

18A:38-1

LEGISLATIVE HISTORY CHECKLIST
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(Residency--schools)

NJSA: 18A:38-1

LAWS OF: 1993 **CHAPTER:** 380

BILL NO: S1447

SPONSOR(S): Kosco

DATE INTRODUCED: January 12, 1993

COMMITTEE: **ASSEMBLY:** ---
SENATE: Education

AMENDED DURING PASSAGE: Yes Amendments during passage
Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** November 15, 1993
SENATE: May 13, 1993

DATE OF APPROVAL: January 11, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings--attached

KBG:pp

P.L.1993, CHAPTER 380, approved January 11, 1994
1993 Senate No. 1447 (Second Reprint)

1 AN ACT concerning the establishment of residency for the
2 purpose of public education and amending N.J.S.18A:38-1.

3

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

6 1. N.J.S.18A:38-1 is amended to read as follows:

7 18A:38-1. Public schools shall be free to the following persons
8 over five and under 20 years of age:

9 [(a)] a. Any person who is domiciled within the school district;

10 [(b)] b. (1) Any person who is kept in the home of another
11 person domiciled within the school district and is supported by
12 such other person gratis as if he were such other person's own
13 child, upon filing by such other person with the secretary of the
14 board of education of the district, if so required by the board, a
15 sworn statement that he is domiciled within the district and is
16 supporting the child gratis and will assume all personal
17 obligations for the child relative to school requirements and that
18 he intends so to keep and support the child gratuitously for a
19 longer time than merely through the school term, and a copy of
20 his lease if a tenant, or a sworn statement by his landlord
21 acknowledging his tenancy if residing as a tenant without a
22 written lease, and upon filing by the child's parent or guardian
23 with the secretary of the board of education a sworn statement
24 that he is not capable of supporting or providing care for the
25 child [accompanied] due to a family or economic hardship and
26 that the child is not residing with the resident of the district
27 solely for the purpose of receiving a free public education within
28 the district. The statement shall be accompanied by
29 documentation to support the validity of the sworn statements,
30 information from or about which shall be supplied only to the
31 board and only to the extent that it directly pertains to the
32 support or nonsupport of the child; provided, however, that the
33 board of education may contest the validity of the sworn
34 statement in proceedings before the commissioner, except that
35 no child shall be denied admission during the pendency of any
36 such proceedings before the commissioner, and the resident shall
37 have the burden of proving by a preponderance of the evidence
38 before the commissioner that the child is eligible for a free
39 education under the criteria listed in this subsection]. if in the
40 judgment of the board of education the evidence does not support

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:

¹ Senate SED committee amendments adopted March 18, 1993.

² Senate amendments adopted in accordance with Governor's
recommendations January 10, 1994.

1 the validity of the claim by the resident, the board may deny
2 admission to the child. The resident may contest the board's
3 decision to the commissioner ¹within 21 days of the date of the
4 decision¹ and shall be entitled to an expedited hearing before the
5 commissioner on the validity of the claim and shall have the
6 burden of proof by a preponderance of the evidence that the child
7 is eligible for a free education under the criteria listed in this
8 subsection. ¹The board of education shall, at the time of its
9 decision, notify the resident in writing of his right to contest the
10 board's decision to the commissioner within 21 days.¹ No child
11 shall be denied admission during the pendency of the proceedings
12 before the commissioner. ²In the event the child is currently
13 enrolled in the district, the student shall not be removed from
14 school during the 21-day period in which the resident may contest
15 the board's decision nor during the pendency of the proceedings
16 before the commissioner.² If in the judgment of the
17 commissioner [this] the evidence does not support the claim of
18 the resident, he [may] shall assess the resident tuition for the
19 student prorated to the time of the [board's request for a sworn
20 statement from the resident] ²[resident's request for a hearing
21 before the commissioner and the admission of the child] student's
22 ineligible attendance in the school district². Tuition shall be
23 computed on the basis of 1/180 of the total annual per pupil cost
24 to the local district multiplied by the number of days of ineligible
25 attendance and shall be collected in the manner ²[set forth under
26 "the penalty enforcement law," N.J.S.2A:58-1 et seq.] in which
27 orders of the commissioner are enforced. Nothing shall preclude
28 a board from collecting tuition from the resident, parent or
29 guardian for a student's period of ineligible attendance in the
30 schools of the district where the issue is not appealed to the
31 commissioner²;

