

LEGISLATIVE HISTORY CHECKLIST

NJSA: 18A:9-1 et al (State operated school districts--
system of governing)

LAWS OF: 1987 CHAPTER: 399

Bill No: A4644

Sponsor(s): Palaia and others

Date Introduced: November 23, 2987

Committee: Assembly: -----
Senate: Education

Amended during passage: Yes Amendments during passage denoted
by asterisks.

Date of Passage: Assembly: November 30, 1987
Senate: December 21, 1987

Date of Approval: January 13, 1988

Following statements are attached if available:

Sponsor statement: Yes Sponsors statement to
S3767-- attached.

Committee statement: Assembly No
Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: Yes

974.90 New Jersey. Legislature.
S372 Senate. Committee on Education.
1986a Public hearing on S2355, S2356, A2926 and A2927, held 6-20-86, 9-16-86,
9-25-86, 10-7-86 and 10-14-86, Trenton, Paramus, Camden, Jersey City, 1986.

See newspaper clipping file, "New Jersey-- School districts-- 1987 and 1988" in New Jersey Reference Department.

See also "Finally-- intervention becomes law," 1-8-88 New Jersey Education Bulletin. (attached).

1 21. N. J. S. 18A:10-1 is amended to read as follows:
2 18A:10-1. The schools of each school district shall be conducted,
3 by and under the supervision of a board of education, which shall
4 be a body corporate and which shall be constituted and governed,
5 as provided by this title, for a type I, type II or regional school
6 district, as the case may be, *but the State board pursuant to an*
7 *administrative order issued by authority of section 15 of P. L. 1975,*
8 *212 (C. 18A:7A-15) may create a State-operated school district*
9 *which shall be conducted by a State district superintendent.*
1 22. This act shall take effect immediately, but shall remain in-
2 operative until enactment of P. L. , c. (C.)
3 (now pending before the Legislature as Senate Bill No. of
4 1987).

53767

STATEMENT

This bill establishes the procedures for the governance of State-operated school districts.

If a State-operated school district is established, the local board of education and the chief executive officers of the district will be dismissed and a State district superintendent will be appointed for a five year term with all the authority of a board of education.

The State district superintendent will evaluate all other central administration staff and reorganize the district's central administration. At that time, all remaining central administration staff positions will be abolished. Affected employees will be given 60 days notice or 60 days pay and will retain "bumping rights" for other positions in the district for which they may have seniority. In addition, based on quarterly reports by an assessment unit, the State district superintendent may dismiss a principal after an assessment cycle of between 12 and 24 months. A dismissed principal may appeal the action to the commissioner. In the hearing, the State district superintendent must prove that the action was reasonable. Only evaluations conducted during the State operation of the school district will be admissible at the hearing.

In place of the board of education removed at the time of State intervention, the commissioner will establish a 15 member board

of education, with 13 members appointed by the commissioner and 2 appointed by the local municipal governing body, which will meet monthly with the State district superintendent to receive reports on all actions taken. In the fourth year after the establishment of the State-operated school district, an election will be held at which time a nine member board of education will be elected for staggered three year terms from among the members of the 15 member board. The State district superintendent may call upon this elected board to take formal action on such issues as he deems appropriate.

Annually, the commissioner shall assess the progress of the district and formally report to the State board, the Governor and the Legislature. If, after five years, the district has received certification, the commissioner may recommend to the State board that local control be reestablished. At that time, control shall be restored to the board of education then in office.

If after five years, the commissioner cannot recommend the return to local control, he must provide a comprehensive report to the State board, the Governor and the Legislature. On the basis of that report, the State board will decide whether to continue the State-operated district or return the district to local control.

EDUCATION—GENERAL

Establishes the procedures for the governance of State-operated school districts.

9 which shall be conducted by a State district superintendent.
1 22. This act shall take effect immediately, but shall remain in-
2 operative until enactment of P. L. , c. (C.)
3 (now pending before the Legislature as Senate Bill No. 3766 of
4 1987).

Assembly
Bill No 167
of 1987

A4644

STATEMENT

This bill establishes the procedures for the governance of State-operated school districts.

If a State-operated school district is established, the local board of education and the chief executive officers of the district will be dismissed and a State district superintendent will be appointed for a five year term with all the authority of a board of education.

The State district superintendent will evaluate all other central administration staff and reorganize the district's central administration. At that time, all remaining central administration staff positions will be abolished. Affected employees will be given 60 days notice or 60 days pay and will retain "bumping rights" for other positions in the district for which they may have seniority.

The commissioner shall adopt criteria for the evaluation of building principals in a State-operated district. Based on reports by an assessment unit, the State district superintendent may dismiss a tenured principal for inefficiency, incapacity, unbecoming conduct or other just cause as defined by the commissioner. The dismissal will be conducted in accordance with procedures set forth in existing law, except that the Commissioner of Education and the Office of Administrative law are directed to expedite the tenure hearing process. The only evaluations that will be admissible at the tenure hearings will be: a. those conducted during the State operation of the school district, b. those conducted before State operation of the district by

individuals who were subsequently rehired by the State district superintendent to fill a position in the reorganized central staff, or c. those conducted more than five years prior to the establishment of the State-operated district.

In place of the board of education removed at the time of State intervention, the commissioner will establish a 15 member board of education, with 13 members appointed by the commissioner and 2 appointed by the local municipal governing body, which will meet monthly with the State district superintendent to receive reports on all actions taken. In the fourth year after the establishment of the State-operated school district, an election will be held at which time a nine member board of education will be elected for staggered three year terms from among the members of the 15 member board. The State district superintendent may call upon this elected board to take formal action on such issues as he deems appropriate.

Annually, the commissioner shall assess the progress of the district and formally report to the State Board, the Governor and the Legislature. If, after 5 years, the district has received certification, the commissioner may recommend to the State board that local control be reestablished. At that time, control shall be restored to the board of education then in office.

If after 5 years, the commissioner cannot recommend the return to local control, he must provide a comprehensive report to the State board, the Governor and the Legislature. On the basis of that report, the State board will decide whether to continue the State-operated district or return the district to local control.

EDUCATION - GENERAL

Establishes the procedures for the governance of State-operated school districts.

1-13-88

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 4644**STATE OF NEW JERSEY**

INTRODUCED NOVEMBER 23, 1987

By Assemblymen PALAIA, GARGIULO, Assemblywoman Donovan,
 Assemblyman Villane, Assemblywoman Garvin, Assemblymen
 Haytaian, Kavanaugh and Franks

AN ACT concerning the governance of State-operated school dis-
 tricts, amending N. J. S. 18A:9-1 and N. J. S. 18A:10-1 and
 supplementing Title 18A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
 2 *of New Jersey:*

1 1. (New section) Whenever the Commissioner of Education shall
 2 determine after the issuance of an administrative order that a local
 3 school district has failed to assure a thorough and efficient system
 4 of education, the State Board of Education may issue an admin-
 5 istrative order as set forth in section 15 of P. L. 1975, c. 212 (C.
 6 18A:7A-15) which shall remove the district board of education and
 7 create a State-operated school district. The State-operated school
 8 district shall become effective immediately upon issuance of the
 9 administrative order by the State board.

1 2. (New section) a. The schools of a State-operated school
 2 district shall be conducted by and under the supervision of a State
 3 district superintendent of schools appointed by the State board
 4 upon recommendation of the commissioner. The individual selected
 5 shall be qualified by training and experience for the particular
 6 district.

7 b. The State district superintendent shall be appointed for an
 8 original term not to exceed five years. Notwithstanding any other
 9 provision of law, no person so appointed shall acquire tenure nor
 10 shall the commissioner, with approval of the State board, be pre-

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendment adopted November 23, 1987.

**—Senate amendments adopted December 17, 1987.

11 eluded from terminating the superintendent's services pursuant to
 12 the terms of the superintendent's individual contract of employ-
 13 ment. For the purpose of the New Jersey Tort Claims Act, P. L.
 14 1972, c. 45 (C. 59:1-1 et seq.), the State district superintendent
 15 shall be considered a State officer.

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

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

28 e. Except as otherwise provided in this amendatory and supple-
 29 mentary act, the State district superintendent shall have the power
 30 to perform all acts and do all things consistent with law necessary
 31 for the proper conduct, maintenance and supervision of the schools
 32 in the district.

33 f. The State district superintendent may make, amend and re-
 34 peal district rules, policies and guidelines, not inconsistent with
 35 law for the proper conduct, maintenance and supervision of the
 36 schools in the district.

37 g. The State district superintendent shall provide in each school
 38 a mechanism for parent, teacher and community involvement.

39 h. The State district superintendent shall ensure that the district
 40 is in compliance with all federal and State laws, rules and regula-
 41 tions relating to equal employment opportunities, affirmative action
 42 and minority business opportunities.

1 3. (New section) No person shall be appointed to any position
 2 pursuant to this amendatory and supplementary act unless the
 3 person shall hold an appropriate certificate as prescribed by the
 4 State Board of Examiners.

1 4. (New section) Notwithstanding the absence of a board of
 2 education, a State-operated school district shall remain a corpo-
 3 rate entity.

1 5. (New section) Except as otherwise provided in this amenda-
 2 tory and supplementary act, the State district superintendent in
 3 a State-operated school district shall have the power to:

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

5 b. Perform all acts and do all things, consistent with law and
6 the rules of the State board, necessary for the lawful and proper
7 conduct, equipment and maintenance of the public schools of the
8 district.

1 6. (New section) a. The State district superintendent of a State-
2 operated school district may:

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

6 (2) Cause a report of the condition of the public schools and the
7 public school property under the superintendent's control and an
8 itemized account of the condition of the finances of the district to
9 be printed and published as soon as practicable after the close of
10 each school year; and

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

18 b. A State-operated school district may be sued under its corpo-
19 rate name.

20 c. State-operated school districts may join with local boards of
21 education for the purpose of affording the districts those benefits
22 which may accrue pursuant to P. L. 1983, c. 108 (C. 18A:18B-1
23 et seq.).

24 d. A State-operated school district shall be subject to all pro-
25 visions of chapter 19 of Title 18A of the New Jersey Statutes
26 except that all warrants for claims or expenditures approvable
27 by a district board of education or any action required of a district
28 board of education pursuant to chapter 19 shall be authorized by
29 the State district superintendent.

30 e. Authority for the implementation of any provision of chapter
31 20 of Title 18A of the New Jersey Statutes relative to the acqui-
32 sition and disposition of property which requires action by a district
33 board of education shall, in a State-operated school district, be
34 exercised by the State district superintendent.

