

18A:7A-35

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LAWS OF: 1995 **CHAPTER:** 179
NJSA: 18A:7A-35 (Makes revisions in statutes providing for state operated school districts)
BILL NO: S1664 (Substituted for A2900)
SPONSOR(S): Ewing
DATE INTRODUCED: December 15, 1994
COMMITTEE: **ASSEMBLY:** ---
SENATE: Education
AMENDED DURING PASSAGE: Yes
DATE OF PASSAGE: **ASSEMBLY:** June 26 1995
SENATE: June 26, 1995
DATE OF APPROVAL: July 11, 1995
FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: First Reprint Senate Committee Substitute

S1664

SPONSORS STATEMENT: (Begins on page 12 of original bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: No
	SENATE: Yes
FLOOR AMENDMENT STATEMENTS:	No
LEGISLATIVE FISCAL ESTIMATE:	Yes

A2900

SPONSORS STATEMENT: (Begins on page 10 of original bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: Yes
	SENATE: No
FLOOR AMENDMENT STATEMENTS:	No
LEGISLATIVE FISCAL ESTIMATE:	No

(continued)

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New Jersey. State-Operated Schools Committee Report. New Jersey State Board of Education, State-Operated Schools Committee report. [Trenton, N.J. : The board, 1994]

"Legislature convenes for the first time in the new year," The Times, 1-11-93, pA4.

"State seeks rules for ending school takeovers," Star-Ledger, 5-5-94.

LAW

P.L.1995, CHAPTER 179, approved July 11, 1995
Senate Committee Substitute (First Reprint)
for 1995 Senate No. 1664

1 AN ACT concerning State operated school districts, amending
2 P.L.1975, c.212 and P.L.1987, c.399.

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. Section 2 of P.L.1987, c.399 (C.18A:7A-35) is amended to
7 read as follows:

8 2. a. The schools of a State-operated school district shall be
9 conducted by and under the supervision of a State district
10 superintendent of schools appointed by the State board upon
11 recommendation of the commissioner. The individual selected
12 shall be qualified by training and experience for the particular
13 district.

14 b. The State district superintendent shall be appointed for an
15 original term not to exceed five years. Notwithstanding any
16 other provision of law, no person so appointed shall acquire
17 tenure nor shall the commissioner, with approval of the State
18 board, be precluded from terminating the superintendent's
19 services pursuant to the terms of the superintendent's individual
20 contract of employment. For the purpose of the New Jersey Tort
21 Claims Act, N.J.S. 59:1-1 et seq., the State district
22 superintendent shall be considered a State officer.

23 c. The salary of the State district superintendent shall be fixed
24 by the commissioner and adjusted from time to time as the
25 commissioner deems appropriate. The cost for said salary and for
26 the salaries of all persons appointed pursuant to this amendatory
27 and supplementary act shall be an expense of the local school
28 district.

29 d. The State district superintendent shall perform all the
30 duties and possess all the powers heretofore and hereafter
31 assigned in Title 18A of the New Jersey Statutes to central
32 administrative and supervisory staff, instructional and
33 noninstructional, which shall include but not be limited to the
34 superintendent of schools, secretary of the board of education,
35 school business administrator, school business manager, and
36 assistants and clerks thereto.

37 e. Except as otherwise provided in this amendatory and
38 supplementary act, the State district superintendent shall have
39 the power to perform all acts and do all things consistent with
40 law necessary for the proper conduct, maintenance and
41 supervision of the schools in the district.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numbers has been adopted as follows:
Senate floor amendments adopted June 17, 1995.

1 f. The State district superintendent may make, amend and
2 repeal district rules, policies and guidelines, not inconsistent with
3 law for the proper conduct, maintenance and supervision of the
4 schools in the district.

5 g. The State district superintendent shall provide in each
6 school a mechanism for parent, teacher and community
7 involvement. In addition, the State district superintendent shall
8 provide for at least one public meeting in both the fall and the
9 spring semesters to advise parents and members of the
10 community on the activities within the district and to provide an
11 opportunity for those parents, teachers and community members
12 who wish to be heard. The meetings shall be at such times and
13 places as to ensure maximum public participation.

14 h. The State district superintendent shall ensure that the
15 district is in compliance with all federal and State laws, rules and
16 regulations relating to equal employment opportunities,
17 affirmative action and minority business opportunities.
18 (cf: P.L.1987, c.399, s.2)

19 2. Section 11 of P.L.1987, c.399 (C.18A:7A-44) is amended to
20 read as follows:

21 11. a. Notwithstanding any other provision of law or contract,
22 the positions of the district's chief school administrator and
23 those executive administrators responsible for curriculum,
24 business and finance, and personnel shall be abolished upon
25 creation of the State-operated school district. The affected
26 individuals shall be given 60 days' notice of termination or 60
27 days' pay. The notice or payment shall be in lieu of any other
28 claim or recourse against the employing board or the school
29 district based on law or contract. Any individual whose position
30 is abolished by operation of this subsection shall be entitled to
31 assert a claim to any position or to placement upon a preferred
32 eligibility list for any position to which the individual may be
33 entitled by virtue of tenure or seniority within the district. No
34 individual whose position is abolished by operation of this
35 subsection shall retain any right to tenure or seniority in the
36 positions abolished herein.