32 (2) If the superintendent or administrative principal of a school
33 district finds that the parent or guardian of a child who is
34 attending the schools of the district is not domiciled within the
35 district and the child is not kept in the home of another person
36 domiciled within the school district and supported by them gratis
37 as if the child was the person's own child as provided for in
38 paragraph (1) of this subsection, the superintendent or
39 administrative principal may apply to the board of education for
40 the removal of the child. The parent or guardian shall be entitled
41 to a hearing before the board and if in the judgment of the board
42 the parent or guardian is not domiciled within the district ¹or the
43 child is not kept in the home of another person domiciled within
44 the school district and supported by them gratis as if the child
45 was the person's own child as provided for in paragraph (1) of this
46 subsection,¹ the board may order the transfer or removal of the
47 child from school. The parent or guardian may contest the
48 board's decision before the commissioner ¹within 21 days of the
49 date of the decision¹ and shall be entitled to an expedited hearing
50 before the commissioner and shall have the burden of proof by a
51 preponderance of the evidence that the child is eligible for a free
52 education under the criteria listed in this subsection. ¹The board
53 of education shall, at the time of its decision, notify the parent
54 or guardian in writing of his right to contest the decision within

1 21 days.¹ No child shall be removed from school during ²the
2 21-day period in which the parent may contest the board's
3 decision or during² the pendency of the proceedings before the
4 commissioner. If in the judgment of the commissioner the
5 evidence does not support the claim of the parent or guardian,
6 the commissioner shall assess the parent or guardian tuition for
7 the student prorated to the time of the student's ²[admission to]
8 ineligible attendance in² the schools of the district. Tuition shall
9 be computed on the basis of 1/180 of the total annual per pupil
10 cost to the local district multiplied by the number of days of
11 ineligible attendance and shall be collected in the manner ²[set
12 forth under "the penalty enforcement law," N.J.S.2A:58-1 et
13 seq.] in which orders of the commissioner are enforced. Nothing
14 shall preclude a board from collecting tuition from the parent or
15 guardian for a student's period of ineligible attendance in the
16 schools of the district where the issue is not appealed to the
17 commissioner.²

18 [(c)] c. Any person who fraudulently allows a child of another
19 person to use his residence and is not the primary financial
20 supporter of that child and any person who fraudulently claims to
21 have given up custody of his child to a person in another district
22 commits a [disorderly persons offense] ²[crime of the fourth
23 degree] disorderly persons offense²;

24 [(d)] d. Any person whose parent or guardian, even though not
25 domiciled within the district, is residing temporarily therein, but
26 any person who has had or shall have his all-year-round dwelling
27 place within the district for one year or longer shall be deemed to
28 be domiciled within the district for the purposes of this section;

29 [(e)] e. Any person for whom the Division of Youth and Family
30 Services in the Department of Human Services is acting as
31 guardian and who is placed in the district by said bureau;

32 [(f)] f. Any person whose parent or guardian moves from one
33 school district to another school district as a result of being
34 homeless and whose district of residence is determined pursuant
35 to section 19 of P.L.1979, c.207 (C.18A:7B-12).

36 (cf: P.L.1989, c.290, s.2)

37 2. This act shall take effect immediately.

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42 _____
43 Increases authority of boards of education to deny admission or
remove students not domiciled within the district.

