

[First Reprint]

**ASSEMBLY, No. 2810**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED JUNE 10, 2010

**Sponsored by:**

**Assemblyman ANGEL FUENTES**

**District 5 (Camden and Gloucester)**

**Assemblyman ALEX DECROCE**

**District 26 (Morris and Passaic)**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen, Essex and Passaic)**

**Assemblyman JAY WEBBER**

**District 26 (Morris and Passaic)**

**Co-Sponsored by:**

**Assemblymen Dancer, Malone, Assemblywoman Casagrande,**

**Assemblymen DiCicco, A.M.Bucco, Assemblywoman N.Munoz,**

**Assemblymen Cryan, O'Scanlon, Bramnick, Chiusano, Biondi,**

**Assemblywoman Handlin and Assemblyman Rible**

**SYNOPSIS**

“Opportunity Scholarship Act”; establishes pilot program in Department of Treasury providing tax credits to entities contributing to scholarships for low-income children.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Commerce and Economic Development Committee on February 3, 2011, with amendments.

(Sponsorship Updated As Of: 11/14/2011)

1 AN ACT concerning educational opportunity scholarships for certain  
2 students and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.)  
3 and Title 18A of the New Jersey Statutes.

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

7  
8 1. Sections 1 through 8 of P.L. , c. (C. ) (pending before  
9 the Legislature as this bill) shall be known and may be cited as the  
10 “Opportunity Scholarship Act.”

11  
12 2. The Legislature finds and declares that:

13 a. <sup>1</sup>**[It is an undeniable fact that parents]** Parents<sup>1</sup> of limited  
14 <sup>1</sup>**[means]** financial resources<sup>1</sup> are <sup>1</sup>often<sup>1</sup> less able to provide  
15 <sup>1</sup>access to quality<sup>1</sup> educational options for their children <sup>1</sup>**[, even in**  
16 those instances in which the public schools are failing their  
17 children,<sup>1</sup> and <sup>1</sup>are therefore unable<sup>1</sup> to select the learning  
18 environment that might best meet the needs of their children <sup>1</sup>, even  
19 in those instances in which the public schools are failing to educate  
20 their children<sup>1</sup> ;

21 b. <sup>1</sup>**[The Appellate Division of the Superior Court of New**  
22 Jersey in a 2009 decision, Crawford v. Davy, ruled that children  
23 enrolled in schools in which the majority of students failed at least  
24 one subject area of the State assessments in multiple consecutive  
25 years currently have no entitlement to better educational  
26 opportunities in another school district or nonpublic school;

27 c.]<sup>1</sup> Consequently, it is critical to provide a mechanism that will  
28 provide <sup>1</sup>**[students]** children of families that have limited financial  
29 resources<sup>1</sup> enrolled in <sup>1</sup>**[these]** chronically<sup>1</sup> failing schools the  
30 opportunity to <sup>1</sup>**[receive a quality education]** enroll in different  
31 schools chosen by their parents so as to expand the educational  
32 opportunities available to these children<sup>1</sup> ;

33 <sup>1</sup>**[d.] c.**<sup>1</sup> The United States Supreme Court in its 2002 decision,  
34 Zelman v. Simmons-Harris, found that a program providing tuition  
35 aid in the form of scholarships for some students to attend public or  
36 nonpublic schools of a parent’s choosing did not violate the  
37 Establishment Clause of the United States Constitution; and

38 <sup>1</sup>**[e. In light of New Jersey’s constitutional commitment to**  
39 ensuring educational justice for every child, regardless of the  
40 relative wealth or poverty of a child’s parents,<sup>1</sup> d. Accordingly,<sup>1</sup> it  
41 is appropriate that the State initiate a tax credit scholarship program  
42 on a pilot basis to <sup>1</sup>encourage corporations to make voluntary  
43 contributions to nonprofit scholarship organizations, as well as to<sup>1</sup>

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Assembly ACE committee amendments adopted February 3, 2011.

1 assess **'[its] the'** impact **'of such a program'** on the educational  
2 opportunity and achievement of children whose current education  
3 options are limited to a chronically failing school.