37 b. [The] Within one year of the establishment of the
38 State-operated school district, the State district superintendent
39 shall prepare a reorganization of the district's central
40 administrative and supervisory staff and shall evaluate all
41 individuals employed in central administrative and supervisory
42 staff positions. [Within six months of the establishment of the
43 State-operated district the] The State district superintendent
44 shall implement the reorganization on the July 1 next following
45 its preparation, unless otherwise directed by the commissioner.

46 c. Notwithstanding any other provision of law or contract, the
47 positions of the central administrative and supervisory staff,
48 instructional and noninstructional, other than those positions
49 abolished pursuant to subsection a. of this section, shall be
50 abolished upon the reorganization of the State-operated school
51 district's staff. The State district superintendent may hire an
52 individual whose position is so abolished, based upon the
53 evaluation of the individual and the staffing needs of the
54 reorganized district staff. These individuals shall be hired with

1 tenure if they had tenure in their prior position. If they did not
2 have tenure in their prior position, they may obtain tenure
3 pursuant to the provisions of N.J.S. 18A:28-6. Individuals hired
4 as State assistant superintendents shall not be hired with tenure
5 and shall not acquire tenure. Employees or officers not hired for
6 the reorganized staff shall be given 60 days' notice of
7 termination or 60 days' pay. The notice or payment shall be in
8 lieu of any other claim or recourse against the employing board
9 or the school district based on law or contract. Notwithstanding
10 this limitation, nothing herein shall preclude an individual from
11 asserting upon separation from service any legal contractual right
12 to health care coverage, annuities, accrued vacation days,
13 accrued sick leave, insurance and approved tuition costs. Any
14 employee whose position is abolished by operation of this
15 subsection shall be entitled to assert a claim to any position or to
16 placement upon a preferred eligibility list for any position to
17 which the employee may be entitled by virtue of tenure or
18 seniority within the district. No employee whose position is
19 abolished by operation of this subsection shall retain any right to
20 tenure or seniority in the positions abolished herein.

21 (cf: P.L.1987, c.399, s.11)

22 3. Section 12 of P.L.1987, c.388 (C.18A:7A-45) is amended to
23 read as follows:

24 12. a. The Commissioner of Education shall adopt criteria for
25 the evaluation of building principals and vice-principals in a
26 State-operated school district.

27 b. Upon appointment, the State district superintendent shall
28 establish an assessment unit which shall conduct on-site
29 evaluations of each building principal and vice-principal in
30 accordance with the criteria established by the commissioner and
31 render evaluation reports to the State district superintendent.
32 No less than three evaluations shall be performed for each
33 building principal and vice-principal within [six] 18 months
34 following the [reorganization of the central administrative and
35 supervisory staff required by section 11 of this act] establishment
36 of State operation. All personnel records for building principals
37 and vice-principals prepared before the establishment of the
38 State-operated district shall be sealed upon issuance of the State
39 Board of Education order establishing the State-operated school
40 district.

41 c. Notwithstanding any other provision of law or contract, the
42 State district superintendent, after completion of an assessment
43 cycle of not less than 12 months, may dismiss any tenured
44 building principal or vice-principal for inefficiency, incapacity,
45 unbecoming conduct or other just cause as defined by the criteria
46 for principal or vice-principal performance in State-operated
47 districts established by the commissioner pursuant to subsection
48 a. of this section. Nothing herein shall preclude the dismissal of
49 a tenured building principal or vice-principal prior to the
50 completion of an assessment cycle of not less than 12 months if
51 the basis for the dismissal is incapacity or unbecoming conduct.
52 All dismissals of tenured building principals or vice-principals
53 shall be conducted in accordance with the procedures set forth in
54 sections 10, 11, 13, 14, 16 and 17 of chapter 6 of Title 18A of the

1 New Jersey Statutes, except that the State district
2 superintendent shall act as the board of education in all respects.

3 d. The commissioner and the Office of Administrative Law are
4 empowered and directed to take any necessary action to expedite
5 hearings for dismissal of tenured principals or vice-principals,
6 including relaxation of any time requirements established by law
7 or practice. In no event shall a hearing commence later than 45
8 days after certification of charges. Hearings shall be completed
9 within 45 days of commencement. In no event shall a final
10 decision be issued later than 120 days following the certification
11 of charges.

12 e. Evaluations of building principals or vice-principals
13 conducted by district personnel prior to the establishment of the
14 State-operated school district shall not be admissible in a tenure
15 hearing for any building principal or vice-principal except in the
16 following circumstances:

17 (1) Evaluations of building principals or vice-principals
18 performed by members of the State-operated school district's
19 central administrative and supervisory staff who are hired by the
20 State district superintendent to fill one of the positions in the
21 reorganized central office of the State-operated district shall be
22 admissible;

23 (2) Evaluations of building principals or vice-principals made
24 by individuals who were no longer employed by the school district
25 as of the date it became a State-operated school district shall be
26 admissible only if the evaluation was performed more than five
27 years preceding the date of the establishment of the
28 State-operated district.