[SECOND REPRINT]

SENATE, No. 1447

STATE OF NEW JERSEY

INTRODUCED JANUARY 12, 1993

By Senators KOSCO, EWING, Feldman, Cowan,
Assemblywoman Crecco

1 AN ACT concerning the establishment of residency for the
2 purpose of public education and amending N.J.S.18A:38-1.

3

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

6 1. N.J.S.18A:38-1 is amended to read as follows:

7 18A:38-1. Public schools shall be free to the following persons
8 over five and under 20 years of age:

9 [(a)] a. Any person who is domiciled within the school district;

10 [(b)] b. (1) Any person who is kept in the home of another
11 person domiciled within the school district and is supported by
12 such other person gratis as if he were such other person's own
13 child, upon filing by such other person with the secretary of the
14 board of education of the district, if so required by the board, a
15 sworn statement that he is domiciled within the district and is
16 supporting the child gratis and will assume all personal
17 obligations for the child relative to school requirements and that
18 he intends so to keep and support the child gratuitously for a
19 longer time than merely through the school term, and a copy of
20 his lease if a tenant, or a sworn statement by his landlord
21 acknowledging his tenancy if residing as a tenant without a
22 written lease, and upon filing by the child's parent or guardian
23 with the secretary of the board of education a sworn statement
24 that he is not capable of supporting or providing care for the
25 child [, accompanied] due to a family or economic hardship and
26 that the child is not residing with the resident of the district
27 solely for the purpose of receiving a free public education within
28 the district. The statement shall be accompanied by
29 documentation to support the validity of the sworn statements,
30 information from or about which shall be supplied only to the
31 board and only to the extent that it directly pertains to the
32 support or nonsupport of the child; provided, however, that the
33 board of education may contest the validity of the sworn
34 statement in proceedings before the commissioner, except that
35 no child shall be denied admission during the pendency of any
36 such proceedings before the commissioner, and the resident shall
37 have the burden of proving by a preponderance of the evidence
38 before the commissioner that the child is eligible for a free
39 education under the criteria listed in this subsection]. If in the
40 judgment of the board of education the evidence does not support

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 identified thus as new matter
Matter enclosed in brackets [thus] in the above bill has been adopted as to laws
Senate S.D. 1001, effective January 18, 1993.
Senate amendment adopted in accordance with Governor's
recommendations January 10, 1994.

1 the validity of the claim by the resident, the board may deny
 2 admission to the child. The resident may contest the board's
 3 decision to the commissioner ¹within 21 days of the date of the
 4 decision ¹and shall be entitled to an expedited hearing before the
 5 commissioner on the validity of the claim and shall have the
 6 burden of proof by a preponderance of the evidence that the child
 7 is eligible for a free education under the criteria listed in this
 8 subsection. ¹The board of education shall, at the time of its
 9 decision, notify the resident in writing of his right to contest the
 10 board's decision to the commissioner within 21 days. ¹ No child
 11 shall be denied admission during the pendency of the proceedings
 12 before the commissioner. ²In the event the child is currently
 13 enrolled in the district, the student shall not be removed from
 14 school during the 21-day period in which the resident may contest
 15 the board's decision nor during the pendency of the proceedings
 16 before the commissioner. ² If in the judgment of the
 17 commissioner [this] the evidence does not support the claim of
 18 the resident, he [may] shall assess the resident tuition for the
 19 student prorated to the time of the [board's request for a sworn
 20 statement from the resident] ²[resident's request for a hearing
 21 before the commissioner and the admission of the child] student's
 22 ineligible attendance in the school district ². Tuition shall be
 23 computed on the basis of 1/180 of the total annual per pupil cost
 24 to the local district multiplied by the number of days of ineligible
 25 attendance and shall be collected in the manner ²[set forth under
 26 the penalty enforcement law," N.J.S.2A:58-1 et seq.] in which
 27 orders of the commissioner are enforced. Nothing shall preclude
 28 a board from collecting tuition from the resident, parent or
 29 guardian for a student's period of ineligible attendance in the
 30 schools of the district where the issue is not appealed to the
 31 commissioner.