35 f. The authority vested in boards of education by chapter 21 of
36 Title 18A of the New Jersey Statutes shall in a State-operated
37 school district be vested in the State district superintendent.

38 g. State-operated school districts shall be subject to all require-
39 ments set forth in chapter 18A of Title 18A of the New Jersey

40 Statutes except that such determination as may be required of a
41 district board of education by the provisions of said law shall be
42 rendered by the State district superintendent.

1 7. (New section) a. When the board of education is removed
2 and a State-operated district is established, pursuant to section 1
3 of this amendatory and supplementary act, or when local control is
4 reestablished, pursuant to section 16 of this amendatory and sup-
5 plementary act, collective bargaining agreements entered into by
6 the school district shall remain in force, except where otherwise
7 expressly provided in this amendatory and supplementary act.

8 b. Except where otherwise expressly provided in this amenda-
9 tory and supplementary act, all teaching staff members and other
10 employees of a State-operated district shall retain and continue
11 to acquire all rights and privileges acquired pursuant to Title 18A
12 of the New Jersey Statutes. After the reestablishment of local
13 control in the district, the board shall preserve and recognize all
14 rights and privileges acquired prior to and during the State opera-
15 tion of the district.

1 8. (New section) There shall be established within a State-
2 operated school district an internal audit team which shall monitor
3 the business functions of the district and report its findings to the
4 State district superintendent and the commissioner. The cost of
5 providing this internal audit function shall be borne by the State.

1 9. (New section) a. In a State-operated school district, all offi-
2 cers, employees and consultants, professional and nonprofessional,
3 certified and noncertified, shall be employed or retained, trans-
4 ferred and removed as provided below:

5 (1) The State district superintendent may appoint, transfer and
6 remove clerks, pursuant to the provisions of Title 11A (Civil
7 Service) of the New Jersey Statutes and the provisions of N. J. S.
8 18A:17-1 et seq.

9 (2) The State district superintendent, subject to the approval
10 of the commissioner, shall appoint and set the salaries of such
11 State assistant superintendents as the superintendent shall deem
12 necessary and assign to them their duties and responsibilities. No
13 State assistant superintendent shall acquire tenure, notwithstand-
14 ing any other provision of law.

15 (3) The State district superintendent of schools shall, subject
16 to the approval of the commissioner or his designee, make all per-
17 sonnel determinations relative to employment, transfer and removal
18 of all officers and employees, professional and nonprofessional,
19 except that the services of the district auditor or auditors and
20 attorney or attorneys shall be immediately terminated by creation

21 of a State- operated school district pursuant to section 15 of P. L.
22 1975, c. 212 (C. 18A :7A-15).

23 b. The State district superintendent may delegate to subordinate
24 officers or employees in the district any of the superintendent's
25 powers and duties as the superintendent may deem desirable to be
26 exercised under the superintendent's supervision and direction.

1 10. (New section) Except as otherwise provided in this amenda-
2 tory and supplementary act, any person serving under tenure or
3 permanent civil service status shall retain all tenure rights and
4 may continue to serve in the district pursuant to the provisions
5 of this section. However, they shall perform only such duties as
6 prescribed or delegated by the State district superintendent and
7 for which they may be appropriately certified.

1 11. (New section) a. Notwithstanding any other provision of
2 law or contract, the positions of the district's chief school admin-
3 istrator and those executive administrators responsible for cur-
4 riculum, business and finance, and personnel shall be abolished
5 upon creation of the State-operated school district. The affected
6 individuals shall be given 60 days notice of termination or 60 days
7 pay. The notice or payment shall be in lieu of any other claim or
8 recourse against the employing board or the school district based
9 on law or contract. Any individual whose position is abolished by
10 operation of this subsection shall be entitled to assert a claim to
11 any position or to placement upon a preferred eligibility list for
12 any position to which the individual may be entitled by virtue of
13 tenure or seniority within the district. No individual whose posi-
14 tion is abolished by operation of this subsection shall retain any
15 right to tenure or seniority in the positions abolished herein.

16 b. The State district superintendent shall prepare a reorganiza-
17 tion of the district's central administrative and supervisory staff
18 and shall evaluate all individuals employed in central administra-
19 tive and supervisory staff positions. Within six months of the
20 establishment of the State-operated district the State district
21 superintendent shall implement the reorganization.

22 c. Notwithstanding any other provision of law or contract, the
23 positions of the central administrative and supervisory staff, in-
24 structional and noninstructional, other than those positions abol-
25 ished pursuant to subsection a. of this section, shall be abolished
26 upon the reorganization of the State-operated school district's
27 staff. The State district superintendent may hire an individual
28 whose position is so abolished, based upon the evaluation of the
29 individual and the staffing needs of the reorganized district staff.
30 These individuals shall be hired with tenure if they had tenure in

31 their prior position. If they did not have tenure in their prior
32 position, they may obtain tenure pursuant to the provisions of
33 N. J. S. 18A:28-6. Individuals hired as State assistant superin-
34 tendents shall not be hired with tenure and shall not acquire tenure.
35 Employees or officers not hired for the reorganized staff shall be
36 given 60 days notice of termination or 60 days pay. The notice or
37 payment shall be in lieu of any other claim or recourse against the
38 employing board or the school district based on law or contract.
39 **Notwithstanding this limitation, nothing herein shall preclude an*
40 *individual from asserting upon separation from service any legal*
41 *contractual right to health care coverage, annuities, accrued vaca-*
42 *tion days, accrued sick leave, insurance and approved tuition costs.**
43 Any employee whose position is abolished by operation of this
44 subsection shall be entitled to assert a claim to any position or to
45 placement upon a preferred eligibility list for any position to which
46 the employee may be entitled by virtue of tenure or seniority
47 within the district. No employee whose position is abolished by
48 operation of this subsection shall retain any right to tenure or
49 seniority in the positions abolished herein.

1 12. (New section) a. The Commissioner of Education shall adopt
2 criteria for the evaluation of building principals in a State-operated
3 school district.

4 b. Upon appointment, the State district superintendent shall
5 establish an assessment unit which shall conduct on-site evaluations
6 of each building principal in accordance with the criteria estab-
7 lished by the commissioner and render evaluation reports to the
8 State district superintendent. No less than three evaluations shall
9 be performed for each building principal within six months follow-
10 ing the reorganization of the central administrative and super-
11 visory staff required by section 11 of this act. All personnel records
12 for building principals prepared before the establishment of the
13 State-operated district shall be sealed upon issuance of the State
14 Board of Education order establishing the State-operated school
15 district.

16 c. Notwithstanding any other provision of law or contract, the
17 State district superintendent, after completion of an assessment
18 cycle of not less than 12 months, may dismiss any tenured building
19 principal for inefficiency, incapacity, unbecoming conduct or other
20 just cause as defined by the criteria for principal performance in
21 State-operated districts established by the commissioner pursuant
22 to subsection a. of this section. Nothing herein shall preclude the
23 dismissal of a tenured building principal prior to the completion of
24 an assessment cycle of not less than 12 months if the basis for the

25 dismissal is incapacity or unbecoming conduct. All dismissals of
 26 tenured building principals shall be conducted in accordance with
 27 the procedures set forth in sections 10, 11, 13, 14, 16 and 17 of
 28 chapter 6 of Title 18A of the New Jersey Statutes, except that the
 29 State district superintendent shall act as the board of education
 30 in all respects.

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

39 e. Evaluations of building principals conducted by district per-
 40 sonnel prior to the establishment of the State-operated school
 41 district shall not be admissible in a tenure hearing for any building
 42 principal except in the following circumstances:

43 (1) Evaluations of building principals performed by members
 44 of the State-operated school district's central administrative and
 45 supervisory staff who are hired by the State district superintendent
 46 to fill one of the positions in the reorganized central office of the
 47 State-operated district shall be admissible;

48 (2) Evaluations of building principals made by individuals who
 49 were no longer employed by the school district as of the date it
 50 became a State-operated school district shall be admissible only
 51 if the evaluation was performed more than five years preceding
 52 the date of the establishment of the State-operated district.

1 13. (New section) a. State-operated school districts shall be
 2 created only as provided pursuant to section 15 of P. L. 1975, c. 212
 3 (C. 18A:7A-15).

4 b. State-operated school districts shall be conducted by and
 5 under the supervision of a State district superintendent appointed
 6 by the State Board of Education upon recommendation of the
 7 commissioner.

1 14. (New section) Within 60 days, the commissioner shall estab-
 2 lish a board of education consisting of not more than 15 persons
 3 from among the residents of the district. The membership of the
 4 board shall be representative of the community's racial and ethnic
 5 balance. Previous members of the board of education shall not be
 6 precluded from consideration for membership on this board. Of
 7 the 15 members, 13 shall be appointed by the commissioner and
 8 two shall be appointed by the local governing body of the munici-

9 pality in which the school district is located. If the school district
10 includes more than one municipality, then the governing body of
11 each constituent municipality shall have one appointment to the
12 board and the number of appointments by the commissioner shall
13 be reduced accordingly. If the local governing body fails to agree
14 upon the selection of board members, then the commissioner may
15 make the additional two appointments. All individuals appointed
16 to the board shall meet all of the statutory requirements for mem-
17 bership on a board of education. Members of the board of educa-
18 tion shall serve at the pleasure of the appointing authority. The
19 board shall meet as soon as may be possible after its appointment
20 and shall select a chairman and a vice-chairman from among its
21 members.

22 The State district superintendent shall meet with the board of
23 education at least once in each month and may meet more fre-
24 quently as necessary for the effective operation of the school
25 district. The meetings of the board shall be convened and scheduled
26 at the direction of the State district superintendent, and the State
27 district superintendent shall determine the agenda. At the meet-
28 ings, the State district superintendent shall report to the board
29 on all actions taken and on pending actions in a timely fashion,
30 and provide an opportunity for a full discussion by the board and
31 by the public of those actions. Meetings shall be conducted pur-
32 suant to the provisions of the "Open Public Meetings Act," P. L.
33 1975, c. 231 (C. 10:4-6 et seq.). On a regular basis, but no less than
34 twice each year, the board of education shall report in writing
35 directly to the State district superintendent concerning its assess-
36 ment of the progress of the district. Copies of the report shall
37 be forwarded to the commissioner and the State board. The State
38 district superintendent shall make such clerical and other resources
39 available as are necessary for the effective operation of the board
40 of education.

41 The commissioner, in consultation with the appropriate educa-
42 tional organizations, shall provide the members of the board of
43 education with appropriate in-service training in school matters.