29 (cf: P.L.1987, c.399, s.12)

30 4. Section 14 of P.L.1987, c.399 (C18A:7A-47) is amended to
31 read as follows:

32 14. Within 60 days, the commissioner shall establish a board of
33 education consisting of not more than 15 persons from among the
34 residents of the district. The membership of the board shall be
35 representative of the community's racial and ethnic balance.
36 Previous members of the board of education shall not be
37 precluded from consideration for membership on this board. Of
38 the 15 members, 13 shall be appointed by the commissioner and
39 two shall be appointed by the local governing body of the
40 municipality in which the school district is located. If the school
41 district includes more than one municipality, then the governing
42 body of each constituent municipality shall have one appointment
43 to the board and the number of appointments by the
44 commissioner shall be reduced accordingly. If the local governing
45 body fails to agree upon the selection of board members within 60
46 days of the establishment of the State-operated school district,
47 then the commissioner may make the additional two
48 appointments. Any vacancies on the board shall be filled by the
49 appropriate appointing authority within 45 days of the occurrence
50 of the vacancy. All individuals appointed to the board shall meet
51 all of the statutory requirements for membership on a board of
52 education and shall be required to attend all meetings of the
53 board, all meetings of standing board committees to which the
54 member is appointed, and all in-service training sessions provided

1 for board members. Any member of the board who, during the
2 course of any school year, fails to attend eighty percent of all
3 meetings of the board and of standing board committees and
4 in-service training sessions shall be removed upon
5 recommendation of the State district superintendent to the
6 appropriate appointing authority. Members of the board of
7 education shall serve (at the pleasure of) for ¹two-year¹ terms
8 ¹(to be fixed by the appointing authority at the time of
9 appointment)¹, unless removed from the board as provided
10 herein. The board shall meet as soon as may be possible after its
11 appointment and shall select a chairman and a vice-chairman
12 from among its members.

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

33 The commissioner, in consultation with the [appropriate
34 educational organizations] New Jersey School Boards Association,
35 shall provide the members of the board of education with
36 appropriate in-service training in school matters.
37 (cf: P.L.1987, c.399, s.14)

38 5. Section 15 of P.L.1987, c.399 (C.18A:7A-48) is amended to
39 read as follows:

40 15. a. At the April school election in the fourth full academic
41 year following the creation of a State-operated school district,
42 nine board members shall be elected from among the 15
43 appointed board members, three to serve a one year term, three
44 to serve a two year term, and three to serve a three year term.
45 If there are not nine members from the 15 appointed members
46 who are willing to run for election, the commissioner shall retain
47 the right to appoint the remaining members of the board. In each
48 subsequent year, board members shall be elected from the
49 community at large.

50 [Following the election of the board] b. Beginning in the
51 second year of State operation, the State district superintendent
52 shall bring matters of curriculum before the board and may bring
53 other matters before the board for a vote (, however) . Beginning
54 in the third year of State operation, the State district

1 superintendent shall bring legal matters before the board for a
2 vote. Beginning in the fourth year of State operation, the State
3 district superintendent shall bring fiscal matters before the board
4 for a vote. However, the State district superintendent shall
5 retain veto power until [such time as] the [State board determines
6 that local control ... be reestablished. In each subsequent
7 year, three board members will be elected from the community
8 at large] reestablishment of local control.

9 (cf: P.L.1992, c.159, s.5)

10 6. Section 16 of P.L.1987, c.399 (C.18A:7A-49) is amended to
11 read as follows:

12 16. a. The State district superintendent shall annually provide
13 to the commissioner an assessment of the progress of the district
14 toward meeting the requirements necessary for State
15 certification. In addition, the commissioner shall ensure that the
16 district is regularly monitored by the Department of Education in
17 the manner provided for all school districts in level III monitoring
18 pursuant to section 14 of P.L. 1975,c.212 (C.18A:7A-14). The
19 commissioner shall formally report to the State board and to the
20 Governor and the Legislature on the district's progress.

21 b. Based upon the annual assessment of progress and the
22 district's having received State certification, but not sooner than
23 five years after the establishment of the State-operated school
24 district, the commissioner may recommend to the State board
25 that local control be reestablished. If the State board so
26 determines, local control shall be reestablished effective on the
27 July 1 next ensuing.

28 c. Upon [a determination by the State board that local control
29 should be reestablished] the reestablishment of local control, the
30 board of education shall assume full responsibility for the
31 operation of the school district; however, the State district
32 superintendent and those members of the superintendent's staff
33 appointed by operation of these laws relating to State-operated
34 school districts shall continue to serve for a one year transition
35 period upon conclusion of which their term of service shall expire
36 without prejudice to the right of the district board of education
37 to reappoint any or all such persons to similar positions within the
38 district. During the transition period, the State district
39 superintendent may place matters before the board for a vote.
40 The board of education shall act upon all such matters brought
41 before it by the State district superintendent.