32 (c) If the superintendent or administrative principal of a school
 33 district finds that the parent or guardian of a child who is
 34 attending the schools of the district is not domiciled within the
 35 district and the child is not kept in the home of another person
 36 domiciled within the school district and supported by them gratis
 37 as if the child was the person's own child as provided for in
 38 paragraph (1) of this subsection, the superintendent or
 39 administrative principal may apply to the board of education for
 40 the removal of the child. The parent or guardian shall be entitled
 41 to a hearing before the board and to an appeal to the board
 42 if the parent or guardian is not domiciled within the district for the
 43 child is not kept in the home of another person domiciled within
 44 the school district and supported by the parent or guardian of the child
 45 as if the parent's own child as provided for in paragraph (1) of this
 46 subsection. The board may, in the interim, remove the child
 47 from the district if the parent or guardian is not domiciled in the
 48 district and the child is not kept in the home of another person
 49 domiciled within the school district and supported by the parent or
 50 guardian of the child as if the parent's own child as provided for in
 51 paragraph (1) of this subsection.

1 21 days.¹ No child shall be removed from school during ²the
2 21-day period in which the parent may contest the board's
3 decision or during² the pendency of the proceedings before the
4 commissioner. If in the judgment of the commissioner the
5 evidence does not support the claim of the parent or guardian,
6 the commissioner shall assess the parent or guardian tuition for
7 the student prorated to the time of the student's ²[admission to]
8 ineligible attendance in² the schools of the district. Tuition shall
9 be computed on the basis of 1/180 of the total annual per pupil
10 cost to the local district multiplied by the number of days of
11 ineligible attendance and shall be collected in the manner ²[set
12 forth under "the penalty enforcement law," N.J.S.2A:58-1 et
13 seq.] in which orders of the commissioner are enforced. Nothing
14 shall preclude a board from collecting tuition from the parent or
15 guardian for a student's period of ineligible attendance in the
16 schools of the district where the issue is not appealed to the
17 commissioner.²

18 [(c)] c. Any person who fraudulently allows a child of another
19 person to use his residence and is not the primary financial
20 supporter of that child and any person who fraudulently claims to
21 have given up custody of his child to a person in another district
22 commits a [disorderly persons offense] ²[crime of the fourth
23 degree] disorderly persons offense²;

24 [(d)] d. Any person whose parent or guardian, even though not
25 domiciled within the district, is residing temporarily therein, but
26 any person who has had or shall have his all-year-round dwelling
27 place within the district for one year or longer shall be deemed to
28 be domiciled within the district for the purposes of this section;

29 [(e)] e. Any person for whom the Division of Youth and Family
30 Services in the Department of Human Services is acting as
31 guardian and who is placed in the district by said bureau;

32 [(f)] f. Any person whose parent or guardian moves from one
33 school district to another school district as a result of being
34 homeless and whose district of residence is determined pursuant
35 to section 19 of P.L.1979, c.207 (C.18A:7B-12).

36 (cf: P.L.1989, c.290, s.2)

37 2. This act shall take effect immediately.

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42 _____
43 Increases authority of boards of education to deny admission or
remove students not domiciled within the district.

1 Services in the Department of Human Services is acting as
2 guardian and who is placed in the district by said bureau;

3 [(f)] f. Any person whose parent or guardian moves from one
4 school district to another school district as a result of being
5 homeless and whose district of residence is determined pursuant
6 to section 19 of P.L.1979, c.207 (C.18A:7B-12).

7 (cf: P.L.1989, c.290, s.2)

8 2. This act shall take effect immediately.

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10

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STATEMENT

12

13 This bill provides boards of education with additional authority
14 to deny admission or to remove students from the schools of the
15 district if the board determines that a student is not legally
16 domiciled within the district. Under current law, if a board of
17 education doubts the validity of sworn statements submitted to
18 establish the residency of a child within the district, the board
19 must initiate proceedings before the Commissioner of Education
20 to contest the validity of those statements. This is a
21 cumbersome process which places an undue burden upon the local
22 board. This bill will allow a board of education, once it
23 determines that the evidence does not support the validity of a
24 claim of a child's residency, to deny admission to the child. The
25 bill stipulates, however, that the resident of the district who has
26 indicated that the child lives in his home may contest the board's
27 decision to the Commissioner of Education and shall be entitled
28 to an expedited hearing before the commissioner. Also, a child
29 may not be denied admission to the schools of the district during
30 the pendency of the proceedings before the commissioner.