4

5 3. As used in sections 1 through 8 of P.L. , c. (C. )  
6 (pending before the Legislature as this bill):

7 "Chronically failing school" means any **'public'** school **' , other**  
8 **than a charter school,** that **'is located in a targeted district and'**  
9 meets the criteria of paragraph (1) or paragraph (2):

10 (1) among all students in that school to whom a State  
11 assessment was administered, the percent of students scoring in the  
12 partially proficient range in both the language arts and mathematics  
13 subject areas of the State assessments **'[exceeded] was equal to or**  
14 **greater than'** 40% in each of the prior two school years; or

15 (2) among all students in that school to whom a State  
16 assessment was administered, the percent of students scoring in the  
17 partially proficient range in either the language arts or mathematics  
18 subject area of the State assessment **'[exceeded] was equal to or**  
19 **greater than'** 65% in each of the prior two school years.

20 (3) A school shall continue to be designated a chronically failing  
21 school until such time that the percent of students scoring in the  
22 partially proficient range in both the language arts and mathematics  
23 subject areas of the State assessments is less than or equal to the  
24 Statewide percent of students scoring in the partially proficient  
25 range on the corresponding Statewide assessments.

26 "Eligible school" means an **'[in-district or]'** out-of-district  
27 public school or an in-district or out-of-district nonpublic school  
28 located in this State offering a program of instruction for  
29 kindergarten through 12th grade, or any combination of those  
30 grades that:

31 (1) is open to **'[all] enroll'** students who are eligible to  
32 participate in the pilot program established pursuant to section 4 of  
33 P.L. , c. (C. ) (pending before the Legislature as this bill) on  
34 a space-available basis **'as determined by the eligible school'** and  
35 does not discriminate in its admission policies or practices for  
36 scholarship applicants enrolled in a public school on the date of the  
37 scholarship application on the basis of intellectual or athletic  
38 ability, measures of achievement or aptitude, status as a  
39 **'[handicapped]'** person **'with disabilities'**, proficiency in the  
40 English language, or any other basis that would be illegal if used by  
41 a school district; however nothing shall prohibit a school from  
42 qualifying as an eligible school solely because the school limits  
43 admission to a particular grade level **' , single gender,** or to areas of  
44 concentration at the school, such as mathematics, science, or the  
45 arts;

46 (2) in the case of a nonpublic school, provides **'[enrollment**  
47 **preference] first priority'** for **'[new admissions] enrollment in any**

1 space made available by the school for scholarship students at that  
2 school<sup>1</sup> to students who <sup>1</sup>【are enrolled in a chronically failing  
3 school and are eligible to】<sup>1</sup> participate in the pilot program  
4 established pursuant to P.L. , c. (C. ) (pending before the  
5 Legislature as this bill); <sup>1</sup>【and】<sup>1</sup>

6 (3) <sup>1</sup>in the case of a public school, has been designated by the  
7 board of education as a school that will accept students who  
8 participate in the pilot program established pursuant to P.L. ,  
9 c. (C. ) (pending before the Legislature as this bill);

10 (4) in the case of a nonpublic school, has obtained approval  
11 from the Commissioner of Education pursuant to section 12 of  
12 P.L. , c. (C. ) (pending before the Legislature as this bill) to  
13 enroll students who participate in the pilot program established  
14 pursuant to that act; and

15 (5)<sup>1</sup> is in full compliance with all federal, State, and local laws.

16 "Household income" means income as defined for the purposes  
17 of determining eligibility for a free or reduced price lunch pursuant  
18 to the State School Lunch Program.

19 "Low-income child" means a child from a household with an  
20 income that does not exceed 2.50 times the official federal poverty  
21 level based on family size, established and adjusted under Section  
22 673(2) of Subtitle B, the "Community Services Block Grant Act,"  
23 Pub. L.97-35 (42 U.S.C. s.9902(2)), for the school year preceding  
24 the school year for which an educational scholarship is to be  
25 distributed.