42 d. Not more than one year following the reestablishment of
43 local control, the board shall conduct a special election for
44 purposes of placing the question of classification status before
45 the voters of the district.

46 e. If the voters of the district shall elect to become a type I
47 district, it shall be governed by the provisions of chapter 9 of
48 Title 18A of the New Jersey Statutes relating to type I districts
49 after January 31 next ensuing, unless the district is established in
50 a city of the first class, in which case it shall be governed after
51 June 30 next ensuing. The members of the district board of
52 education at the time of said election shall continue in office
53 until expiration of their respective terms and the qualification in
54 office of their successors.

1 f. If the voters of the district shall so select that the district
2 shall become a type II district, it shall be governed by the
3 provisions of chapter 9 of Title 18A relating to type II districts
4 and the members of the board of education at the time of said
5 election shall remain and continue in office until the expiration
6 of their respective terms and the qualification of their respective
7 successors.

8 g. If the commissioner cannot recommend that local control be
9 reestablished in a district five years after the establishment of a
10 State-operated school district, then the commissioner shall
11 provide a comprehensive report to the State board and to the
12 Governor and the Legislature, including a detailed analysis of the
13 causes for the failure of the district to achieve certification and
14 an assessment of the amount of time necessary for the
15 continuation of the State-operated school district. On the basis
16 of that report the State board shall determine whether to
17 continue the State-operated school district or return the district
18 to local control pursuant to this section.

19 (cf: P.L.1987, c.399, s.16)

20 7. This act shall take effect immediately.

21

22

23

24

25 Makes various revisions in the statutes providing for
26 State-operated school districts.

SENATE EDUCATION COMMITTEE
STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1664
STATE OF NEW JERSEY

DATED: MAY 25, 1995

The Senate Education Committee favorably reports a Senate Committee Substitute for Senate, No. 1664.

This committee substitute revises the statutes which provide for the establishment of a State-operated school district.

Under the provisions of the substitute, several time-lines are changed. The reorganization of the district's central staff would be prepared within one year of takeover, rather than within six months. Building principals would be evaluated 18 months following the take-over rather than six months after the reorganization, and the substitute also includes vice-principals in the evaluation procedure. The date for the implementation of reorganization and for the reestablishment of local control would occur on July 1 in order to avoid disruption of the district during the school year.

The substitute requires the State district superintendent to provide for at least one public meeting in both the fall and spring semesters to advise parents and community members of the district's activities and to provide an opportunity for them to be heard.

With regard to the advisory board, the bill requires the municipal appointments to be made within 60 days, and provides that any vacancy must be filled within 45 days. Training of board members would be done by the New Jersey School Boards Association. Board members are required to attend all board meetings, committee meetings and in-service sessions and may be removed from office for failure to attend at least 80% of them upon the recommendation of the State district superintendent. Beginning in the second year of State operation, the State district superintendent would bring matters of curriculum before the board for a vote; beginning in the third year, the superintendent would bring legal matters before the board, and beginning in the fourth year, the superintendent would bring fiscal matters before the board. The State district superintendent would retain veto power, however, until the reestablishment of local control.

The substitute clarifies that when local control is reestablished, the board of education would assume full responsibility for the operation of the school district. During the transition period, however, the board must act upon matters brought before it by the State district superintendent.

LEGISLATIVE FISCAL ESTIMATE TO
[FIRST REPRINT]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1664
STATE OF NEW JERSEY

DATED: July 13, 1995

The Senate Committee Substitute for Senate, No. 1664 (1R) of 1994 revises the statutes which provide for the establishment of a State-operated school district. Essentially, the substitute changes the time-lines for the reorganization of the district and the evaluation of district personnel. Also, the implementation of reorganization and the reestablishment of local control would occur on July 1 in order to avoid disruption of the district during the school year.

The substitute clarifies the role and responsibilities of the advisory board, and indicates those circumstances when a board member may be removed. The substitute also provides that, beginning in the second year of State operation, additional responsibilities would be given to the advisory board, although the State district superintendent would retain veto power until the reestablishment of local control.

The substitute clarifies that when local control is reestablished, the board of education would assume full responsibility for the operation of the school district. During the transition period, however, the board must act upon matters brought before it by the State district superintendent.