1 15. (New section) At the April school election in the fourth
2 year following the creation of a State-operated school district,
3 nine board members shall be elected from among the 15 appointed
4 board members, three to serve a one year term, three to serve a
5 two year term, and three to serve a three year term. If there are
6 not nine members from the 15 appointed members who are willing
7 to run for election, the commissioner shall retain the right to ap-
8 point the remaining members of the board. Following the election

9 of the board, the State district superintendent may bring matters
10 before the board for a vote; however the State district superin-
11 tendent shall retain veto power until such time as the State board
12 determines that local control should be reestablished. In each
13 subsequent year, three board members will be elected from the
14 community at large.

1 16. (New section) a. The State district superintendent shall
2 annually provide to the commissioner an assessment of the progress
3 of the district toward meeting the requirements necessary for State
4 certification. The commissioner shall formally report to the State
5 board and to the Governor and the Legislature on the district's
6 progress.

7 b. Based upon the annual assessment of progress and the dis-
8 trict's having received State certification, but not sooner than five
9 years after the establishment of the State-operated school district,
10 the commissioner may recommend to the State board that local
11 control be reestablished.

12 c. Upon a determination by the State board that local control
13 should be reestablished, the State district superintendent and those
14 members of the superintendent's staff appointed by operation of
15 these laws relating to State-operated school districts shall continue
16 to serve for a one year transition period upon conclusion of which
17 their term of service shall expire without prejudice to the right of
18 the district board of education to reappoint any or all such persons
19 to similar positions within the district.

20 d. Not more than one year following the reestablishment of local
21 control, the board shall conduct a special election for purposes of
22 placing the question of classification status before the voters of
23 the district.

24 e. If the voters of the district shall elect to become a type I
25 district, it shall be governed by the provisions of chapter 9 of Title
26 18A of the New Jersey Statutes relating to type I districts after
27 January 31 next ensuing, unless the district is established in a city
28 of the first class, in which case it shall be governed after June 30
29 next ensuing. The members of the district board of education at
30 the time of said election shall continue in office until expiration of
31 their respective terms and the qualification in office of their suc-
32 cessors.

33 f. If the voters of the district shall so select that the district shall
34 become a type II district, it shall be governed by the provisions of
35 chapter 9 of Title 18A relating to type II districts and the members
36 of the board of education at the time of said election shall remain

37 and continue in office until the expiration of their respective terms
38 and the qualification of their respective successors.

39 g. If the commissioner cannot recommend that local control be
40 reestablished in a district five years after the establishment of a
41 State-operated school district, then the commissioner shall provide
42 a comprehensive report to the State board and to the Governor and
43 the Legislature, including a detailed analysis of the causes for the
44 failure of the district to achieve certification and an assessment of
45 the amount of time necessary for the continuation of the State-
46 operated school district. On the basis of that report the State board
47 shall determine whether to continue the State-operated school dis-
48 trict or return the district to local control pursuant to this section.

1 17. (New section) The State district superintendent of a State-
2 operated school district shall develop a budget on or before the
3 first Tuesday in March and shall present this budget to the board
4 of education to elicit the board's comments and recommendations.
5 This budget shall conform in all respects with the requirements of
6 chapter 22 of Title 18A of the New Jersey Statutes and shall be
7 subject to the limitations on spending by local school districts
8 otherwise required by P. L. 1975, c. 212 (C. 18A:7A-1 et seq.).

9 ***The State-operated district shall receive current year funding of*
10 *all State education aid based upon the budget prepared by the State*
11 *district superintendent pursuant to section 19 of this act. For the*
12 *purposes of this act "current year funding" shall mean that State*
13 *aid shall be calculated on the basis of the budget for the school year*
14 *in which the expenditures are made.***

1 18. (New section) Upon the preparation of its budget, the State
2 district superintendent shall fix a date, place and time for the
3 holding of a public hearing upon the budget and the amounts of
4 money necessary to be appropriated for the use of the public
5 schools for the ensuing school year, and the various items and pur-
6 poses for which the same are to be appropriated, which hearing
7 shall be held between the first Tuesday in March and March 18.
8 Notice of the hearing, contents of the notice and the format and
9 purpose of the hearing shall be as provided in N. J. S. 18A:22-11,
10 N. J. S. 18A:22-12 and N. J. S. 18A:22-13.

1 19. (New section) ***a.*** After the public hearing provided for by
2 section 18 of this amendatory and supplementary act but not later
3 than March 18, the State district superintendent shall fix and
4 determine the amount of money necessary to be appropriated for
5 the ensuing school year and shall certify the amounts to be raised
6 by special district tax for school purposes as well as the sum
7 necessary for interest and debt redemption, if any, to the county

8 board of taxation and the amount or amounts so certified shall
9 be included in the taxes assessed, levied and collected in the
10 municipality or municipalities comprising the district. Within 15
11 days after the certification by the State district superintendent, the
12 governing body of the municipality or municipalities comprising
13 the district shall notify the State district superintendent of its
14 intent to appeal to the commissioner the amount determined to
15 be necessary to be appropriated for each item appearing in the
16 proposed budget. The commissioner, upon receipt of the appeal
17 from the governing body of the municipality or municipalities
18 comprising the district and upon completion of the hearing process,
19 shall determine the amount necessary for the district to provide
20 a thorough and efficient educational program including the im-
21 plementation of the plan to correct deficiencies. **[The Director of
22 the Division of Local Government Services in the Department of
23 Community Affairs shall determine the maximum amount of addi-
24 tional money which can be derived locally for the schools without
25 imposing an unreasonable tax burden. If the costs, as determined
26 by the commissioner, exceed the maximum additional revenues as
27 determined by the director, the commissioner and the director shall
28 report their determinations to the Legislature with recommenda-
29 tions.]**

30 ***b. Notwithstanding that the State-operated district shall*
31 *receive current year funding of State education aid for its budget*
32 *as prepared by the State district superintendent and as approved*
33 *by the commissioner pursuant to subsection a. of this section, the*
34 *governing body of the municipality or municipalities comprising the*
35 *district may apply to the Director of the Division of Local Govern-*
36 *ment Services in the Department of Community Affairs for a*
37 *determination that the local share of revenues needed to support*
38 *the district's budget results in an unreasonable tax burden. The*
39 *director's findings of an unreasonable tax burden in a State-*
40 *operated school district may be based on the overall school, county*
41 *and municipal tax rates including any overlapping obligation of the*
42 *community, cash deficit, insufficient percentage of tax collections,*
43 *insufficient collection of other revenues, over-anticipation of the*
44 *revenues of prior years, nonliquidation of interfund transfers,*
45 *reliance on emergency authorizations, continual rollover of tax*
46 *anticipation notes, or other factors indicating a constrained ability*
47 *to raise sufficient revenues to meet its budgetary requirements.*
48 *In addition, the director's review may include but need not be*
49 *limited to an analysis of the ratable base of the community, the per*
50 *capita income of the residents of the district and the percentage*

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4644

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 1987

The Assembly Education Committee favorably reports Assembly Bill No. 4644 with committee amendments.

This bill establishes the procedures for the governance of State-operated school districts.

If a State-operated school district is established, the local board of education and the chief executive officers of the district will be dismissed and a State district superintendent will be appointed for a five year term with all the authority of a board of education.

The State district superintendent will evaluate all other central administration staff and reorganize the district's central administration. At that time, all remaining central administration staff positions will be abolished. Affected employees will be given 60 days notice or 60 days pay and will retain "bumping rights" for other positions in the district for which they may have seniority.

The commissioner shall adopt criteria for the evaluation of building principals in a State-operated district. Based on reports by an assessment unit, the State district superintendent may dismiss a tenured principal for inefficiency, incapacity, unbecoming conduct or other just cause as defined by the commissioner. The dismissal will be conducted in accordance with procedures set forth in existing law, except that the Commissioner of Education and the Office of Administrative law are directed to expedite the tenure hearing process. The only evaluations that will be admissible at the tenure hearings will be: a. those conducted during the State operation of the school district, b. those conducted before State operation of the district by individuals who were subsequently rehired by the State district superintendent to fill a position in the reorganized central staff, or c. those conducted more than five years prior to the establishment of the State-operated district.

In place of the board of education removed at the time of State intervention, the commissioner will establish a 15 member board of education, with 13 members appointed by the commissioner and two appointed by the local municipal governing body, which will meet

monthly with the State district superintendent to receive reports on all actions taken. In the fourth year after the establishment of the State-operated school district, an election will be held at which time a nine member board of education will be elected for staggered three year terms from among the members of the 15 member board. The State district superintendent may call upon this elected board to take formal action on such issues as he deems appropriate.

Annually, the commissioner shall assess the progress of the district and formally report to the State board, the Governor and the Legislature. If, after five years, the district has received certification, the commissioner may recommend to the State board that local control be reestablished. At that time, control shall be restored to the board of education then in office.

If after five years, the commissioner cannot recommend the return to local control, he must provide a comprehensive report to the State board, the Governor and the Legislature. On the basis of that report, the State board will decide whether to continue the State-operated district or return the district to local control.

This bill becomes effective upon the enactment of Assembly Bill No. 4643.

The committee amended the bill to provide that dismissed central staff employees, other than superintendents, would not lose certain specified contractual benefits such as health care coverage and accrued vacation days to which separated employees may be entitled.

SENATE EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4644

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 7, 1987

The Senate Education Committee favorably reports Assembly Bill No. 4644 Aca without committee amendments.

This bill establishes the procedures for the governance of State-operated school districts.

If a State-operated school district is established, the local board of education and the chief executive officers of the district will be dismissed and a State district superintendent will be appointed for a five year term with all the authority of a board of education.

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This bill becomes effective upon the enactment of Senate Bill No. 3766 or Assembly Bill No. 4643.

This bill is identical to Senate Bill No. 3767 with Senate Education Committee amendments.

SENATE EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4644

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 7, 1987

The Senate Education Committee favorably reports Assembly Bill No. 4644 Aca without committee amendments.

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In place of the board of education removed at the time of State intervention, the commissioner will establish a 15 member board of education, with 13 members appointed by the commissioner and two appointed by the local municipal governing body, which will meet

monthly with the State district superintendent to receive reports on all actions taken. In the fourth year after the establishment of the State-operated school district, an election will be held at which time a nine member board of education will be elected for staggered three year terms from among the members of the 15 member board. The State district superintendent may call upon this elected board to take formal action on such issues as he deems appropriate.