26 "Scholarship organization" means an organization that has been  
27 determined by the federal Internal Revenue Service to be qualified  
28 as a tax-exempt organization pursuant to paragraph (3) of  
29 subsection (c) of section 501 of the federal Internal Revenue Code  
30 of 1986 (26 U.S.C. s.501) and that:

31 (1) requires that any tax-creditable contributions accepted by it  
32 be designated by the contributor at the time of contribution as a  
33 contribution pursuant to P.L. , c. (C. ) (pending before the  
34 Legislature as this bill);

35 (2) distributes not less than 95% of the tax-creditable  
36 contributions that it accepts pursuant to P.L. , c. (C. )  
37 (pending before the Legislature as this bill) as educational  
38 scholarships to low-income students;

39 (3) distributes individual scholarships <sup>1</sup>to the parents or  
40 guardians of scholarship students<sup>1</sup> that:

41 (a) in the case of a scholarship student enrolled in grades  
42 kindergarten through 8, are equal to the lesser of:

43 (i) the actual cost per pupil of the eligible school enrolling a  
44 scholarship student, as determined by the Commissioner of  
45 Education; or

46 (ii) the greater of <sup>1</sup>【\$6,000】 \$8,000<sup>1</sup> or 40% of the prior  
47 school year's actual average comparative cost per pupil, as reported

1 in the Department of Education's Comparative Spending Guide,  
2 among all school districts in which a chronically failing school is  
3 located; and

4 (b) in the case of a scholarship student enrolled in grades 9  
5 through 12, are equal to the lesser of:

6 (i) the actual cost per pupil of the eligible school enrolling a  
7 scholarship student, as determined by the Commissioner of  
8 Education; or

9 (ii) the greater of ~~['\$9,000]~~ \$11,000<sup>1</sup> or 59% of the prior  
10 school year's actual average comparative cost per pupil, as reported  
11 in the Department of Education's Comparative Spending Guide,  
12 among all school districts in which a chronically failing school is  
13 located;

14 (4) ensures that a child receives in any school year no more than  
15 one scholarship pursuant to the provisions of P.L. , c. (C. )  
16 (pending before the Legislature as this bill); and

17 (5) has complied with such other requirements as the Director of  
18 the Division of Taxation in the Department of the Treasury may  
19 require.

20 <sup>1</sup>"Targeted district" means Asbury Park City School District,  
21 Camden City School District, East Orange City School District,  
22 Elizabeth City School District, Jersey City School District,  
23 Lakewood City School District, Newark City School District, City  
24 of Orange School District, Passaic City School District, Paterson  
25 City School District, Perth Amboy City School District, Plainfield  
26 City School District, and Trenton City School District.<sup>1</sup>

27

28 4. a. <sup>1</sup>**['Beginning in the first State fiscal year following the**  
29 **effective date of P.L. , c. (C. ) (pending before the**  
30 **Legislature as this bill)] By April 1, 2011<sup>1</sup> , the Director of the**  
31 **Division of Taxation in the Department of the Treasury shall**  
32 **establish a five-year pilot program to provide tax credits to**  
33 **corporations which contribute funding to the lead scholarship**  
34 **organization designated pursuant to subsection b. of section 5 of**  
35 **P.L. , c. (C. ) (pending before the Legislature as this bill) to**  
36 **provide educational scholarships 'beginning in the 2011-2012**  
37 **school year<sup>1</sup> to help low-income children who, except as otherwise**  
38 **provided pursuant to paragraph (2) or paragraph (3) of subsection a.**  
39 **of section 6 of P.L. , c. (C. ) (pending before the Legislature**  
40 **as this bill), are enrolled in a chronically failing school, pay tuition**  
41 **at an eligible school 'that has been selected by the parent or**  
42 **guardian of the scholarship student<sup>1</sup>.**

43 b. Subject to the restrictions established pursuant to subsection  
44 d. of this section, a taxpayer, upon application to the Director of the  
45 Division of Taxation in the Department of the Treasury, shall be  
46 allowed a credit against the tax imposed pursuant to section 5 of  
47 P.L.1945, c.162 (C.54:10A-5) for a privilege period, in an amount

1 equal to 100% of the contributions made by the taxpayer to the lead  
2 scholarship organization designated pursuant to subsection b. of  
3 section 5 of P.L. , c. (C. ) (pending before the Legislature as  
4 this bill) during the privilege period; provided that the taxpayer  
5 shall designate at the time the contribution is made that the  
6 contribution is made pursuant to P.L. , c. (C. ) (pending  
7 before the Legislature as this bill). 'Any contribution made  
8 pursuant to this section after April 1, 2011 and prior to June 30,  
9 2011 shall be allowed as a credit against the tax imposed pursuant  
10 to section 5 of P.L.1945, c.162 (C.54:10A-5) for the State fiscal  
11 year that begins July 1, 2011.'<sup>1</sup>

12 c. The order of priority of the credit allowed under  
13 P.L. , c. (C. ) (pending before the Legislature as this bill)  
14 and any other credits allowed by law shall be as prescribed by the  
15 director. The amount of the credit applied under  
16 P.L. , c. (C. ) (pending before the Legislature as this bill)  
17 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
18 (C.54:10A-5) for a privilege period shall not reduce the tax liability  
19 to an amount less than the statutory minimum provided in  
20 subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). An  
21 unused amount of credit shall expire at the end of the privilege  
22 period.