This substitute does not add or substantially alter the governance of State-operated school districts. Rather it adjusts various time lines and clarifies responsibilities during State operation and during the transition back to local control. Therefore, the Office of Legislative Services estimates that there would be no cost to local school districts or to the State as a result of this committee substitute.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

06/08/95/dc
11/17/36

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SR 0067
TR 0148

SENATE Amendments
(Proposed by Senator Ewing)

to

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1664

(Sponsored by Senator Ewing)

REPLACE SECTION 4 TO READ:

4. Section 14 of P.L.1987, c.399 (C18A:7A-47) is amended to read as follows.

14. Within 60 days, the commissioner shall establish a board of education consisting of not more than 15 persons from among the residents of the district. The membership of the board shall be representative of the community's racial and ethnic balance. Previous members of the board of education shall not be precluded from consideration for membership on this board. Of the 15 members, 13 shall be appointed by the commissioner and two shall be appointed by the local governing body of the municipality in which the school district is located. If the school district includes more than one municipality, then the governing body of each constituent municipality shall have one appointment to the board and the number of appointments by the commissioner shall be reduced accordingly. If the local governing body fails to agree upon the selection of board members within 60 days of the establishment of the State-operated school district, then the commissioner may make the additional two appointments. Any vacancies on the board shall be filled by the appropriate appointing authority within 45 days of the occurrence of the vacancy. All individuals appointed to the board shall meet all of the statutory requirements for membership on a board of education and shall be required to attend all meetings of the board, all meetings of standing board committees to which the member is appointed, and all in-service training sessions provided for board members. Any member of the board who, during the course of any school year, fails to attend eighty percent of all meetings of the board and of standing board committees and in-service training sessions shall be removed upon recommendation of the State district superintendent to the appropriate appointing authority. Members of the board of education shall serve [at the pleasure of] for ¹two-year¹ terms ¹[to be fixed by the appointing authority at the time of appointment]¹, unless removed from the board as provided herein. The board shall meet as soon as may be possible after its appointment and shall select a chairman and a vice-chairman from among its members.

The State district superintendent shall meet with the board of education at least once in each month and may meet more frequently as necessary for the effective operation of the school district. The meetings of the board shall be convened and scheduled at the direction of the State district superintendent, and the State district superintendent shall determine the agenda. At the meetings, the State district superintendent shall report to

the board on all actions taken and on pending actions in a timely fashion, and provide an opportunity for a full discussion by the board and by the public of those actions. Meetings shall be conducted pursuant to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). On a regular basis, but no less than once each year, the board of education shall report in writing directly to the State district superintendent concerning its assessment of the progress of the district. Copies of the report shall be forwarded to the commissioner and the State board. The State district superintendent shall make such clerical and other resources available as are necessary for the effective operation of the board of education.

The commissioner, in consultation with the [appropriate educational organizations] New Jersey School Boards Association, shall provide the members of the board of education with appropriate in-service training in school matters.

(cf: P.L.1987, c.399, s.14)

STATEMENT

These amendments provide that members of the board of education in a State-operated school district shall serve for two year terms rather than for terms to be fixed at the time of appointment.

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1664

STATE OF NEW JERSEY

By Senator Ewing

ADOPTED

MAR 25 1988

AN ACT concerning State operated school districts, amending P.L. 1975, c.212 and P.L.1987, c.399.

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

1. Section 2 of P.L.1987, c.399 (C.18A:7A-35) is amended to read as follows:

2. a. The schools of a State-operated school district shall be conducted by and under the supervision of a State district superintendent of schools appointed by the State board upon recommendation of the commissioner. The individual selected shall be qualified by training and experience for the particular district.

b. The State district superintendent shall be appointed for an original term not to exceed five years. Notwithstanding any other provision of law, no person so appointed shall acquire tenure nor shall the commissioner, with approval of the State board, be precluded from terminating the superintendent's services pursuant to the terms of the superintendent's individual contract of employment. For the purpose of the New Jersey Tort Claims Act, N.J.S. 59:1-1 et seq., the State district superintendent shall be considered a State officer.

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

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

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

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

Matter underlined thus is new matter.

f. The State district superintendent may make, amend and repeal district rules, policies and guidelines, not inconsistent with law for the proper conduct, maintenance and supervision of the schools in the district.

g. The State district superintendent shall provide in each school a mechanism for parent, teacher and community involvement. In addition, the State district superintendent shall provide for at least one meeting in both the fall and the spring semesters to advise parents and members of the community on the activities within the district and to provide an opportunity for those parents, teachers and community members who wish to be heard. The meetings shall be at such times and places as to ensure maximum public participation.

h. The State district superintendent shall ensure that the district is in compliance with all federal and State laws, rules and regulations relating to equal employment opportunities, affirmative action and minority business opportunities.

(cf: P.L.1987, c.399, s.2)

2. Section 11 of P.L.1987, c.399 (C.18A:7A-44) is amended to read as follows:

11. a. Notwithstanding any other provision of law or contract, the positions of the district's chief school administrator and those executive administrators responsible for curriculum, business and finance, and personnel shall be abolished upon creation of the State-operated school district. The affected individuals shall be given 60 days' notice of termination or 60 days' pay. The notice or payment shall be in lieu of any other claim or recourse against the employing board or the school district based on law or contract. Any individual whose position is abolished by operation of this subsection shall be entitled to assert a claim to any position or to placement upon a preferred eligibility list for any position to which the individual may be entitled by virtue of tenure or seniority within the district. No individual whose position is abolished by operation of this subsection shall retain any right to tenure or seniority in the positions abolished herein.