Annually, the commissioner shall assess the progress of the district and formally report to the State Board, the Governor and the Legislature. If, after five years, the district has received certification, the commissioner may recommend to the State board that local control be reestablished. At that time, control shall be restored to the board of education then in office.

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This bill becomes effective upon the enactment of Senate Bill No. 3766 or Assembly Bill No. 4643.

This bill is identical to Senate Bill No. 3767 with Senate Education Committee amendments.

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 4644

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1987

By Assemblymen PALAIA, GARGIULO, Assemblywoman Donovan,
Assemblyman Villane, Assemblywoman Garvin, Assemblymen
Haytaian, Kavanaugh and Franks

AN ACT concerning the governance of State-operated school dis-
tricts, amending N. J. S. 18A:9-1 and N. J. S. 18A:10-1 and
supplementing Title 18A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. (New section) Whenever the Commissioner of Education shall
2 determine after the issuance of an administrative order that a local
3 school district has failed to assure a thorough and efficient system
4 of education, the State Board of Education may issue an admin-
5 istrative order as set forth in section 15 of P. L. 1975, c. 212 (C.
6 18A:7A-15) which shall remove the district board of education and
7 create a State-operated school district. The State-operated school
8 district shall become effective immediately upon issuance of the
9 administrative order by the State board.

1 2. (New section) a. The schools of a State-operated school
2 district shall be conducted by and under the supervision of a State
3 district superintendent of schools appointed by the State board
4 upon recommendation of the commissioner. The individual selected
5 shall be qualified by training and experience for the particular
6 district.

7 b. The State district superintendent shall be appointed for an
8 original term not to exceed five years. Notwithstanding any other
9 provision of law, no person so appointed shall acquire tenure nor
10 shall the commissioner, with approval of the State board, be pre-

**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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendment adopted November 23, 1987.

11 eluded from terminating the superintendent's services pursuant to
12 the terms of the superintendent's individual contract of employ-
13 ment. For the purpose of the New Jersey Tort Claims Act, P. L.
14 1972, c. 45 (C. 59:1-1 et seq.), the State district superintendent
15 shall be considered a State officer.

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

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

28 e. Except as otherwise provided in this amendatory and supple-
29 mentary act, the State district superintendent shall have the power
30 to perform all acts and do all things consistent with law necessary
31 for the proper conduct, maintenance and supervision of the schools
32 in the district.

33 f. The State district superintendent may make, amend and re-
34 peal district rules, policies and guidelines, not inconsistent with
35 law for the proper conduct, maintenance and supervision of the
36 schools in the district.

37 g. The State district superintendent shall provide in each school
38 a mechanism for parent, teacher and community involvement.

39 h. The State district superintendent shall ensure that the district
40 is in compliance with all federal and State laws, rules and regula-
41 tions relating to equal employment opportunities, affirmative action
42 and minority busine. opportunities.

1 3. (New section) No person shall be appointed to any position
2 pursuant to this amendatory and supplementary act unless the
3 person shall hold an appropriate certificate as prescribed by the
4 State Board of Examiners.

1 4. (New section) Notwithstanding the absence of a board of
2 education, a State-operated school district shall remain a corpo-
3 rate entity.

1 5. (New section) Except as otherwise provided in this amenda-
2 tory and supplementary act, the State district superintendent in
3 a State-operated school district shall have the power to:

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

5 b. Perform all acts and do all things, consistent with law and
6 the rules of the State board, necessary for the lawful and proper
7 conduct, equipment and maintenance of the public schools of the
8 district.

1 6. (New section) a. The State district superintendent of a State-
2 operated school district may:

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

6 (2) Cause a report of the condition of the public schools and the
7 public school property under the superintendent's control and an
8 itemized account of the condition of the finances of the district to
9 be printed and published as soon as practicable after the close of
10 each school year; and

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

18 b. A State-operated school district may be sued under its corpo-
19 rate name.

20 c. State-operated school districts may join with local boards of
21 education for the purpose of affording the districts those benefits
22 which may accrue pursuant to P. L. 1983, c. 108 (C. 18A:18B-1
23 et seq.).

24 d. A State-operated school district shall be subject to all pro-
25 visions of chapter 19 of Title 18A of the New Jersey Statutes
26 except that all warrants for claims or expenditures approvable
27 by a district board of education or any action required of a district
28 board of education pursuant to chapter 19 shall be authorized by
29 the State district superintendent.

30 e. Authority for the implementation of any provision of chapter
31 20 of Title 18A of the New Jersey Statutes relative to the acqui-
32 sition and disposition of property which requires action by a district
33 board of education shall, in a State-operated school district, be
34 exercised by the State district superintendent.

35 f. The authority vested in boards of education by chapter 21 of
36 Title 18A of the New Jersey Statutes shall in a State-operated
37 school district be vested in the State district superintendent.

38 g. State-operated school districts shall be subject to all require-
 39 ments set forth in chapter 18A of Title 18A of the New Jersey
 40 Statutes except that such determination as may be required of a
 41 district board of education by the provisions of said law shall be
 42 rendered by the State district superintendent.

1 7. (New section) a. When the board of education is removed
 2 and a State-operated district is established, pursuant to section 1
 3 of this amendatory and supplementary act, or when local control is
 4 reestablished, pursuant to section 16 of this amendatory and sup-
 5 plementary act, collective bargaining agreements entered into by
 6 the school district shall remain in force, except where otherwise
 7 expressly provided in this amendatory and supplementary act.

8 b. Except where otherwise expressly provided in this amenda-
 9 tory and supplementary act, all teaching staff members and other
 10 employees of a State-operated district shall retain and continue
 11 to acquire all rights and privileges acquired pursuant to Title 18A
 12 of the New Jersey statutes. After the reestablishment of local
 13 control in the district, the board shall preserve and recognize all
 14 rights and privileges acquired prior to and during the State opera-
 15 tion of the district.

1 8. (New section) There shall be established within a State-
 2 operated school district an internal audit team which shall monitor
 3 the business functions of the district and report its findings to the
 4 State district superintendent and the commissioner. The cost of
 5 providing this internal audit function shall be borne by the State.

1 9. (New section) a. In a State-operated school district, all offi-
 2 cers, employees and consultants, professional and nonprofessional,
 3 certified and noncertified, shall be employed or retained, trans-
 4 ferred and removed as provided below:

5 (1) The State district superintendent may appoint, transfer and
 6 remove clerks, pursuant to the provisions of Title 11A (Civil
 7 Service) of the New Jersey Statutes and the provisions of N. J. S.
 8 18A:17-1 et seq.

9 (2) The State district superintendent, subject to the approval
 10 of the commissioner, shall appoint and set the salaries of such
 11 State assistant superintendents as the superintendent shall deem
 12 necessary and assign to them their duties and responsibilities. No
 13 State assistant superintendent shall acquire tenure, notwithstand-
 14 ing any other provision of law.

15 (3) The State district superintendent of schools shall, subject
 16 to the approval of the commissioner or his designee, make all per-
 17 sonnel determinations relative to employment, transfer and removal
 18 of all officers and employees, professional and nonprofessional,

19 except that the services of the district auditor or auditors and
20 attorney or attorneys shall be immediately terminated by creation
21 of a State-operated school district pursuant to section 15 of P. L.
22 1975, c. 212 (C. 18A:7A-15).

23 b. The State district superintendent may delegate to subordinate
24 officers or employees in the district any of the superintendent's
25 powers and duties as the superintendent may deem desirable to be
26 exercised under the superintendent's supervision and direction.

1 10. (New section) Except as otherwise provided in this amenda-
2 tory and supplementary act, any person serving under tenure or
3 permanent civil service status shall retain all tenure rights and
4 may continue to serve in the district pursuant to the provisions
5 of this section. However, they shall perform only such duties as
6 prescribed or delegated by the State district superintendent and
7 for which they may be appropriately certified.

1 11. (New section) a. Notwithstanding any other provision of
2 law or contract, the positions of the district's chief school admin-
3 instructor and those executive administrators responsible for cur-
4 riculum, business and finance, and personnel shall be abolished
5 upon creation of the State-operated school district. The affected
6 individuals shall be given 60 days notice of termination or 60 days
7 pay. The notice or payment shall be in lieu of any other claim or
8 recourse against the employing board or the school district based
9 on law or contract. Any individual whose position is abolished by
10 operation of this subsection shall be entitled to assert a claim to
11 any position or to placement upon a preferred eligibility list for
12 any position to which the individual may be entitled by virtue of
13 tenure or seniority within the district. No individual whose posi-
14 tion is abolished by operation of this subsection shall retain any
15 right to tenure or seniority in the positions abolished herein.

16 b. The State district superintendent shall prepare a reorganiza-
17 tion of the district's central administrative and supervisory staff
18 and shall evaluate all individuals employed in central administra-
19 tive and supervisory staff positions. Within six months of the
20 establishment of the State-operated district the State district
21 superintendent shall implement the reorganization.

22 c. Notwithstanding any other provision of law or contract, the
23 positions of the central administrative and supervisory staff, in-
24 structional and noninstructional, other than those positions abol-
25 ished pursuant to subsection a. of this section, shall be abolished
26 upon the reorganization of the State-operated school district's
27 staff. The State district superintendent may hire an individual
28 whose position is so abolished, based upon the evaluation of the

29 individual and the staffing needs of the reorganized district staff.
30 These individuals shall be hired with tenure if they had tenure in
31 their prior position. If they did not have tenure in their prior
32 position, they may obtain tenure pursuant to the provisions of
33 N. J. S. 18A:28-6. Individuals hired as State assistant superin-
34 tendents shall not be hired with tenure and shall not acquire tenure.
35 Employees or officers not hired for the reorganized staff shall be
36 given 60 days notice of termination or 60 days pay. The notice or
37 payment shall be in lieu of any other claim or recourse against the
38 employing board or the school district based on law or contract.
39 **Notwithstanding this limitation, nothing herein shall preclude an*
40 *individual from asserting upon separation from service any legal*
41 *contractual right to health care coverage, annuities, accrued vaca-*
42 *tion days, accrued sick leave, insurance and approved tuition costs.**
43 Any employee whose position is abolished by operation of this
44 subsection shall be entitled to assert a claim to any position or to
45 placement upon a preferred eligibility list for any position to which
46 the employee may be entitled by virtue of tenure or seniority
47 within the district. No employee whose position is abolished by
48 operation of this subsection shall retain any right to tenure or
49 seniority in the positions abolished herein.

1 12. (New section) a. The Commissioner of Education shall adopt
2 criteria for the evaluation of building principals in a State-operated
3 school district.