23 d. In aggregate, the total tax contribution of all participating  
24 corporations shall not exceed \$24,000,000 in the first State fiscal  
25 year, \$48,000,000 in the second State fiscal year, \$72,000,000 in  
26 the third State fiscal year, \$96,000,000 in the fourth State fiscal  
27 year, and \$120,000,000 in the fifth State fiscal year. If the sum of  
28 the amount of tax credits authorized pursuant to this section in a  
29 State fiscal year exceeds the aggregate annual limits established  
30 pursuant to this subsection, tax credits shall be allowed in the order  
31 in which contributions are made until the limit is reached.

32  
33 5. a. There is hereby established the Opportunity Scholarship  
34 Board. The board shall consist of three public members, one  
35 appointed by the Governor, one appointed by the President of the  
36 Senate, and one appointed by the Speaker of the General Assembly.  
37 Each of the members shall be a representative of an entity subject to  
38 the tax imposed pursuant to section 5 of P.L.1945, c.162  
39 (C.54:10A-5) or an employee of such entity.

40 b. The board shall select one scholarship organization in each  
41 of the north, central, and southern regions of the State to administer  
42 the scholarship funds made available through contributions received  
43 pursuant to section 4 of P.L. , c. (C. ) (pending before the  
44 Legislature as this bill). The board shall designate one of the  
45 scholarship organizations to be the lead scholarship organization.

46 c. The board shall publicize the pilot program to the parents  
47 'and guardians'<sup>1</sup> of children who are enrolled in a chronically failing  
48 school.

1 d. The board shall commission an independent study of the  
2 pilot program. The study shall be conducted by an individual or  
3 entity primarily identified with expertise in the field of urban  
4 education. The individual or entity shall design a comprehensive  
5 study of the pilot program which shall include, but not be limited to,  
6 consideration of the following:

7 (1) the academic achievement of scholarship recipients based on  
8 test results and other educational indicators;

9 (2) the impact of the pilot program on achieving savings for  
10 State taxpayers;

11 (3) the impact of the program on student enrollment patterns;  
12 and

13 (4) parental satisfaction with the pilot program.

14 The board may raise funds privately for the purpose of  
15 commissioning the study and for the cost of publicizing the pilot  
16 program.

17 e. On or before January 1 of the fifth school year of the pilot  
18 program, the board shall submit a report to the Governor, and to the  
19 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),  
20 on the implementation and results of the pilot program. The report  
21 shall be based on the annual reports submitted by the scholarship  
22 organizations pursuant to subsection c. of section 6 of  
23 P.L. , c. (C. ) (pending before the Legislature as this bill)  
24 and the independent study conducted pursuant to subsection d. of  
25 this section. The report shall include a recommendation on whether  
26 the program should be reauthorized on a permanent basis.  
27

28 6. a. (1) The lead scholarship organization shall allocate funds  
29 made available through contributions provided pursuant to section 4  
30 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
31 to the selected scholarship organizations. The total funds available  
32 for scholarships for each school year shall be allocated to the  
33 scholarship organization selected in each region as follows:

34 '(a)' the total enrollment, excluding preschool students, of all  
35 chronically failing schools in the region divided by the total  
36 enrollment, excluding preschool students, of all chronically failing  
37 schools Statewide, '[and the result shall be]' multiplied by '75%  
38 of' the total funds available for that school year '; and

39 '(b)' the total enrollment, excluding preschool students, of all  
40 nonpublic schools in the region located in a district in which a  
41 chronically failing school is located divided by the total enrollment,  
42 excluding preschool students, of all nonpublic schools Statewide  
43 located in a district in which a chronically failing school is located,  
44 multiplied by 25% of the total funds available for that school year.