31 The bill also establishes a procedure in the case of a student
32 who is already attending the schools of a district when the
33 superintendent of schools finds that the parent or guardian of the
34 child is not domiciled within the district and the student is not
35 legally domiciled with a resident of the district. The bill
36 authorizes the superintendent to apply to the local board of
37 education for the removal of the child from school and authorizes
38 the board to order that removal if it determines that the child is
39 not legally domiciled within the district. The bill stipulates that
40 the parent or guardian may contest the board's decision to the
41 Commissioner of Education and shall be entitled to an expedited
42 hearing before the commissioner. A child may not be removed
43 from school during the pendency of the proceedings before the
44 commissioner.

45 The bill also provides that the sworn statements submitted by a
46 parent to support the child's residency within the district must
47 demonstrate that the reason the child is living within the home of
48 a resident of the district is that the parent or guardian is not
49 capable of supporting or providing for the care of the child due to
50 a family or economic hardship and that the child is not residing
51 within the district solely for the purpose of receiving a free
52 public education.

53 Finally, the bill upgrades the penalty for fraudulent claims of
54 residency from a disorderly persons offense to a crime of the

1 fourth degree.

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6 Increases authority of boards of education to deny admission or
7 remove students not domiciled within the district.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 1447

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 1993

The Senate Education Committee favorably reports this bill with committee amendments.

As amended by committee, this bill provides boards of education with additional authority to deny admission or to remove students from the schools of the district if the board determines that a student is not legally domiciled within the district. Under current law, if a board of education doubts the validity of sworn statements submitted to establish the residency of a child within the district, the board must initiate proceedings before the Commissioner of Education to contest the validity of those statements. This bill will allow a board of education, once it determines that the evidence does not support the validity of a claim of a child's residency, to deny admission to the child. Under the bill's provisions, the resident of the district who has indicated that the child lives in his home may contest the board's decision to the Commissioner of Education and shall be entitled to an expedited hearing before the commissioner. Also, a child may not be denied admission to the schools of the district during the pendency of the proceedings before the commissioner.

The bill also establishes a procedure in the case of a student who is already attending the schools of a district when the superintendent of schools finds that the parent or guardian of the child is not domiciled within the district and the student is not legally domiciled with a resident of the district. The bill authorizes the superintendent to apply to the board of education for the removal of the child from school and authorizes the board to order that removal if it determines that the child is not legally domiciled within the district. The bill provides that the parent or legal guardian may contest the board's decision to the Commissioner of Education and shall be entitled to an expedited hearing before the commissioner. A child may not be removed from school during the pendency of the proceedings before the commissioner.

The bill also provides that the sworn statements submitted by a parent to support the child's residency within the district must demonstrate that the reason the child is living within the home of a resident of the district is that the parent or guardian is not capable of supporting or providing for the care of the child due to a family or economic hardship and that the child is not residing within the district solely for the purpose of receiving a free public education.

Finally, the bill upgrades the penalty for fraudulent claims of residency from a disorderly persons offense to a crime of the fourth degree.

The committee amended the bill to provide that a resident or parent or guardian who is contesting a decision of a board of

education to the Commissioner of Education must do so within 21 days of the date of the board's decision. The amendments also require the board of education, at the time of its decision, to notify in writing the resident or parent or guardian, as appropriate, of the right to contest the board's decision to the commissioner.

The committee also made a technical amendment to paragraph 2 of subsection b. of section 1 of the bill to conform language within that paragraph to previous language in the paragraph.

STATE OF NEW JERSEY
EDUCATION DEPARTMENT

January 11, 1994

SENATE BILL NO. 1447
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Senate Bill No. 1447 (First Reprint) with my objections for reconsideration.

This bill is designed to improve the mechanism by which a Board of Education ("board") may remove illegally enrolled non-resident students from the schools of the district. The bill specifically addresses two types of students -- a child living in the district with a person who is not the child's parent or guardian (commonly referred to as an "affidavit student") and a child living with a parent or guardian who claims to be, but in fact is not, residing in the district (commonly referred to as a "non-domiciled student") and establishes standards for their removal from school in a district in which the students are ineligible to attend.