b. [The] Within one year of the establishment of the State-operated school district, the State district superintendent shall prepare a reorganization of the district's central administrative and supervisory staff and shall evaluate all individuals employed in central administrative and supervisory staff positions. [Within six months of the establishment of the State-operated district the] The State district superintendent shall implement the reorganization on the July 1 next following its preparation, unless otherwise directed by the commissioner.

c. Notwithstanding any other provision of law or contract, the positions of the central administrative and supervisory staff, instructional and noninstructional, other than those positions abolished pursuant to subsection a. of this section, shall be abolished upon the reorganization of the State-operated

school district's staff. The State district superintendent may hire an individual whose position is so abolished, based upon the evaluation of the individual and the staffing needs of the reorganized district staff. These individuals shall be hired with tenure if they had tenure in their prior position. If they did not have tenure in their prior position, they may obtain tenure pursuant to the provisions of N.J.S. 18A:28-6. Individuals hired as State assistant superintendents shall not be hired with tenure and shall not acquire tenure. Employees or officers not hired for the reorganized staff shall be given 60 days' notice of termination or 60 days' pay. The notice or payment shall be in lieu of any other claim or recourse against the employing board or the school district based on law or contract. Notwithstanding this limitation, nothing herein shall preclude an individual from asserting upon separation from service any legal contractual right to health care coverage, annuities, accrued vacation days, accrued sick leave, insurance and approved tuition costs. Any employee whose position is abolished by operation of this subsection shall be entitled to assert a claim to any position or to placement upon a preferred eligibility list for any position to which the employee may be entitled by virtue of tenure or seniority within the district. No employee whose position is abolished by operation of this subsection shall retain any right to tenure or seniority in the positions abolished herein.

(cf: P.L.1987, c.399, s.11)

3. Section 12 of P.L.1987, c.388 (C.18A:7A-45) is amended to read as follows:

12. a. The Commissioner of Education shall adopt criteria for the evaluation of building principals and vice-principals in a State operated school district.

b. Upon appointment, the State district superintendent shall establish an assessment unit which shall conduct on-site evaluations of each building principal and vice-principal in accordance with the criteria established by the commissioner and render evaluation reports to the State district superintendent. No less than three evaluations shall be performed for each building principal and vice-principal within [six] 18 months following the [reorganization of the central administrative and supervisory staff required by section 11 of this act] establishment of State operation. All personnel records for building principals and vice-principals prepared before the establishment of the State operated district shall be sealed upon issuance of the State Board of Education order establishing the State-operated school district.

c. Notwithstanding any other provision of law or contract, the State district superintendent, after completion of an assessment cycle of not less than 12 months, may dismiss any tenured building principal or vice principal for inefficiency, incapacity, unbecoming conduct or other just cause as defined by the criteria for principal performance in State-operated districts established

4

by the commissioner pursuant to subsection a. of this section. Nothing herein shall preclude the dismissal of a tenured building principal or vice-principal prior to the completion of an assessment cycle of not less than 12 months if the basis for the dismissal is incapacity or unbecoming conduct. All dismissals of tenured building principals or vice-principals shall be conducted in accordance with the procedures set forth in sections 10, 11, 13, 14, 16 and 17 of chapter 18A, Title 18A of the New Jersey Statutes, except that the State district superintendent shall act as the board of education in all respects.

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

e. Evaluations of building principals or vice-principals conducted by district personnel prior to the establishment of the State-operated school district shall not be admissible in a tenure hearing for any building principal or vice-principal except in the following circumstances:

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

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

(cf: P.L.1987, c.399, s.12)

4. Section 14 of P.L.1987, c.399 (C18A:7A-47) is amended to read as follows:

14. Within 60 days, the commissioner shall establish a board of education consisting of not more than 15 persons from among the residents of the district. The membership of the board shall be representative of the community's racial and ethnic balance. Previous members of the board of education shall not be precluded from consideration for membership on this board. Of the 15 members, 13 shall be appointed by the commissioner and two shall be appointed by the local governing body of the municipality in which the school district is located. If the school district includes more than one municipality, then the governing

body of each constituent municipality shall have one appointment to the board and the number of appointments by the commissioner shall be reduced accordingly. If the local governing body fails to agree upon the selection of board members within 60 days of the establishment of the State-operated school district, then the commissioner may make the additional two appointments. Any vacancies on the board shall be filled by the appropriate appointing authority, within 45 days of the occurrence of the vacancy. All individuals appointed to the board shall meet all of the statutory requirements for membership on a board of education and shall be required to attend all meetings of the board, all meetings of standing board committees to which the member is appointed, and all in-service training sessions provided for board members. Any member of the board who, during the course of any school year, fails to attend eighty percent of all meetings of the board and of standing board committees and in-service training sessions shall be removed upon recommendation of the State district superintendent to the appropriate appointing authority. Members of the board of education shall serve [at the pleasure of] for terms to be fixed by the appointing authority at the time of appointment, unless removed from the board as provided herein. The board shall meet as soon as may be possible after its appointment and shall select a chairman and a vice-chairman from among its members.