45 For the purposes of this paragraph, a nonpublic school shall not  
46 include an approved private school for students with disabilities' .

47 (2) No more than 25% of a scholarship organization's  
48 scholarship allocation in any school year shall be used to provide

1 scholarships to low-income students who reside in **'[the State] a**  
2 **district in which a chronically failing school is located**<sup>1</sup> and are  
3 enrolled in nonpublic schools on the effective date of P.L. ,  
4 c. (C. ) (pending before the Legislature as this bill); except that  
5 if by August 1 of any school year, scholarship funds available for  
6 the scholarship organization remain unallocated, then the funds may  
7 be used to provide additional scholarships for that school year to  
8 low-income students enrolled in nonpublic schools on the effective  
9 date of P.L. , c. (C. ) (pending before the Legislature as this  
10 bill).

11 (3) If by August 15 of any school year, scholarship funds  
12 available for the scholarship organization remain unallocated, then  
13 the unallocated funds shall be used to provide scholarships for that  
14 school year to low-income children residing in other regions.  
15 Priority shall be given to students in the following order:

- 16 (a) low-income children attending a chronically failing school;  
17 (b) low-income children residing in a district in which a  
18 chronically failing school is located; and  
19 (c) notwithstanding the provisions of paragraph (2) of this  
20 subsection, low-income children enrolled in a nonpublic school on  
21 the effective date of P.L. , c. (C. ) (pending before the  
22 Legislature as this bill).

23 The Opportunity Scholarship Board established pursuant to  
24 subsection **'[b.] a.'**<sup>1</sup> of section 5 of P.L. , c. (C. ) (pending  
25 before the Legislature as this bill) shall determine the  
26 apportionment of unallocated funds to the other regions.

27 b. A scholarship organization selected by the board pursuant to  
28 subsection b. of section 5 of P.L. , c. (C. ) (pending before  
29 the Legislature as this bill) shall require that an eligible school  
30 which admits a child receiving an educational scholarship under the  
31 pilot program:

- 32 (1) accepts the scholarship as payment in full for a child's  
33 tuition and any other costs of attendance payable to the school;  
34 (2) ensures that a child enrolled in an eligible school who  
35 received a scholarship under the program in the prior school year  
36 receives a scholarship in each school year of enrollment under the  
37 program provided that the child remains eligible; except that any  
38 child who received a scholarship under the program in the prior  
39 school year who is no longer considered a low-income child shall  
40 continue to remain eligible to receive a scholarship under the  
41 program until the child completes the eighth grade or the twelfth  
42 grade, whichever occurs first, provided that the child continues to  
43 meet all other eligibility requirements;

44 (3) in the event that more children apply for admission under the  
45 pilot program than there are openings at the eligible school,  
46 determines through a lottery which children are selected for  
47 admission, except that preference for enrollment may be given to  
48 siblings of students who are enrolled in the eligible school; **'[and]**<sup>1</sup>



1 (4) if the eligible school is a nonpublic school '[,]':

2 (a) 'administers the appropriate grade level State assessment to  
3 scholarship students 'and makes the results publicly available,  
4 except that the school shall not make any results publicly available  
5 that may lead to the disclosure of results for an individual student' .  
6 The Department of Education shall provide the necessary material  
7 to the nonpublic school at no cost <sup>1</sup>;

8 (b) obtains written acknowledgment from the parent or guardian  
9 that a nonpublic school may not provide the same level of special  
10 education services that are provided in a public school and  
11 acceptance of the scholarship and enrollment in the nonpublic  
12 school has the same effect as a parental refusal to consent to  
13 services pursuant to section 614 of the "Individuals with  
14 Disabilities Education Act," Pub.L. 108-446 (20 U.S.C. s.1414);

15 (c) upon admitting a scholarship student, agrees to continue  
16 enrolling that student for at least two full school years unless the  
17 student commits an act that threatens the health or safety of other  
18 students, faculty, or staff at the school. Thereafter, the scholarship  
19 student shall be subject to the disciplinary and expulsion policy that  
20 is applicable to all students;

21 (d) if the nonpublic school is a sectarian school, allows a  
22 scholarship student to opt out of any classes that provide religious  
23 instruction or any religious activities; and

24 (5) shall not use revenue received through the enrollment of  
25 scholarship students for construction or capital improvement  
26 projects'.

