

40:48-17.8

LEGISLATIVE HISTORY CHECKLIST

**NJSA:** 40:48-17.8

(Schools-sending districts-transfer certain municipal revenue to receiving districts)

**LAWS OF:** 1985

**CHAPTER:** 54

**Bill No:** A1157

**Sponsor(s):** Herman

**Date Introduced:** February 6, 1984

**Committee:** **Assembly:** Municipal Government

**Senate:** County and Municipal Government

**Amended during passage:** Yes  
according to Governor's recommendations

Amendments denoted  
by asterisks

**Date of Passage:** **Assembly:** Jun. 18, 1984 Re-enacted 2-4-85

**Senate:** Nov. 29, 1984 Re-enacted 2-14-85

**Date of Approval:** February 21, 1985

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee statement:** **Assembly** Yes

**Senate** Yes

**Fiscal Note:** No

**Veto Message:** Yes

**Message on Signing:** No

**Following were printed:**

**Reports:** No

**Hearings:** No

2-21-85

[SECOND OFFICIAL COPY REPRINT]

## ASSEMBLY, No. 1157

## STATE OF NEW JERSEY

INTRODUCED FEBRUARY 6, 1984

By Assemblyman HERMAN

A SUPPLEMENT to "An act concerning municipal finances" approved May 14, 1942 (P. L. 1942, c. 221, C. 40:48-17.3).

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

1 1. When any municipality having a tax levy for municipal pur-  
2 poses of \$0.10 or less per \$100.00 of equalized valuation and in  
3 which the board of education sends pupils to another district  
4 pursuant to N. J. S. 18A:38-8 has on hand surplus revenues  
5 unappropriated or anticipated receipts unappropriated for municipi-  
6 pal purposes, the governing body may **\*[by resolution autho-**  
7 **rize]\*** *\* a. pursuant to ordinance, authorize\** the donation *\*to*  
8 *the board of education of the receiving district\** of any items which  
9 can be used for school purposes<sup>\*</sup>; *\* or b. by resolution, authorize\**  
10 the transfer and cause to be transferred any part of the revenues  
11 or the receipts to **\*[the]\*** *\*that\** board of education *\*\*provided that*  
12 *any items donated must be used by the receiving district for school*  
13 *purposes and that any funds transferred must be included in*  
14 *the receiving district's current expense budget.\*\** **\*[receiving the**  
15 **pupils]\***. No transfer of revenues or receipts by a governing body  
16 shall be made unless the proposed transfer or appropriation is in-  
17 cluded in the local municipal budget for the year in which it is  
18 intended to make the transfer available from a prior year's appro-  
19 priation reserve and has been regularly approved and adopted as  
20 part of the budget.

21 Any amounts transferred pursuant to this act shall be considered

**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 amendments adopted April 30, 1984.**

**\*\*—Assembly amendments adopted in accordance with Governor's recommendations January 28, 1985.**

22 miscellaneous revenue and shall **\*\*[not]\*\*** be deducted **\*\*[from**  
23 the receiving district's net current expense budget for the purpose  
24 of calculating its current expense equalization support]**\*\*** *\*\*for*  
25 *the purposes of calculating tuition rates between sending and re-*  
26 *ceiving school districts pursuant to N. J. A. C. 6:20-3.1\*\**.

1 2. This act shall take effect immediately.

---

**ASSEMBLY, No. 1157**

---

**STATE OF NEW JERSEY**

---

INTRODUCED FEBRUARY 6, 1984

By Assemblyman HERMAN

A SUPPLEMENT to "An act concerning municipal finances"  
approved May 14, 1942 (P. L. 1942, c. 221, C. 40:48-17.3).

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

1 1. When any municipality having a tax levy for municipal pur-  
2 poses of \$0.10 or less per \$100.00 of equalized valuation and in  
3 which the board of education sends pupils to another district  
4 pursuant to N. J. S. 18A:38-8 has on hand surplus revenues  
5 unappropriated or anticipated receipts unappropriated for municipi-  
6 pal purposes, the governing body may by resolution authorize a. the  
7 donation of any items which can be used for school purposes or  
8 b. the transfer and cause to be transferred any part of the revenues  
9 or the receipts to the board of education receiving the pupils. No  
10 transfer of revenues or receipts by a governing body shall be made  
11 unless the proposed transfer or appropriation is included in the  
12 local municipal budget for the year in which it is intended to make  
13 the transfer available from a prior year's appropriation reserve  
14 and has been regularly approved and adopted as part of the budget.

15 Any amounts transferred pursuant to this act shall be considered  
16 miscellaneous revenue and shall not be deducted from the receiv-  
17 ing district's net current expense budget for the purpose of calcu-  
18 lating its current expense equalization support.

1 2. This act shall take effect immediately.



ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1157**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: APRIL 24, 1984

Assembly Bill No. 1157 permits a municipality to transfer surplus revenue or donate items for school purposes to the board of education serving a school district to which that municipality sends pupils pursuant to N. J. S. 18A:38-8, provided that the municipality has a municipal purposes tax rate of less than \$0.10 per \$100.00 of equalized valuation.