The State district superintendent shall meet with the board of education at least once in each month and may meet more frequently as necessary for the effective operation of the school district. The meetings of the board shall be convened and scheduled at the direction of the State district superintendent, and the State district superintendent shall determine the agenda. At the meetings, the State district superintendent shall report to the board on all actions taken and on pending actions in a timely fashion, and provide an opportunity for a full discussion by the board and by the public of those actions. Meetings shall be conducted pursuant to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). On a regular basis, but no less than twice each year, the board of education shall report in writing directly to the State district superintendent concerning its assessment of the progress of the district. Copies of the report shall be forwarded to the commissioner and the State board. The State district superintendent shall make such clerical and other resources available as are necessary for the effective operation of the board of education.

The commissioner, in consultation with the [appropriate educational organizations] New Jersey School Boards Association, shall provide the members of the board of education with appropriate in-service training in school matters.

(cf. P.L.1987, c.399, c.14)

5. Section 15 of P.L.1987, c.399 (C.18A:7A-48) is amended to read as follows:

15. a. At the April school election in the fourth full academic year following the creation of a State-operated school district, nine board members shall be elected from among the 15 appointed board members, three to serve a one year term, three to serve a two year term, and three to serve a three year term. If there are not nine members from the 15 appointed members who are willing to run for election, the commissioner shall retain the right to appoint the remaining members of the board. In each subsequent year, board members shall be elected from the community at large.

[Following the election of the board] b. Beginning in the second year of State operation, the State district superintendent shall bring matters of curriculum before the board and may bring other matters before the board for a vote [; however]. Beginning in the third year of State operation, the State district superintendent shall bring legal matters before the board for a vote. Beginning in the fourth year of State operation, the State district superintendent shall bring fiscal matters before the board for a vote. However, the State district superintendent shall retain veto power until [such time as] the [State board determines that local control should be reestablished. In each subsequent year, three board members will be elected from the community at large] reestablishment of local control.

(cf: P.L.1992, c.159, s.5)

6. Section 16 of P.L.1987, c.399 (C.18A:7A-49) is amended to read as follows:

16. a. The State district superintendent shall annually provide to the commissioner an assessment of the progress of the district toward meeting the requirements necessary for State certification. In addition, the commissioner shall ensure that the district is regularly monitored by the Department of Education in the manner provided for all school districts in level III monitoring pursuant to section 14 of P.L. 1975,c.212 (C.18A:7A-14). The commissioner shall formally report to the State board and to the Governor and the Legislature on the district's progress.

b. Based upon the annual assessment of progress and the district's having received State certification, but not sooner than five years after the establishment of the State-operated school district, the commissioner may recommend to the State board that local control be reestablished. If the State board so determines, local control shall be reestablished effective on the July 1 next ensuing.

c. Upon [a determination by the State board that local control should be reestablished] the reestablishment of local control, the board of education shall assume full responsibility for the operation of the school district; however, the State district superintendent and those members of the superintendent's staff appointed by operation of these laws relating to State operated school districts shall continue to serve for a one year

transition period upon conclusion of which their term of service shall expire without prejudice to the right of the district board of education to reappoint any or all such persons to similar positions within the district. During the transition period, the State district superintendent may place matters before the board for a vote. The board of education shall act upon all such matters brought before it by the State district superintendent.

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

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

f. If the voters of the district shall so select that the district shall become a type II district, it shall be governed by the provisions of chapter 9 of Title 18A relating to type II districts and the members of the board of education at the time of said election shall remain and continue in office until the expiration of their respective terms and the qualification of their respective successors.

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

(c.f. P.L.1987, c.399, s.16)

7. This act shall take effect immediately.

Makes various revisions in the statutes providing for State-operated school districts.

SENATE, No. 1664
STATE OF NEW JERSEY

INTRODUCED DECEMBER 15, 1994

By Senator EWING

1 AN ACT concerning State operated school districts, amending
2 P.L.1975, c.212 and amending and supplementing P.L.1987,
3 c.399.

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

7 1. Section 14 of P.L.1975, c.212 (C. 18A:7A-14) is amended to
8 read as follows:

9 14. a. (1) The commissioner shall review the results of the
10 evaluations conducted and reports submitted pursuant to sections
11 10 and 11 of P.L.1975, c.212 (C.18A:7A-10 and 18A:7A-11). The
12 commissioner shall establish a mechanism for parent, school
13 employee and community resident input into the review process.
14 If the commissioner shall find that a school district satisfies the
15 evaluation criteria, the commissioner shall recommend that the
16 State board certify the school district for a period of seven years
17 as providing a thorough and efficient system of education. If the
18 commissioner finds that a school district can correct the
19 deficiency or deficiencies without additional diagnostic
20 monitoring or technical assistance, the commissioner may certify
21 the school district with the condition that the district correct the
22 deficiency within a period of time to be determined by the
23 commissioner. If the commissioner shall find that a school
24 district has failed to show sufficient progress toward the goals,
25 guidelines, objectives and standards, including the State goals and
26 any local interim goals concerning pupil proficiency in reading,
27 writing, mathematics, science and health, geography, history,
28 civics, physical education and the arts established in and pursuant
29 to this act, the commissioner shall advise the local board of
30 education of such determination, and shall direct that the district
31 enter level II monitoring, as defined pursuant to law and
32 regulation.