27 c. A selected scholarship organization shall:

28 (1) manage the scholarship application process for the school  
29 district in which students who are eligible to participate in the  
30 scholarship program reside;

31 (2) review and verify the income and residence of a scholarship  
32 applicant;

33 (3) compile an inventory of vacancies in eligible schools  
34 available for potential scholarship recipients 'based on information  
35 provided by the eligible schools';

36 (4) conduct necessary student selection lotteries in accordance  
37 with the requirements of paragraph (3) of subsection b. of this  
38 section;

39 (5) in the event that the number of eligible students 'in a region'  
40 applying for a scholarship exceeds the number of available  
41 scholarships 'in the region' , conduct '[lotteries] a lottery in the  
42 region' to determine which students will receive a scholarship;

43 (6) monitor the enrollment of scholarship students in eligible  
44 schools '[and allocate scholarship funds to those schools]' ;  
45 '[and,]'

46 (7) 'distribute scholarship funds to the parents or guardians of  
47 scholarship students; and

1       (8)<sup>1</sup> prepare a report to be submitted to the State Treasurer <sup>1</sup>and  
2 the Commissioner of Education<sup>1</sup> by December 1 of each year that  
3 includes, but is not limited to, the following information for the  
4 prior school year: the amount of scholarship funds received by the  
5 scholarship organization; the administrative costs of the scholarship  
6 organization; <sup>1</sup>the total number of scholarships awarded, by grade  
7 level; the total number of scholarship recipients who previously  
8 attended a public school, by school district;<sup>1</sup> the amount of  
9 scholarship funds <sup>1</sup>["dispersed"] disbursed<sup>1</sup> on behalf of scholarship  
10 recipients to eligible schools that are public schools, and a listing of  
11 those eligible schools; the amount of scholarship funds  
12 <sup>1</sup>["dispersed"] disbursed<sup>1</sup> on behalf of scholarship recipients to  
13 eligible schools that are nonpublic schools, and a listing of those  
14 eligible schools; and the number of scholarship applications for  
15 which no scholarship funds were available.

16       The board shall make the annual report available to the parents  
17 or guardians of scholarship recipients and to members of the public.  
18 <sup>1</sup>Upon review of the report, the commissioner shall have the  
19 authority to disallow any excessive administrative expenditures  
20 made by the scholarship organization and reduce the amount that  
21 the scholarship organization may retain for administrative expenses  
22 in the subsequent school year.<sup>1</sup>

23  
24       7. The Department of Education shall annually provide a list of  
25 all chronically failing schools to the Opportunity Scholarship Board  
26 established pursuant to subsection a. of section 5 of  
27 P.L. , c. (C. ) (pending before the Legislature as this bill).  
28 The department shall coordinate with the board to determine the  
29 earliest feasible time that the list can be developed after the  
30 administration of the State assessments.

31  
32       8. The Director of the Division of Taxation shall adopt rules  
33 and regulations in accordance with the "Administrative Procedure  
34 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the  
35 provisions of sections 1 through 7 of P.L. , c. (C. ) (pending  
36 before the Legislature as this bill).

37  
38       9. <sup>1</sup>a.<sup>1</sup> Notwithstanding any provision of <sup>1</sup>section 5 or<sup>1</sup>  
39 subsection a. of section 16 of P.L.2007, c.260 (<sup>1</sup>C.18A:7F-47 and<sup>1</sup>  
40 C:18A:7F-58) or any other section of law to the contrary, for each  
41 scholarship student who was enrolled in a public school of the  
42 district at the time that the student first received an educational  
43 scholarship pursuant to P.L. , c. (C. ) (pending before the  
44 Legislature as this bill), <sup>1</sup>and for each year thereafter that the  
45 student receives a scholarship,<sup>1</sup>the amount of State school aid paid  
46 to the district pursuant to the provisions of P.L.2007, c.260  
47 (C.18A:7F-43 et al.) shall be reduced by an amount equal to the

1 district's equalization aid, security categorical aid, special education  
2 categorical aid, <sup>1</sup>["transportation aid,]"<sup>1</sup> and adjustment aid divided  
3 by the district's resident enrollment.