The Assembly committee amendments clarify the procedures to be followed by the municipal governing body in effectuating the donation or the revenue transfer. The former shall be effectuated pursuant to ordinance since, under R. S. 40:48-1, the procedures for managing municipal property are uniformly established in this manner. The latter shall be effectuated by resolution, since the "Local Budget Law," P. L. 1960, c. 169 (C. 40A:4-1 et seq.) requires that municipal budgetary policy be established in this manner.

SENATE COUNTY AND MUNICIPAL GOVERNMENT  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 1157**

**STATE OF NEW JERSEY**

---

DATED: JUNE 28, 1984

Assembly Bill No. 1157 permits a municipality to transfer surplus revenue or donate items for school purposes to the board of education serving a school district to which that municipality sends pupils pursuant to N. J. S. 18A:38-8, provided that the municipality has a municipal purposes tax rate of less than \$0.10 per \$100.00 of equalized valuation.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

January 24, 1985

ASSEMBLY BILL NO. 1157 (OCR)

To the General Assembly:

Pursuant to Article V, Section 1, paragraph 14 of the Constitution, I herewith return Assembly Bill No. 1157 (OCR) with my recommendations for reconsideration.

This legislation would permit certain municipalities to transfer surplus revenue or to donate items to another school district to which it sends pupils. Any amounts transferred pursuant to this bill would be considered miscellaneous revenue and would not be deducted from the receiving district's net current expense budget for the purpose of calculating State equalization aid. Under the provisions of this bill, the governing body of the sending district may authorize a donation of property to the receiving district pursuant to ordinance or, by resolution, authorize the transfer of surplus revenue to the board of education of the receiving district. All transfers pursuant to this act must be included in the municipal budget for the year in which it is intended to make the transfer and must have been approved as part of the budget.

Assembly Bill No. 1157 (OCR) provides that only municipalities having a tax levy for municipal purposes of \$0.10 or less per \$100 of equalized valuation are qualified to donate surplus under the provisions of the bill. The narrow scope of this bill is a result of the sponsor's intention to limit donations under the legislation to Lower Alloways Township, which sends its students to Salem City public schools.

This legislation raises several serious ramifications to State and local school financing practices and presents troubling policy and legal concerns, as the method in which it purports to authorize donations would have an adverse fiscal impact to the State in terms of increased equalization aid and to other affected municipalities in the form of increased sending district tuition costs.

The State would incur increased costs under this legislation due to the fact that any donations applied to the receiving district's operating budget, even if in excess of the budget cap, would be supplemented by State equalization aid. This would have a disequalizing effect on State funding, as donations would be exempt from the budget cap and the receiving district would

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

2

receive equalization aid which it does not need. In addition, there are legal questions raised by the fact that a receiving district would receive State equalization aid and increased tuition from sending districts on the basis of a donation made under this act.

This bill also could present a fiscal hardship to the other municipalities which send students to Salem City, namely Mannington Township, Elsinboro, and Quinton Township, all of which are considerably less affluent than Lower Alloways Township. If monies donated pursuant to this act were used to expand educational programs, these three municipalities would have to pay higher tuition costs to Salem City. More significantly, if Lower Alloways Creek made donations which were used in Salem City's operating budget and then ceased making such donations, Salem City would be forced to either reduce educational programs or increase taxes in order to maintain current services. If Salem City makes cutbacks to offset the loss of funds donated by Lower Alloways Township, the laying off of teachers and other school personnel could result. Conversely, if Salem City decides to maintain all current programs, it would be compelled to raise local taxes and increase tuition rates for the other sending districts.

For these reasons, I am proposing that donations be permitted under this act upon the condition that they not be included for the purpose of calculating State equalization aid or sending district tuition rates. This would authorize the transfer of surplus or property from one municipality to the board of education of another municipality but would avoid any adverse implications regarding State or local school financing.

Finally, although Lower Alloways Township has a surplus and apparently intends to donate a portion of it to Salem City, there has been no demonstrated need that Salem City is in need of such funding. In fact, for the 1983-1984 school year, Salem City had a school budget of \$8.7 million, of which \$3.9 million was free-balance, or surplus. For this reason, it is questionable whether Salem City needs additional funding or would use it to improve educational programs. In addition, this bill contains no restriction on the receiving district's use of donated funds, which could ostensibly be used for the purpose of lowering taxes rather than improving educational quality.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

3

Accordingly, I herewith return Assembly Bill No. 1157 (OCR) and recommend that it be amended as follows:

Page 1, Section 1, Line 11: After "education" insert "provided that any items donated must be used by the receiving district for school purposes and that any funds transferred must be included in the receiving district's current expense budget".

Page 1, Section 1, Line 16: After "shall" delete "not".

Page 1, Section 1, Lines 16-18: After "deducted" delete "from the receiving district's net current expense budget for the purpose of calculating its current expense equalization support" and insert "for the purposes of calculating tuition rates between sending and receiving school districts pursuant to N.J.A.C. 6-20:3-1".

Respectfully,

/s/ Thomas H. Kean

\_\_\_\_\_  
GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards

\_\_\_\_\_  
Chief Counsel