Under current law, an "affidavit student" is entitled to attend school in the district in which the person with whom they are residing ("resident") lives if the resident is supporting the child and the parent or guardian is not providing any support for the child. The board can require the resident and the parent or guardian to file sworn statements regarding the residence and support of the child as well as other supporting documentation. In the event the board believes that the evidence does not support the resident's claim that the child is entitled to attend the schools of that district, the board may challenge the sworn statements in a proceeding before the commissioner. In such a proceeding, the resident has the burden of proving that the child is eligible for a free education in the district.

CVS 1447

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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This bill makes several changes to the process regarding the removal of "affidavit students" and "non-domiciled students." The primary goal of the bill, and one that I strongly support, is to place an affirmative obligation on the resident, parent or guardian, to challenge the board's conclusion that the child is not entitled to attend school in that district rather than forcing the board to initiate administrative proceedings to remove the child. Furthermore, the bill appropriately provides that this appeal to the commissioner will be heard on an expedited basis. Additionally, the bill provides necessary protection to the educational needs of the student by permitting the student to attend school until the commissioner renders a final decision.

However, I do not concur with the bill's attempt to enhance the penalty for the filing of false affidavits by the resident, parent or guardian from a disorderly person's offense to a crime of the fourth degree. While I do not condone attempts by parents to have their children attend schools that they are not entitled to attend, I do not think such actions should constitute an indictable crime that may result in jail time; rather I believe a disorderly person's offense with a monetary penalty is more appropriate. Furthermore, by making this offense a crime of the fourth degree, more of a burden will be placed on our already overburdened criminal justice system. Action by the county prosecutor and grand jury will be needed to prosecute the cases. This would be an unwarranted and inefficient use of those limited resources and I am therefore recommending that the offense continue to be classified as a disorderly person's offense.

Additionally, I believe the bill needs to be clarified as to the protection afforded to both the "affidavit student" and the "non-domiciled student" already enrolled in the district from having their education disrupted. The sections dealing with "affidavit students," 1(b)(1), and "non-domiciled students," 1(b)(2), specifically protect the student from removal during the pendency of

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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proceedings before the commissioner but does not mention the 21-day period in which the resident, parent or guardian has the right to contest the board determination that the child is ineligible for a free education. My recommended changes, therefore, include language which would clarify what I believe was the intent of the bill -- to have the child remain in the school until the commissioner has determined whether or not the child is entitled to be there.

Finally, I believe the bill would be improved by some additional clarifying language and minor changes which are included in the recommendations below.

Therefore, I herewith return Senate Bill No. 1447 (First Reprint) and recommend that it be amended as follows:

- Page 2, Line 10: After "commissioner." insert "In the event the child is currently enrolled in the district, the student shall not be removed from school during the 21-day period in which the resident may contest the board's decision nor during the pendency of the proceedings before the commissioner."
- Page 2, Lines 14-15: Delete beginning with "resident's" and ending with "child." and insert "student's ineligible attendance in the school district."
- Page 2, Lines 18-19: After "manner" delete remainder of sentence beginning with "set" and ending with "et seq.," and insert "in which orders of the commissioner are enforced. Nothing shall preclude a board from collecting tuition from the resident, parent or guardian for a student's period of ineligible attendance in the schools of the district where the issue is not appealed to the commissioner."
- Page 2, Line 43: After "during" insert "the 21 day period in which the parent may contest the board's decision or during"
- Page 2, Line 48: Delete "admission to" and insert "ineligible attendance in"
- Page 2, Lines 51-52: Delete beginning with "set" and ending with "et seq." and insert "in which orders of the commissioner are enforced. Nothing shall preclude a board from collecting tuition from the parent or guardian for a student's period of ineligible attendance in the schools of the district where the issue is not appealed to the commissioner."

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

4

Page 3, Line 3:

Delete "crime of the fourth degree" and
insert "disorderly persons offense."

Respectfully

/s/ Jim Florio

GOVERNOR

[seal]

Attest:

/s/ Scott A. Weiner

Chief Counsel to the Governor

DATE: _____

Asbury Park Press

- Philadelphia Inquirer
- The Press
- The Record

- Star-Ledger
- Trenton Times
- The Trentonian

the speaker of the Assembly and the chancellor of higher education.