4 b. Upon appointment, the State district superintendent shall
5 establish an assessment unit which shall conduct on-site evaluations
6 of each building principal in accordance with the criteria estab-
7 lished by the commissioner and render evaluation reports to the
8 State district superintendent. No less than three evaluations shall
9 be performed for each building principal within six months follow-
10 ing the reorganization of the central administrative and super-
11 visory staff required by section 11 of this act. All personnel records
12 for building principals prepared before the establishment of the
13 State-operated district shall be sealed upon issuance of the State
14 Board of Education order establishing the State-operated school
15 district.

16 c. Notwithstanding any other provision of law or contract, the
17 State district superintendent, after completion of an assessment
18 cycle of not less than 12 months, may dismiss any tenured building
19 principal for inefficiency, incapacity, unbecoming conduct or other
20 just cause as defined by the criteria for principal performance in
21 State-operated districts established by the commissioner pursuant
22 to subsection a. of this section. Nothing herein shall preclude the

23 dismissal of a tenured building principal prior to the completion of
24 an assessment cycle of not less than 12 months if the basis for the
25 dismissal is incapacity or unbecoming conduct. All dismissals of
26 tenured building principals shall be conducted in accordance with
27 the procedures set forth in sections 10, 11, 13, 14, 16 and 17 of
28 chapter 6 of Title 18A of the New Jersey Statutes, except that the
29 State district superintendent shall act as the board of education
30 in all respects.

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

39 e. Evaluations of building principals conducted by district per-
40 sonnel prior to the establishment of the State-operated school
41 district shall not be admissible in a tenure hearing for any building
42 principal except in the following circumstances:

43 (1) Evaluations of building principals performed by members
44 of the State-operated school district's central administrative and
45 supervisory staff who are hired by the State district superintendent
46 to fill one of the positions in the reorganized central office of the
47 State-operated district shall be admissible;

48 (2) Evaluations of building principals made by individuals who
49 were no longer employed by the school district as of the date it
50 became a State-operated school district shall be admissible only
51 if the evaluation was performed more than five years preceding
52 the date of the establishment of the State-operated district.

1 13. (New section) a. State-operated school districts shall be
2 created only as provided pursuant to section 15 of P. L. 1975, c. 212
3 (C. 18A:7A-15).

4 b. State-operated school districts shall be conducted by and
5 under the supervision of a State district superintendent appointed
6 by the State Board of Education upon recommendation of the
7 commissioner.

1 14. (New section) Within 60 days, the commissioner shall estab-
2 lish a board of education consisting of not more than 15 persons
3 from among the residents of the district. The membership of the
4 board shall be representative of the community's racial and ethnic
5 balance. Previous members of the board of education shall not be
6 precluded from consideration for membership on this board. Of

7 the 15 members, 13 shall be appointed by the commissioner and
8 two shall be appointed by the local governing body of the municipi-
9 pality in which the school district is located. If the school district
10 includes more than one municipality, then the governing body of
11 each constituent municipality shall have one appointment to the
12 board and the number of appointments by the commissioner shall
13 be reduced accordingly. If the local governing body fails to agree
14 upon the selection of board members, then the commissioner may
15 make the additional two appointments. All individuals appointed
16 to the board shall meet all of the statutory requirements for mem-
17 bership on a board of education. Members of the board of educa-
18 tion shall serve at the pleasure of the appointing authority. The
19 board shall meet as soon as may be possible after its appointment
20 and shall select a chairman and a vice-chairman from among its
21 members.

22 The State district superintendent shall meet with the board of
23 education at least once in each month and may meet more fre-
24 quently as necessary for the effective operation of the school
25 district. The meetings of the board shall be convened and scheduled
26 at the direction of the State district superintendent, and the State
27 district superintendent shall determine the agenda. At the meet-
28 ings, the State district superintendent shall report to the board
29 on all actions taken and on pending actions in a timely fashion,
30 and provide an opportunity for a full discussion by the board and
31 by the public of those actions. Meetings shall be conducted pur-
32 suant to the provisions of the "Open Public Meetings Act," P. L.
33 1975, c. 231 (C. 10:4-6 et seq.). On a regular basis, but no less than
34 twice each year, the board of education shall report in writing
35 directly to the State district superintendent concerning its assess-
36 ment of the progress of the district. Copies of the report shall
37 be forwarded to the commissioner and the State board. The State
38 district superintendent shall make such clerical and other resources
39 available as are necessary for the effective operation of the board
40 of education.

41 The commissioner, in consultation with the appropriate educa-
42 tional organizations, shall provide the members of the board of
43 education with appropriate in-service training in school matters.

1 15. (New section) At the April school election in the fourth
2 year following the creation of a State-operated school district,
3 nine board members shall be elected from among the 15 appointed
4 board members, three to serve a one year term, three to serve a
5 two year term, and three to serve a three year term. If there are
6 not nine members from the 15 appointed members who are willing

7 to run for election, the commissioner shall retain the right to ap-
8 point the remaining members of the board. Following the election
9 of the board, the State district superintendent may bring matters
10 before the board for a vote, however the State district superin-
11 tendent shall retain veto power until such time as the State board
12 determines that local control should be reestablished. In each
13 subsequent year, three board members will be elected from the
14 community at large.

1 16. (New section) a. The State district superintendent shall
2 annually provide to the commissioner an assessment of the progress
3 of the district toward meeting the requirements necessary for State
4 certification. The commissioner shall formally report to the State
5 board and to the Governor and the Legislature on the district's
6 progress.

7 b. Based upon the annual assessment of progress and the dis-
8 trict's having received State certification, but not sooner than five
9 years after the establishment of the State-operated school district,
10 the commissioner may recommend to the State board that local
11 control be reestablished.

12 c. Upon a determination by the State board that local control
13 should be reestablished, the State district superintendent and those
14 members of the superintendent's staff appointed by operation of
15 these laws relating to State-operated school districts shall continue
16 to serve for a one year transition period upon conclusion of which
17 their term of service shall expire without prejudice to the right of
18 the district board of education to reappoint any or all such persons
19 to similar positions within the district.

20 d. Not more than one year following the reestablishment of local
21 control, the board shall conduct a special election for purposes of
22 placing the question of classification status before the voters of
23 the district.

24 e. If the voters of the district shall elect to become a type I
25 district, it shall be governed by the provisions of chapter 9 of Title
26 18A of the New Jersey Statutes relating to type I districts after
27 January 31 next ensuing, unless the district is established in a city
28 of the first class, in which case it shall be governed after June 30
29 next ensuing. The members of the district board of education at
30 the time of said election shall continue in office until expiration of
31 their respective terms and the qualification in office of their suc-
32 cessors.

33 f. If the voters of the district shall so select that the district shall
34 become a type II district, it shall be governed by the provisions of
35 chapter 9 of Title 18A relating to type II districts and the members

36 of the board of education at the time of said election shall remain
37 and continue in office until the expiration of their respective terms
38 and the qualification of their respective successors.

39 g. If the commissioner cannot recommend that local control be
40 reestablished in a district five years after the establishment of a
41 State-operated school district, then the commissioner shall provide
42 a comprehensive report to the State board and to the Governor and
43 the Legislature, including a detailed analysis of the causes for the
44 failure of the district to achieve certification and an assessment of
45 the amount of time necessary for the continuation of the State-
46 operated school district. On the basis of that report the State board
47 shall determine whether to continue the State-operated school dis-
48 trict or return the district to local control pursuant to this section.

1 17. (New section) The State district superintendent of a State-
2 operated school district shall develop a budget on or before the
3 first Tuesday in March and shall present this budget to the board
4 of education to elicit the board's comments and recommendations.
5 This budget shall conform in all respects with the requirements of
6 chapter 22 of Title 18A of the New Jersey Statutes and shall be
7 subject to the limitations on spending by local school districts
8 otherwise required by P. L. 1975, c. 212 (C. 18A:7A-1 et seq.).

1 18. (New section) Upon the preparation of its budget, the State
2 district superintendent shall fix a date, place and time for the
3 holding of a public hearing upon the budget and the amounts of
4 money necessary to be appropriated for the use of the public
5 schools for the ensuing school year, and the various items and pur-
6 poses for which the same are to be appropriated, which hearing
7 shall be held between the first Tuesday in March and March 18.
8 Notice of the hearing, contents of the notice and the format and
9 purpose of the hearing shall be as provided in N. J. S. 18A:22-11,
10 N. J. S. 18A:22-12 and N. J. S. 18A:22-13.

1 19. (New section) After the public hearing provided for by
2 section 18 of this amendatory and supplementary act but not later
3 than March 18, the State district superintendent shall fix and
4 determine the amount of money necessary to be appropriated for
5 the ensuing school year and shall certify the amounts to be raised
6 by special district tax for school purposes as well as the sum
7 necessary for interest and debt redemption, if any, to the county
8 board of taxation and the amount or amounts so certified shall
9 be included in the taxes assessed, levied and collected in the
10 municipality or municipalities comprising the district. Within 15
11 days after the certification by the State district superintendent, the
12 governing body of the municipality or municipalities comprising

13 the district shall notify the State district superintendent of its
 14 intent to appeal to the commissioner the amount determined to
 15 be necessary to be appropriated for each item appearing in the
 16 proposed budget. The commissioner, upon receipt of the appeal
 17 from the governing body of the municipality or municipalities
 18 comprising the district and upon completion of the hearing process,
 19 shall determine the amount necessary for the district to provide
 20 a thorough and efficient educational program including the im-
 21 plementation of the plan to correct deficiencies. The Director of
 22 the Division of Local Government Services in the Department of
 23 Community Affairs shall determine the maximum amount of addi-
 24 tional money which can be derived locally for the schools without
 25 imposing an unreasonable tax burden. If the costs, as determined
 26 by the commissioner, exceed the maximum additional revenues as
 27 determined by the director, the commissioner and the director shall
 28 report their determinations to the Legislature with recommenda-
 29 tions.

1 20. N. J. S. 18A:9-1 is amended to read as follows:

2 18A:9-1. School districts shall be classified as type I and type II
 3 school districts, [as provided in this chapter] *except that the State*
 4 *board may, by administrative order pursuant to its authority under*
 5 *section 15 of P. L. 1975, c. 212 (C. 18A:7A-15), create a State-*
 6 *operated school district.*

1 21. N. J. S. 18A:10-1 is amended to read as follows:

2 18A:10-1. The schools of each school district shall be conducted,
 3 by and under the supervision of a board of education, which shall
 4 be a body corporate and which shall be constituted and governed,
 5 as provided by this title, for a type I, type II or regional school
 6 district, as the case may be, *but the State board pursuant to an*
 7 *administrative order issued by authority of section 15 of P. L. 1975,*
 8 *c. 212 (C. 18A:7A-15) may create a State-operated school district*
 9 *which shall be conducted by a State district superintendent.*

1 22. This act shall take effect immediately, but shall remain in-
 2 operative until enactment of P. L., c. (C.)
 3 (now pending before the Legislature as Assembly Bill No. 4643
 4 of 1987 or Senate Bill No. 3766 of 1987).