4 <sup>1</sup>b. Each school district for which a State school aid reduction  
5 was made pursuant to subsection a. of this section shall receive an  
6 amount of State school aid equal to the Statewide reduction in State  
7 school aid made pursuant to that subsection minus the sum of the  
8 total tax credit authorized for the State fiscal year pursuant to  
9 section 4 of P.L. , c. (C. ) (pending before the Legislature as  
10 this bill) and any costs incurred due to the assessments required  
11 pursuant to sections 6 and 13 of P.L. , c. (C. ) (pending  
12 before the Legislature as this bill), multiplied by the ratio obtained  
13 by dividing the amount of State school aid withheld from the  
14 district pursuant to subsection a. of this section by the total amount  
15 of State school aid withheld from all districts pursuant to that  
16 subsection.<sup>1</sup>

17  
18 <sup>1</sup>["10. There is hereby established in the Department of  
19 Education a fund entitled the "Educational Innovation Fund." The  
20 fund shall be credited with the amount of any per pupil State school  
21 aid reduction made pursuant to section 9 of P.L. , c. (C. )  
22 (pending before the Legislature as this bill) that is in excess of the  
23 applicable educational scholarship awarded pursuant to P.L. , c.  
24 (C. ) (pending before the Legislature as this bill) to a  
25 scholarship student who was enrolled in a public school of the  
26 district at the time that the student first received a scholarship. All  
27 interest or other income or earnings derived from the investment or  
28 reinvestment of moneys in the fund shall be credited to the fund.  
29 The moneys in the fund are specifically dedicated to fund the  
30 Educational Innovation Pilot Program established pursuant to  
31 section 11 of P.L. , c. (C. ) (pending before the Legislature  
32 as this bill).]"<sup>1</sup>

33  
34 <sup>1</sup>["11. a.] 10.<sup>1</sup> As used in <sup>1</sup>["this section, "chronically]"<sup>1</sup> sections 9  
35 through 11 of P.L. , c. (C. ) (pending before the Legislature  
36 as this bill):

37 Chronically<sup>1</sup> failing school" means any <sup>1</sup>public<sup>1</sup> school <sup>1</sup>, other  
38 than a charter school,<sup>1</sup> that <sup>1</sup>is located in a targeted district and<sup>1</sup>  
39 meets the criteria of paragraph (1) or paragraph (2) of this  
40 subsection:

41 (1) among all students in that school to whom a State  
42 assessment was administered, the percent of students scoring in the  
43 partially proficient range in both the language arts and mathematics  
44 subject areas of the State assessments <sup>1</sup>["exceeded]"<sup>1</sup> was equal to or  
45 greater than<sup>1</sup> 40% in each of the prior two school years; or

46 (2) among all students in that school to whom a State  
47 assessment was administered, the percent of students scoring in the

1 partially proficient range in either the language arts or mathematics  
2 subject area of the State assessment <sup>1</sup>**[exceeded]** was equal to or  
3 greater than<sup>1</sup> 65% in each of the prior two school years.

4 (3) A school shall continue to be designated a chronically failing  
5 school until such time that the percent of students scoring in the  
6 partially proficient range in both the language arts and mathematics  
7 subject areas of the State assessments is less than or equal to the  
8 Statewide percent of students scoring in the partially proficient  
9 range on the corresponding Statewide assessments.

10 <sup>1</sup>**[b.** The Commissioner of Education shall establish a five-year  
11 Educational Innovation Pilot Program. The program shall award  
12 competitive grants to chronically failing schools to finance the  
13 adoption of innovative educational practices with the objective of  
14 improving student performance. The grants shall be funded by  
15 moneys on deposit in the Educational Innovation Fund established  
16 pursuant to section 10 of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill).

18 c. The commissioner shall develop an application process to  
19 select the chronically failing schools which will receive an  
20 innovation grant. The application shall be prepared and submitted  
21 by the superintendent of the district in which the chronically failing  
22 school is located. The application shall include, but not be limited  
23 to, the following information:

24 (1) a description of the innovative programs or practices which  
25 would be implemented in the chronically failing schools;

26 (2) a budget proposal for the use of any grant award; and

27 (3) a list of program objectives and a description of how the  
28 district will assess the program's implementation and outcomes.