Governor-elect Christine Todd Whitman had said prior to the final legislative vote on the bill that she was concerned about the bill because it will place an increased financial obligation on the state before she takes office.

Carl Golden, a spokesman for the Whitman transition office, said Whitman's position has been that any additional bonded indebtedness should be presented to the voters.

"Obviously the Legislature and the Governor are confident the taxpayers will not be called upon to support these bonds," Golden said. "They believe that the lottery funds will be sufficient to provide the revenue stream to pay the debt and we certainly share that hope."

Golden said the use of lottery funds to pay off the higher education bonds "certainly comports with constitutional requirements" that lottery revenues be used for educational purposes. He also said Whitman agrees with the need for upgrading higher education facilities.

Penalties lessened for illegal students

By MATTHEW REILLY

The Legislature agreed with Gov. Jim Florio yesterday to remove the harsher jail penalties from a bill to streamline the process used in removing non-resident children from school districts they are attending illegally.

The original bill (S-1447) would have increased the penalties from a misdemeanor, carrying up to six months in jail, plus fines, to a fourth-degree felony, punishable by up to 18 months in jail, plus higher fines.

In his conditional veto message, Florio said that by seeking to upgrade the offense, the bill would place more of a burden on an already overburdened criminal justice system.

"While I do not condone attempts by parents to have their children attend schools they are not entitled to attend, I do not think such actions should constitute an indictable crime that may result in jail time," the Governor said in his veto message. "Rather, I believe a disorderly person's offense with a monetary penalty is more appropriate."

There are two types of illegal students addressed by the bill, which is sponsored by Sen. Louis Kosco (R-Bergen). A child who lives in the district with someone other than a parent or guardian is known as an "affidavit student." A child living with a parent or guardian who claims to be, but in fact is not, living in the district is commonly referred to as a "non-domiciled student."

Under law, an affidavit student is entitled to attend school in the district in which the person with whom he resides lives if the resident is supporting the child and the parent or guardian is not providing any support for the child.

The local board of education can require the resident and the parent or guardian to file sworn statements regarding the residence and support of the child as well as other supporting documentation.

If the board believes the evidence does not support the resident's claim that the child is entitled to attend the schools of that district, the board may challenge the sworn statements in a proceeding before the commissioner. The resident has the burden of proving

that the child is eligible to attend school in the district.

The bill would obligate the parent or guardian to challenge the board's conclusion that the child is not entitled to attend school in that district rather than force the board to initiate administrative proceedings to remove the child.

The bill also provides that the appeal to the commissioner be heard on an expedited basis and permits the student to attend school until the commissioner renders a final decision.

John Henderson of the New Jersey School Boards Association

Highlights of the bill

- The initial grants would be allocated as follows:
- ↓ \$48 million for facilities at state colleges
 - ↓ \$44 million for county colleges
 - ↓ \$38.9 million for Rutgers University
 - ↓ \$21 million for private institutions
 - ↓ \$20.1 million for the University of Medicine and Dentistry of New Jersey
 - ↓ \$20 million for construction projects at Rutgers Law School at Newark
 - ↓ \$15 million for South Jersey multi-institutional economic development facilities
 - ↓ \$13 million for New Jersey Institute of Technology

The Star-Ledger

In his conditional veto message, Florio said that by seeking to upgrade the offense, the bill would place more of a burden on an already overburdened criminal justice system.

(NJSBA), which recommended the changes Florio included in his veto message, said the heart of the bill is "landmark legislation" that will streamline the process local school boards must go through to address the problem posed by so-called illegal students.

Florio also recommended that the bill be clarified to ensure that children enrolled in a district are protected while removal proceedings are pending. He recommended language in the bill that would have the child remain in the school until the commissioner of education has determined whether the child is entitled to be there.

The NJSBA estimated there are 8,000 to 10,000 illegal placements that each year cost the state and local school districts millions of dollars in state aid, local property taxes and diverted resources.

36