EDUCATION—GENERAL

Establishes the procedures for the governance of State-operated
 school districts.

[SENATE REPRINT]

ASSEMBLY, No. 4644

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1987

By Assemblymen PALAIA, GARGIULO, Assemblywoman Donovan,
Assemblyman Villane, Assemblywoman Garvin, Assemblymen
Haytaian, Kavanaugh and Franks

AN ACT concerning the governance of State-operated school districts, amending N. J. S. 18A:9-1 and N. J. S. 18A:10-1 and supplementing Title 18A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. (New section) Whenever the Commissioner of Education shall
2 determine after the issuance of an administrative order that a local
3 school district has failed to assure a thorough and efficient system
4 of education, the State Board of Education may issue an admin-
5 istrative order as set forth in section 15 of P. L. 1975, c. 212 (C.
6 18A:7A-15) which shall remove the district board of education and
7 create a State-operated school district. The State-operated school
8 district shall become effective immediately upon issuance of the
9 administrative order by the State board.

1 2. (New section) a. The schools of a State-operated school
2 district shall be conducted by and under the supervision of a State
3 district superintendent of schools appointed by the State board
4 upon recommendation of the commissioner. The individual selected
5 shall be qualified by training and experience for the particular
6 district.

7 b. The State district superintendent shall be appointed for an
8 original term not to exceed five years. Notwithstanding any other
9 provision of law, no person so appointed shall acquire tenure nor
10 shall the commissioner, with approval of the State board, be pre-

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendment adopted November 23, 1987.

**—Senate amendments adopted December 17, 1987.

11 eluded from terminating the superintendent's services pursuant to
12 the terms of the superintendent's individual contract of employ-
13 ment. For the purpose of the New Jersey Tort Claims Act, P. L.
14 1972, c. 45 (C. 59:1-1 et seq.), the State district superintendent
15 shall be considered a State officer.

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

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

28 e. Except as otherwise provided in this amendatory and supple-
29 mentary act, the State district superintendent shall have the power
30 to perform all acts and do all things consistent with law necessary
31 for the proper conduct, maintenance and supervision of the schools
32 in the district.

33 f. The State district superintendent may make, amend and re-
34 peal district rules, policies and guidelines, not inconsistent with
35 law for the proper conduct, maintenance and supervision of the
36 schools in the district.

37 g. The State district superintendent shall provide in each school
38 a mechanism for parent, teacher and community involvement.

39 h. The State district superintendent shall ensure that the district
40 is in compliance with all federal and State laws, rules and regula-
41 tions relating to equal employment opportunities, affirmative action
42 and minority business opportunities.

1 3. (New section) No person shall be appointed to any position
2 pursuant to this amendatory and supplementary act unless the
3 person shall hold an appropriate certificate as prescribed by the
4 State Board of Examiners.

1 4. (New section) Notwithstanding the absence of a board of
2 education, a State-operated school district shall remain a corpo-
3 rate entity.

1 5. (New section) Except as otherwise provided in this amenda-
2 tory and supplementary act, the State district superintendent in
3 a State-operated school district shall have the power to:

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

5 b. Perform all acts and do all things, consistent with law and
6 the rules of the State board, necessary for the lawful and proper
7 conduct, equipment and maintenance of the public schools of the
8 district.

1 6. (New section) a. The State district superintendent of a State-
2 operated school district may:

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

6 (2) Cause a report of the condition of the public schools and the
7 public school property under the superintendent's control and an
8 itemized account of the condition of the finances of the district to
9 be printed and published as soon as practicable after the close of
10 each school year; and

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

18 b. A State-operated school district may be sued under its corpo-
19 rate name.

20 c. State-operated school districts may join with local boards of
21 education for the purpose of affording the districts those benefits
22 which may accrue pursuant to P. L. 1983, c. 108 (C. 18A:18B-1
23 et seq.).

24 d. A State-operated school district shall be subject to all pro-
25 visions of chapter 19 of Title 18A of the New Jersey Statutes
26 except that all warrants for claims or expenditures approvable
27 by a district board of education or any action required of a district
28 board of education pursuant to chapter 19 shall be authorized by
29 the State district superintendent.

30 e. Authority for the implementation of any provision of chapter
31 20 of Title 18A of the New Jersey Statutes relative to the acquisi-
32 tion and disposition of property which requires action by a district
33 board of education shall, in a State-operated school district, be
34 exercised by the State district superintendent.

35 f. The authority vested in boards of education by chapter 21 of
36 Title 18A of the New Jersey Statutes shall in a State-operated
37 school district be vested in the State district superintendent.

38 g. State-operated school districts shall be subject to all require-
39 ments set forth in chapter 18A of Title 18A of the New Jersey

40 Statutes except that such determination as may be required of a
41 district board of education by the provisions of said law shall be
42 rendered by the State district superintendent.

1 7. (New section) a. When the board of education is removed
2 and a State-operated district is established, pursuant to section 1
3 of this amendatory and supplementary act, or when local control is
4 reestablished, pursuant to section 16 of this amendatory and sup-
5 plementary act, collective bargaining agreements entered into by
6 the school district shall remain in force, except where otherwise
7 expressly provided in this amendatory and supplementary act.

8 b. Except where otherwise expressly provided in this amenda-
9 tory and supplementary act, all teaching staff members and other
10 employees of a State-operated district shall retain and continue
11 to acquire all rights and privileges acquired pursuant to Title 18A
12 of the New Jersey Statutes. After the reestablishment of local
13 control in the district, the board shall preserve and recognize all
14 rights and privileges acquired prior to and during the State opera-
15 tion of the district.

1 8. (New section) There shall be established within a State-
2 operated school district an internal audit team which shall monitor
3 the business functions of the district and report its findings to the
4 State district superintendent and the commissioner. The cost of
5 providing this internal audit function shall be borne by the State.

1 9. (New section) a. In a State-operated school district, all offi-
2 cers, employees and consultants, professional and nonprofessional,
3 certified and noncertified, shall be employed or retained, trans-
4 ferred and removed as provided below:

5 (1) The State district superintendent may appoint, transfer and
6 remove clerks, pursuant to the provisions of Title 11A (Civil
7 Service) of the New Jersey Statutes and the provisions of N. J. S.
8 18A:17-1 et seq.

9 (2) The State district superintendent, subject to the approval
10 of the commissioner, shall appoint and set the salaries of such
11 State assistant superintendents as the superintendent shall deem
12 necessary and assign to them their duties and responsibilities. No
13 State assistant superintendent shall acquire tenure, notwithstand-
14 ing any other provision of law.

15 (3) The State district superintendent of schools shall, subject
16 to the approval of the commissioner or his designee, make all per-
17 sonnel determinations relative to employment, transfer and removal
18 of all officers and employees, professional and nonprofessional,
19 except that the services of the district auditor or auditors and
20 attorney or attorneys shall be immediately terminated by creation

21 of a State-operated school district pursuant to section 15 of P. L.
22 1975, c. 212 (C. 18A:7A-15).

23 b. The State district superintendent may delegate to subordinate
24 officers or employees in the district any of the superintendent's
25 powers and duties as the superintendent may deem desirable to be
26 exercised under the superintendent's supervision and direction.

1 10. (New section) Except as otherwise provided in this amenda-
2 tory and supplementary act, any person serving under tenure or
3 permanent civil service status shall retain all tenure rights and
4 may continue to serve in the district pursuant to the provisions
5 of this section. However, they shall perform only such duties as
6 prescribed or delegated by the State district superintendent and
7 for which they may be appropriately certified.

1 11. (New section) a. Notwithstanding any other provision of
2 law or contract, the positions of the district's chief school admin-
3 istrator and those executive administrators responsible for cur-
4 riculum, business and finance, and personnel shall be abolished
5 upon creation of the State-operated school district. The affected
6 individuals shall be given 60 days notice of termination or 60 days
7 pay. The notice or payment shall be in lieu of any other claim or
8 recourse against the employing board or the school district based
9 on law or contract. Any individual whose position is abolished by
10 operation of this subsection shall be entitled to assert a claim to
11 any position or to placement upon a preferred eligibility list for
12 any position to which the individual may be entitled by virtue of
13 tenure or seniority within the district. No individual whose posi-
14 tion is abolished by operation of this subsection shall retain any
15 right to tenure or seniority in the positions abolished herein.

16 b. The State district superintendent shall prepare a reorganiza-
17 tion of the district's central administrative and supervisory staff
18 and shall evaluate all individuals employed in central administra-
19 tive and supervisory staff positions. Within six months of the
20 establishment of the State-operated district the State district
21 superintendent shall implement the reorganization.

22 c. Notwithstanding any other provision of law or contract, the
23 positions of the central administrative and supervisory staff, in-
24 structional and noninstructional, other than those positions abol-
25 ished pursuant to subsection a. of this section, shall be abolished
26 upon the reorganization of the State-operated school district's
27 staff. The State district superintendent may hire an individual
28 whose position is so abolished, based upon the evaluation of the
29 individual and the staffing needs of the reorganized district staff.
30 These individuals shall be hired with tenure if they had tenure in

31 their prior position. If they did not have tenure in their prior
32 position, they may obtain tenure pursuant to the provisions of
33 N. J. S. 18A:28-6. Individuals hired as State assistant superin-
34 tendents shall not be hired with tenure and shall not acquire tenure.
35 Employees or officers not hired for the reorganized staff shall be
36 given 60 days notice of termination or 60 days pay. The notice or
37 payment shall be in lieu of any other claim or recourse against the
38 employing board or the school district based on law or contract.
39 **Notwithstanding this limitation, nothing herein shall preclude an*
40 *individual from asserting upon separation from service any legal*
41 *contractual right to health care coverage, annuities, accrued vaca-*
42 *tion days, accrued sick leave, insurance and approved tuition costs.**
43 Any employee whose position is abolished by operation of this
44 subsection shall be entitled to assert a claim to any position or to
45 placement upon a preferred eligibility list for any position to which
46 the employee may be entitled by virtue of tenure or seniority
47 within the district. No employee whose position is abolished by
48 operation of this subsection shall retain any right to tenure or
49 seniority in the positions abolished herein.

