 million appropriation
17 included in the bill, along with amounts equaling the reductions in
18 State aid the district will incur in repaying the advance payment
19 which will be transferred to the account by the Commissioner of
20 Education.

21 The bill also requires the Office of the State Auditor to conduct
22 forensic audits of the fiscal operations of any school district with a
23 year-end general fund deficit, if that district also meets another
24 criteria used for determining whether a State monitor should be
25 appointed for a district. This audit is in addition to the annual audit
26 already required for school districts. The audit by the State Auditor
27 will be submitted to the Commissioner of Education, the
28 Legislature, the Governor, and to the school board at its next
29 regularly scheduled monthly meeting; and within 30 days of its
30 presentation to the board, the board must submit to the
31 commissioner a plan to address all of the audit's unaddressed
32 findings, conclusions and recommendations.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1469

(with committee amendments)

STATE OF NEW JERSEY

DATED: MARCH 6, 2006

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1469, with committee amendments.

This bill, as amended, designated the "School District Fiscal Accountability Act;" is designed to address the increasing problem of school districts failing to correct serious deficiencies identified in their annual audits. In order to immediately address these deficiencies this bill provides statutory authority to the Commissioner of Education to appoint a State monitor to provide direct oversight of a board of education's business operations and personnel matters if the school district receives an adverse or a disclaimer of opinion by its independent auditor or if any two or more of the following circumstances apply to the school district:

- (1) the school district ends the fiscal year with a deficit balance, as calculated for budgetary purposes, in the general fund, special revenue fund, or capital projects fund, with the exception of a capital projects fund deficit caused by the issuance of bond anticipation notes;
- (2) the school district receives a qualified opinion by its independent auditor in its annual audit;
- (3) the school district receives audit findings identified as material weaknesses in internal controls in its annual audit;
- (4) the school district fails to develop and implement a plan acceptable to the commissioner or his designee to address a potential or actual deficit in the general fund, special revenue fund, or capital projects fund, with the exception of a capital projects fund deficit caused by the issuance of bond anticipation notes;
- (5) the school district fails to implement a plan from the prior year which causes findings from the independent auditor to be repeated.

The State monitor is provided various responsibilities under the bill including:

- (1) overseeing the fiscal management and expenditures of school district funds;
- (2) overseeing the operation and fiscal management of school district facilities, including the development and implementation of recommendations for redistricting and restructuring of schools;

- (3) ensuring the development and implementation of an acceptable plan to address the circumstances which resulted in the appointment of the State monitor;
- (4) overseeing all district staffing, including the ability to hire, promote, and terminate employees subject to tenure laws and collective bargaining agreements entered into by the school district;
- (5) having the authority to override a chief school administrator's action and a vote by the board of education on any of the matters for which he has oversight responsibilities;
- (6) meeting with the board of education on at least a quarterly basis to discuss with the members of the board the past actions of the board which led to the appointment of the State monitor and to provide board members with education and training that address the deficiencies identified in board actions ; and
- (7) attending all school board meetings, including closed sessions.

The Commissioner of Education must notify the State Board of Education following the appointment of a State monitor. The State monitor must report weekly to the commissioner and monthly to the district's board of education and to the public at the regularly scheduled board meetings. The commissioner has the authority to fix and adjust the salary of the State monitor. All the costs of the State monitor must be borne by the school district.

The bill also provides financial relief to districts for which a State monitor has been appointed if the commissioner determines that the payment is necessary to ensure the provision of a thorough and efficient education. The advance payment must be repaid by the district through automatic reductions in the State aid provided to the district over a term not greater than 10 years. The bill also contains a provision that requires the district to apply a certain amount of any undesignated general fund balances to the repayment of the advance payment.

The bill establishes a nonlapsing, revolving dedicated account for the advance State aid payment program, designated the School District Deficit Relief Account in the Department of Education. It is from this account that the advance payment to a district will be made. The account will be credited with an appropriation of the unexpended balances from the fiscal year 2006 appropriation to the Emergency Fund State aid appropriation in the Department of Education. The account may receive other appropriations or transfers of appropriation along with amounts equaling the reductions in State aid a district will incur in repaying the advance payment which will be transferred to the account by the Commissioner of Education.

The bill also requires the Office of the State Auditor to conduct forensic audits of the fiscal operations of any school district with a year-end general fund deficit, if that district also meets another criteria used for determining whether a State monitor should be appointed for a district. This audit is in addition to the annual audit already required

for school districts. The audit by the State Auditor will be submitted to the Commissioner of Education, the Legislature, the Governor, and to the school board at its next regularly scheduled monthly meeting; and within 30 days of its presentation to the board, the board must submit to the commissioner a plan to address all of the audit's unaddressed findings, conclusions and recommendations.

COMMITTEE AMENDMENTS:

The committee amendments: 1) designate the bill the "School District Fiscal Accountability Act;" 2) clarify that a State monitor's duty to oversee all district staffing, including the ability to hire, promote, and terminate employees is subject to tenure laws and collective bargaining agreements entered into by the school district; 3) require the monitor to meet with the board of education on at least a quarterly basis to discuss with the members of the board the past actions of the board which led to the appointment of the State monitor and to provide board members with education and training that address the deficiencies identified in board actions; 4) require that an advance State aid payment be recorded by the school district as revenue for budget purposes in the school year in which the advance State aid payment is provided; 5) provide that interest not be imposed in the case of advance State aid paid to a school district for which a State monitor is appointed within 90 days of the effective date of the bill; 6) clarify the provisions for the funding of the nonlapsing, revolving dedicated account for the advance State aid payment program, designated the School District Deficit Relief Account in the Department of Education; 7) replace the \$10 million General Fund appropriation with an appropriation to the advance State aid payment account from the unexpended balances from the fiscal year 2006 appropriation to the Emergency Fund State aid appropriation in the Department of Education; and 8) provide appropriation authority to pay such advance State aid payments from the School District Deficit Relief Account as the Commissioner of Education determines are necessary, subject to the approval of the Director of the Division of Budget and Accounting.

FISCAL IMPACT:

The bill, as amended, replaces the proposed \$10 million General Fund appropriation for the advance State aid payments with an appropriation from the unexpended balances from the fiscal year 2006 \$200,000 appropriation to the Emergency Fund Miscellaneous Grants-In-Aid appropriation to the Department of Education, and allow for further appropriations for such payments to be made from a dedicated account that may receive other appropriations or transfers of appropriations.

STATEMENT TO
[First Reprint]
SENATE, No. 1469

with Senate Floor Amendments
(Proposed By Senator TURNER)

ADOPTED: MARCH 13, 2006

This floor amendment provides that the authority of the State monitor to override a chief school administrator's action and a vote by the local board of education is subject to the education, labor, and employment laws and regulations, including the "New Jersey Employer-Employee Relations Act," and collective bargaining agreements entered into by the school district.