29 d. A superintendent may submit a grant application that does  
30 not include all chronically failing schools in the district. **]**

31 "Targeted district" means Asbury Park City School District,  
32 Camden City School District, East Orange City School District,  
33 Elizabeth City School District, Jersey City School District,  
34 Lakewood City School District, Newark City School District, City  
35 of Orange School District, Passaic City School District, Paterson  
36 City School District, Perth Amboy City School District, Plainfield  
37 City School District, and Trenton City School District.<sup>1</sup>

38  
39 <sup>1</sup>11. A school district in which a chronically failing school is  
40 located shall provide transportation services to scholarship students  
41 attending a nonpublic school or a public school outside the school  
42 district of residence pursuant to the provisions of N.J.S.18A:39-1  
43 applicable to nonpublic school pupil transportation.<sup>1</sup>

44  
45 <sup>1</sup>12. a. The Commissioner of Education shall develop a process  
46 for approving a nonpublic school that wants to be classified as an  
47 eligible school to enroll a scholarship student pursuant to the

1 provisions of P.L. , c. (C. ) (pending before the Legislature as  
2 this bill). The commissioner shall grant approval to a nonpublic  
3 school that meets any one of the following criteria:

4 (1) the school has been in operation for at least five years, has an  
5 end-of-year financial statement for each of the previous five years,  
6 and, in the two years prior to the school year for which approval is  
7 sought, has undergone an independent financial audit conducted by  
8 a certified public accountant that concluded that the school is  
9 financially viable;

10 (2) the school was founded within the prior 12 months by an  
11 operator of an existing school that meets the criteria of paragraph  
12 (1) of this subsection; or

13 (3) the school is a current member of the New Jersey Association  
14 of Independent Schools.

15 b. The commissioner may grant approval to a school that does  
16 not meet the requirements of subsection a. of this section if the  
17 nonpublic school submits an application containing the following  
18 information:

19 (1) a statement of the school's objectives and a written strategy  
20 for meeting those objectives;

21 (2) information that demonstrates the school's financial viability;

22 (3) a list of faculty that includes information regarding each  
23 individual's educational attainment and relevant work experience;

24 (4) a statement regarding the adequacy of the school's facilities  
25 and equipment;

26 (5) documentation that the school has been determined by the  
27 federal Internal Revenue Service to be qualified as a tax-exempt  
28 organization pursuant to paragraph (3) of subsection (c) of section  
29 501 of the federal Internal Revenue Code of 1986 (26 U.S.C.  
30 s.501); and

31 (6) a list of current board members, their affiliations, and terms  
32 of service.

33 c. As a condition of receiving approval to enroll a scholarship  
34 student, a nonpublic school shall require a criminal history record  
35 check of final candidates for employment in accordance with the  
36 procedures established pursuant to P.L.1989, c.229 (C.18A:6-4.13  
37 et seq.).

38 d. A nonpublic school shall submit the results of the most  
39 recent assessment administered by the nonpublic school to its  
40 students to the Commissioner of Education. The commissioner  
41 shall establish performance criteria that must be met by the  
42 nonpublic school students in order for the school to be approved to  
43 enroll a scholarship student. The commissioner shall not approve a  
44 nonpublic school to receive a scholarship student if the nonpublic  
45 school does not administer an assessment to its students.<sup>1</sup>

46

47 <sup>1</sup>13. The commissioner shall select grade-level appropriate  
48 assessments to be administered to all students receiving a

1 scholarship pursuant to the provisions of P.L. , c. (C. ) (pending  
2 before the Legislature as this bill) in the first school year in which  
3 the student receives a scholarship. The assessments that are  
4 selected shall be capable of providing technically accurate measures  
5 of a student's academic growth over time. The assessments shall be  
6 administered to students twice during the school year. The first  
7 administration shall occur within the first 30 school days of the  
8 school year, and the second administration shall occur within the  
9 last 30 school days of the school year. These requirements shall be  
10 in addition to the requirement for the administration of the  
11 appropriate grade level State assessment.<sup>1</sup>

12

13 <sup>1</sup>~~12.~~ 14. The State Board of Education shall adopt regulations  
14 pursuant to the "Administrative Procedures Act," P.L.1968, c.410  
15 (C.52:14B-1 et seq.), to effectuate the provisions of sections 9  
16 through <sup>1</sup>~~11~~ 13<sup>1</sup> of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill).

18

19 <sup>1</sup>~~13.~~ 15. This act shall take effect immediately.