1 12. (New section) a. The Commissioner of Education shall adopt
2 criteria for the evaluation of building principals in a State-operated
3 school district.

4 b. Upon appointment, the State district superintendent shall
5 establish an assessment unit which shall conduct on-site evaluations
6 of each building principal in accordance with the criteria estab-
7 lished by the commissioner and render evaluation reports to the
8 State district superintendent. No less than three evaluations shall
9 be performed for each building principal within six months follow-
10 ing the reorganization of the central administrative and super-
11 visory staff required by section 11 of this act. All personnel records
12 for building principals prepared before the establishment of the
13 State-operated district shall be sealed upon issuance of the State
14 Board of Education order establishing the State-operated school
15 district.

16 c. Notwithstanding any other provision of law or contract, the
17 State district superintendent, after completion of an assessment
18 cycle of not less than 12 months, may dismiss any tenured building
19 principal for inefficiency, incapacity, unbecoming conduct or other
20 just cause as defined by the criteria for principal performance in
21 State-operated districts established by the commissioner pursuant
22 to subsection a. of this section. Nothing herein shall preclude the
23 dismissal of a tenured building principal prior to the completion of
24 an assessment cycle of not less than 12 months if the basis for the

25 dismissal is incapacity or unbecoming conduct. All dismissals of
26 tenured building principals shall be conducted in accordance with
27 the procedures set forth in sections 10, 11, 13, 14, 16 and 17 of
28 chapter 6 of Title 18A of the New Jersey Statutes, except that the
29 State district superintendent shall act as the board of education
30 in all respects.

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

39 e. Evaluations of building principals conducted by district per-
40 sonnel prior to the establishment of the State-operated school
41 district shall not be admissible in a tenure hearing for any building
42 principal except in the following circumstances:

43 (1) Evaluations of building principals performed by members
44 of the State-operated school district's central administrative and
45 supervisory staff who are hired by the State district superintendent
46 to fill one of the positions in the reorganized central office of the
47 State-operated district shall be admissible;

48 (2) Evaluations of building principals made by individuals who
49 were no longer employed by the school district as of the date it
50 became a State-operated school district shall be admissible only
51 if the evaluation was performed more than five years preceding
52 the date of the establishment of the State-operated district.

1 13. (New section) a. State-operated school districts shall be
2 created only as provided pursuant to section 15 of P. L. 1975, c. 212
3 (C. 18A:7A-15).

4 b. State-operated school districts shall be conducted by and
5 under the supervision of a State district superintendent appointed
6 by the State Board of Education upon recommendation of the
7 commissioner.

1 14. (New section) Within 60 days, the commissioner shall estab-
2 lish a board of education consisting of not more than 15 persons
3 from among the residents of the district. The membership of the
4 board shall be representative of the community's racial and ethnic
5 balance. Previous members of the board of education shall not be
6 precluded from consideration for membership on this board. Of
7 the 15 members, 13 shall be appointed by the commissioner and
8 two shall be appointed by the local governing body of the munici-

9 pality in which the school district is located. If the school district
10 includes more than one municipality, then the governing body of
11 each constituent municipality shall have one appointment to the
12 board and the number of appointments by the commissioner shall
13 be reduced accordingly. If the local governing body fails to agree
14 upon the selection of board members, then the commissioner may
15 make the additional two appointments. All individuals appointed
16 to the board shall meet all of the statutory requirements for mem-
17 bership on a board of education. Members of the board of educa-
18 tion shall serve at the pleasure of the appointing authority. The
19 board shall meet as soon as may be possible after its appointment
20 and shall select a chairman and a vice-chairman from among its
21 members.

22 The State district superintendent shall meet with the board of
23 education at least once in each month and may meet more fre-
24 quently as necessary for the effective operation of the school
25 district. The meetings of the board shall be convened and scheduled
26 at the direction of the State district superintendent, and the State
27 district superintendent shall determine the agenda. At the meet-
28 ings, the State district superintendent shall report to the board
29 on all actions taken and on pending actions in a timely fashion,
30 and provide an opportunity for a full discussion by the board and
31 by the public of those actions. Meetings shall be conducted pur-
32 suant to the provisions of the "Open Public Meetings Act," P. L.
33 1975, c. 231 (C. 10:4-6 et seq.). On a regular basis, but no less than
34 twice each year, the board of education shall report in writing
35 directly to the State district superintendent concerning its assess-
36 ment of the progress of the district. Copies of the report shall
37 be forwarded to the commissioner and the State board. The State
38 district superintendent shall make such clerical and other resources
39 available as are necessary for the effective operation of the board
40 of education.

41 The commissioner, in consultation with the appropriate educa-
42 tional organizations, shall provide the members of the board of
43 education with appropriate in-service training in school matters.

1 15. (New section) At the April school election in the fourth
2 year following the creation of a State-operated school district,
3 nine board members shall be elected from among the 15 appointed
4 board members, three to serve a one year term, three to serve a
5 two year term, and three to serve a three year term. If there are
6 not nine members from the 15 appointed members who are willing
7 to run for election, the commissioner shall retain the right to ap-
8 point the remaining members of the board. Following the election

9 of the board, the State district superintendent may bring matters
10 before the board for a vote; however the State district superin-
11 tendent shall retain veto power until such time as the State board
12 determines that local control should be reestablished. In each
13 subsequent year, three board members will be elected from the
14 community at large.

1 16. (New section) a. The State district superintendent shall
2 annually provide to the commissioner an assessment of the progress
3 of the district toward meeting the requirements necessary for State
4 certification. The commissioner shall formally report to the State
5 board and to the Governor and the Legislature on the district's
6 progress.

7 b. Based upon the annual assessment of progress and the dis-
8 trict's having received State certification, but not sooner than five
9 years after the establishment of the State-operated school district,
10 the commissioner may recommend to the State board that local
11 control be reestablished.

12 c. Upon a determination by the State board that local control
13 should be reestablished, the State district superintendent and those
14 members of the superintendent's staff appointed by operation of
15 these laws relating to State-operated school districts shall continue
16 to serve for a one year transition period upon conclusion of which
17 their term of service shall expire without prejudice to the right of
18 the district board of education to reappoint any or all such persons
19 to similar positions within the district.

20 d. Not more than one year following the reestablishment of local
21 control, the board shall conduct a special election for purposes of
22 placing the question of classification status before the voters of
23 the district.

24 e. If the voters of the district shall elect to become a type I
25 district, it shall be governed by the provisions of chapter 9 of Title
26 18A of the New Jersey Statutes relating to type I districts after
27 January 31 next ensuing, unless the district is established in a city
28 of the first class, in which case it shall be governed after June 30
29 next ensuing. The members of the district board of education at
30 the time of said election shall continue in office until expiration of
31 their respective terms and the qualification in office of their suc-
32 cessors.

33 f. If the voters of the district shall so select that the district shall
34 become a type II district, it shall be governed by the provisions of
35 chapter 9 of Title 18A relating to type II districts and the members
36 of the board of education at the time of said election shall remain

37 and continue in office until the expiration of their respective terms
38 and the qualification of their respective successors.

39 g. If the commissioner cannot recommend that local control be
40 reestablished in a district five years after the establishment of a
41 State-operated school district, then the commissioner shall provide
42 a comprehensive report to the State board and to the Governor and
43 the Legislature, including a detailed analysis of the causes for the
44 failure of the district to achieve certification and an assessment of
45 the amount of time necessary for the continuation of the State-
46 operated school district. On the basis of that report the State board
47 shall determine whether to continue the State-operated school dis-
48 trict or return the district to local control pursuant to this section.

1 17. (New section) The State district superintendent of a State-
2 operated school district shall develop a budget on or before the
3 first Tuesday in March and shall present this budget to the board
4 of education to elicit the board's comments and recommendations.
5 This budget shall conform in all respects with the requirements of
6 chapter 22 of Title 18A of the New Jersey Statutes and shall be
7 subject to the limitations on spending by local school districts
8 otherwise required by P. L. 1975, c. 212 (C. 18A:7A-1 et seq.).
9 ***The State-operated district shall receive current year funding of*
10 *all State education aid based upon the budget prepared by the State*
11 *district superintendent pursuant to section 19 of this act. For the*
12 *purposes of this act "current year funding" shall mean that State*
13 *aid shall be calculated on the basis of the budget for the school year*
14 *in which the expenditures are made.***

1 18. (New section) Upon the preparation of its budget, the State
2 district superintendent shall fix a date, place and time for the
3 holding of a public hearing upon the budget and the amounts of
4 money necessary to be appropriated for the use of the public
5 schools for the ensuing school year, and the various items and pur-
6 poses for which the same are to be appropriated, which hearing
7 shall be held between the first Tuesday in March and March 18.
8 Notice of the hearing, contents of the notice and the format and
9 purpose of the hearing shall be as provided in N. J. S. 18A:22-11,
10 N. J. S. 18A:22-12 and N. J. S. 18A:22-13.

1 19. (New section) ***a.*** After the public hearing provided for by
2 section 18 of this amendatory and supplementary act but not later
3 than March 18, the State district superintendent shall fix and
4 determine the amount of money necessary to be appropriated for
5 the ensuing school year and shall certify the amounts to be raised
6 by special district tax for school purposes as well as the sum
7 necessary for interest and debt redemption, if any, to the county

8 board of taxation and the amount or amounts so certified shall
9 be included in the taxes assessed, levied and collected in the
10 municipality or municipalities comprising the district. Within 15
11 days after the certification by the State district superintendent, the
12 governing body of the municipality or municipalities comprising
13 the district shall notify the State district superintendent of its
14 intent to appeal to the commissioner the amount determined to
15 be necessary to be appropriated for each item appearing in the
16 proposed budget. The commissioner, upon receipt of the appeal
17 from the governing body of the municipality or municipalities
18 comprising the district and upon completion of the hearing process,
19 shall determine the amount necessary for the district to provide
20 a thorough and efficient educational program including the im-
21 plementation of the plan to correct deficiencies. **[The Director of
22 the Division of Local Government Services in the Department of
23 Community Affairs shall determine the maximum amount of addi-
24 tional money which can be derived locally for the schools without
25 imposing an unreasonable tax burden. If the costs, as determined
26 by the commissioner, exceed the maximum additional revenues as
27 determined by the director, the commissioner and the director shall
28 report their determinations to the Legislature with recommenda-
29 tions.]**

30 ***b. Notwithstanding that the State-operated district shall*
31 *receive current year funding of State education aid for its budget*
32 *as prepared by the State district superintendent and as approved*
33 *by the commissioner pursuant to subsection a. of this section, the*
34 *governing body of the municipality or municipalities comprising the*
35 *district may apply to the Director of the Division of Local Govern-*
36 *ment Services in the Department of Community Affairs for a*
37 *determination that the local share of revenues needed to support*
38 *the district's budget results in an unreasonable tax burden. The*
39 *director's findings of an unreasonable tax burden in a State-*
40 *operated school district may be based on the overall school, county*
41 *and municipal tax rates including any overlapping obligation of the*
42 *community, cash deficit, insufficient percentage of tax collections,*
43 *insufficient collection of other revenues, over-anticipation of the*
44 *revenues of prior years, nonliquidation of interfund transfers,*
45 *reliance on emergency authorizations, continual rollover of tax*
46 *anticipation notes, or other factors indicating a constrained ability*
47 *to raise sufficient revenues to meet its budgetary requirements.*
48 *In addition, the director's review may include but need not be*
49 *limited to analysis of the ratable base of the community, the per*
50 *capita income of the residents of the district and the percentage*

51 *of residents on a fixed income, cash reserves and receivables of the*
 52 *district including the availability of any deferred tax, the ability*
 53 *of the community to dispose of property for which no public pur-*
 54 *pose is anticipated and all other current revenue raising capacity*
 55 *including procedures for collection which may permit greater*
 56 *anticipation of revenue.*

57 *c. Based upon his review, the director shall certify the amount*
 58 *of revenues which can be raised locally to support the budget of the*
 59 *State-operated district. Any difference between the amount which*
 60 *the director certifies and the total amount of local revenues required*
 61 *by the budget approved by the commissioner shall be paid by the*
 62 *State in the fiscal year in which the expenditures are made, subject*
 63 *to the availability of appropriations.***

1 20. N. J. S. 18A:9-1 is amended to read as follows:

2 18A:9-1. School districts shall be classified as type I and type II
 3 school districts, [as provided in this chapter] *except that the State*
 4 *board may, by administrative order pursuant to its authority under*
 5 *section 15 of P. L. 1975, c. 212 (C. 18A:7A-15), create a State-*
 6 *operated school district.*

1 21. N. J. S. 18A:10-1 is amended to read as follows:

2 18A:10-1. The schools of each school district shall be conducted,
 3 by and under the supervision of a board of education, which shall
 4 be a body corporate and which shall be constituted and governed,
 5 as provided by this title, for a type I, type II or regional school
 6 district, as the case may be, *but the State board pursuant to an*
 7 *administrative order issued by authority of section 15 of P. L. 1975,*
 8 *c. 212 (C. 18A:7A-15) may create a State-operated school district*
 9 *which shall be conducted by a State district superintendent.*

1 22. This act shall take effect immediately, but shall remain in-
 2 operative until enactment of P. L., c. (C.)
 3 (now pending before the Legislature as Assembly Bill No. 4643
 4 of 1987 or Senate Bill No. 3766 of 1987).

EDUCATION—GENERAL

Establishes the procedures for the governance of State-operated
 school districts.

REMARKS OF GOVERNOR THOMAS H. KEAN
SCHOOL INTERVENTION BILL SIGNING
TRENTON, NEW JERSEY
WEDNESDAY, JANUARY 13, 1987

THIS IS A VERY GRATIFYING DAY FOR ME, A HISTORIC DAY FOR NEW JERSEY, AND, MOST IMPORTANT, A DAY OF HOPE FOR THOUSANDS OF OUR CHILDREN.

WHEN I SIGN THE SCHOOL INTERVENTION LAW IN A MOMENT, NEW JERSEY WILL BECOME---AS I SAID YESTERDAY---THE VERY FIRST STATE TO MAKE THE MORAL STATEMENT THAT WHEN SCHOOLS FAIL, ADULTS SHOULD PAY THE PRICE, AND NOT CHILDREN.

THAT IS SOMETHING WE SHOULD BE VERY PROUD OF. OUR LEADERSHIP HASN'T BEEN EASY. THIS BILL HAS BEEN THROUGH MORE PERMUTATIONS AND VARIATIONS THAN ANY PIECE OF LEGISLATION IN MY MEMORY.

I WANT TO THANK A FEW OF THE PEOPLE WHO CARED ENOUGH ABOUT OUR CHILDREN TO FIGHT FOR THIS LEGISLATION FOR TWO YEARS.

I WANT TO BEGIN WITH EDUCATION COMMISSIONER SAUL COOPERMAN.

LAST YEAR THE NEW YORK TIMES CALLED SAUL "ONE OF THE COUNTRY'S MOST VISIBLE AND PRODUCTIVE EDUCATIONAL INNOVATORS. I BELIEVE SCHOOL INTERVENTION, AS MUCH AS ANY OTHER REFORM, SHOWS SAUL'S VISION AND HIS COMMITMENT TO PROVIDING OPPORTUNITY FOR ALL CHILDREN.

NEXT, I WOULD LIKE TO THANK THE COURAGEOUS SPONSORS OF THE LEGISLATION: ASSEMBLYMAN JOE PALAIA, FORMER ASSEMBLYMAN FRANK GARGIULO, SENATOR JACK EWING AND SENATOR GERRY STOCKMAN.

I WOULD ALSO LIKE TO THANK THE LEADERS OF BOTH HOUSES, WHO REPEATEDLY GAVE THEIR MEMBERS A CHANCE TO VOTE ON THIS CONTROVERSIAL BILL: I AM TALKING ABOUT SPEAKER OF THE ASSEMBLY CHUCK HARDWICK AND SENATE PRESIDENT JOHN RUSSO.

CHUCK WAS UNYIELDING IN HIS SUPPORT. JOHN AND I DIDN'T ALWAYS SEE EYE TO EYE ON EVERY DETAIL, BUT HE ALWAYS PUT CHILDREN'S INTEREST FIRST.

ONE OTHER LEGISLATOR DESERVES SPECIAL MENTION, A MAN WHO FOR TWENTY YEARS HAS MADE A CAREER OUT OF DOING WHAT IS RIGHT FOR THE KIDS: SENATOR MATTY FELDMAN.

I ALSO WANT TO THANK THREE PEOPLE WHO PROBABLY DON'T EVER WANT TO HEAR THE TWO WORDS "SCHOOL" AND "INTERVENTION" TOGETHER IN THE SAME SENTENCE AGAIN.

THEY ARE THE DEPARTMENT OF EDUCATION'S LEGISLATIVE LIAISON BOB SWISSLER, MY CHIEF COUNCIL MIKE COLE AND MY ASSISTANT COUNSEL JAYNEE LaVECCHIA.

JAYNEE LaVECCHIA WAS THE AUTHOR OF THE MEMORABLE PHRASE "EDUCATIONAL CHILD ABUSE." SHE KNOWS THE ARCANE DETAILS OF INTERVENTION LAW BETTER THAN ANYONE IN TRENTON. THIS LEGISLATION WOULDN'T HAVE PASSED WITHOUT HER.

I ALSO WANT TO THANK THE EDUCATION ORGANIZATIONS WHO LENT THEIR ESSENTIAL SUPPORT:

THE NEW JERSEY STATE PARENTS/TEACHERS ASSOCIATION,
THE NEW JERSEY SCHOOL BOARDS ASSOCIATION,
THE NEW JERSEY ADMINISTRATORS AND SUPERVISORS ASSOCIATION,
THE NEW JERSEY EDUCATION ASSOCIATION,
AND THE NEW JERSEY PRINCIPALS AND SUPERVISORS

TO ALL OF YOU I SAY THANK YOU. YOUR SUPPORT HAS MADE THIS LEGISLATION LAW.

I DON'T KNOW OF ANY LEGISLATION I HAVE SIGNED AS GOVERNOR OR WORKED ON IN THE ASSEMBLY THAT HAS BEEN SO FRUSTRATING , AND YET SO REWARDING.

BUT HAS WE STAND HERE TODAY, I AM REMINDED OF WHAT WINSTON CHURCHILL SAID AFTER THE BRITISH VICTORY AT EL ALAMEIN IN NORTHERN AFRICA IN 1942:

"THIS IS NOT THE END. IT IS NOT THE BEGINNING OF THE END. IT IS ONLY THE END OF THE BEGINNING."

WE HAVE DONE OUR JOB. NOW IT IS UP TO THE SCHOOLS TO DO THEIRS.

IT IS UP TO THE SCHOOL BOARD MEMBERS, PRINCIPALS AND TEACHERS IN OUR MOST TROUBLED SCHOOLS TO WORK WITH US TO IMPROVE.

WE DON'T WANT TO USE THE AUTHORITY WE ARE BEING GIVEN TODAY. BUT MAKE NO MISTAKE, WE WILL USE THESE POWERS IF NO OTHER MEANS CAN BE FOUND TO SAVE OUR CHILDREN FROM THE EDUCATIONAL CUL-DE-SACS THAT BLOCK THEIR LIVES.

INTERVENING IN A SCHOOL DISTRICT WOULD NEVER GIVE ME PLEASURE. BUT IN TRUTH, WE HAVE NO CHOICE. IT IS OUR DUTY, OUR CONSTITUTIONAL DUTY TO SEE THAT ALL NEW JERSEY'S CHILDREN GET A THOROUGH AND EFFICIENT EDUCATION -- WHICH IS LAWYERS TALK FOR "A CHANCE TO PURSUE THEIR DREAMS."

RALPH WALDO EMERSON ONCE WROTE THAT "THE TRUE TEST OF CIVILIZATION IS NOT THE CENSUS, NOR THE SIZE OF CITIES, NOR THE CROPS -- NO, BUT THE KIND OF MAN THE COUNTRY TURNS OUT."

THAT MAN OR WOMAN IS THE PRODUCT OF OUR SCHOOLS. OUR SCHOOLS CANNOT FAIL. FOR IF OUR SCHOOLS FAIL, OUR NATION FAILS. AND THAT IS SOMETHING NEITHER YOU NOR I WILL TOLERATE.

TODAY NEW JERSEY AGAIN LEADS THE WAY. THOUSANDS OF CHILDREN IN FAILING SCHOOLS NOW HAVE A POWERFUL ADVOCATE TO COME TO THEIR DEFENSE WHEN THEY CRY FOR HELP.

OUR SCHOOLS HAVE EVEN MORE MORE OF AN INCENTIVE TO BECOME THE BEST IN THE NATION.

WE DID THE DIFFICULT THING. WE DID THE RIGHT THING.