33 (2) The board of education of a school district which is
34 directed to enter level II monitoring may appeal that decision to
35 the State Board of Education. The State board may refer the
36 hearing of that appeal to a committee of not less than three of
37 its members, which committee shall hear the appeal and report
38 thereon, recommending its conclusions, to the board and the
39 board shall decide the appeal by resolution in open meeting. A
40 determination of the appeal by the State board shall be
41 considered final.

42 b. (1) When a district enters level II monitoring, the

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

Matter underlined thus is new matter.

1 commissioner shall establish procedures whereby parents, school
2 employees and community residents may meet with the
3 commissioner or the commissioner's designee to discuss their
4 concerns and the county superintendent shall appoint an external
5 review team whose members shall be qualified by training and
6 experience to examine the conditions in the specific district. In
7 conjunction with the Department of Education, the team, at the
8 direction of the commissioner, shall either examine only those
9 aspects of the district's operations bearing on the areas of
10 deficiency, or shall examine all aspects of the district's
11 operation, including but not limited to education, governance,
12 management and finance. In addition, the team shall examine
13 conditions in the community which may adversely affect the
14 ability of the pupils to learn and the team may recommend
15 measures to mitigate the effects of those conditions. The team
16 shall report its findings and conclusions, including directives to be
17 utilized by the district in the preparation of a corrective action
18 plan to achieve certification and recommendations as to the
19 technical assistance which the district will require in order to
20 effectively implement the corrective action plan, to the
21 commissioner. The commissioner shall direct the district to
22 respond to the report of the external review team in establishing
23 a corrective action plan. The corrective action plan shall be
24 submitted to and approved by the commissioner. The
25 commissioner shall assure that the local district's budget
26 provides the resources necessary to implement the approved plan,
27 including the necessary technical assistance. The entire cost of
28 those activities associated with the review team shall be paid by
29 the Department of Education.

30 (2) If the commissioner finds that the district is unsuccessful
31 in correcting the deficiencies noted in the evaluation process, the
32 commissioner shall direct that the district enter level III
33 monitoring, as defined pursuant to law and regulation. However,
34 if the commissioner determines that a district is making
35 reasonable progress toward correcting deficiencies, the
36 commissioner may grant an extension for a specific period of
37 time. During this extension the district will remain under level II
38 monitoring. At the end of the extension the commissioner shall
39 determine whether the district is eligible for certification or if
40 the district must be directed to enter level III monitoring.

41 c. (1) When a district which has had a comprehensive
42 examination of all aspects of the district's operations by an
43 external review team pursuant to subsection b. of this section is
44 directed to enter level III monitoring the commissioner shall
45 prepare an administrative order directing the corrective actions
46 which shall be taken by the district based upon the findings and
47 conclusions of the level II external review team and the
48 department's monitoring of the level II plan. The commissioner
49 shall insure that technical assistance is provided to the district in
50 order to implement those actions. The commissioner shall also
51 have the power to order necessary budgetary reallocations within
52 the district, or such other measures as the commissioner deems
53 necessary and appropriate.

54 (2) When a district which has not had a comprehensive

1 examination of all aspects of the district's operations by an
2 external review team pursuant to subsection b. of this section is
3 directed to enter level III monitoring, the commissioner shall
4 designate the county superintendent to appoint an external
5 review team whose members shall be qualified by training and
6 experience to examine the conditions in the specific district. In
7 conjunction with the Department of Education, the team shall
8 examine all aspects of the district's operations including but not
9 limited to education, governance, management and finance. The
10 team shall report its findings and conclusions, including directives
11 to be utilized in the preparation of a corrective action plan to
12 achieve certification, to the commissioner. The commissioner
13 shall prepare an administrative order directing the corrective
14 actions which shall be taken by the district based upon the
15 findings and conclusions of the level III external review team and
16 the department's monitoring of the level II plan. The
17 commissioner shall insure that technical assistance is provided to
18 the district in order to implement those actions. The
19 commissioner shall also have the power to order necessary
20 budgetary reallocations within the district, or such other
21 measures as the commissioner deems necessary and appropriate.

22 (3) The board of education of a school district which is
23 directed to enter level III monitoring may appeal that decision to
24 the State Board of Education. The State board may refer the
25 hearing of that appeal to a committee of not less than three of
26 its members, which committee shall hear the appeal and report
27 thereon, recommending its conclusions, to the board and the
28 board shall decide the appeal by resolution in open meeting. A
29 determination of the appeal by the State board shall be
30 considered final.

31 (4) If the commissioner finds, based upon the findings and
32 directives of the level II or level III review team and the
33 Department of Education, that conditions within the district may
34 preclude the successful implementation of a corrective action
35 plan or that the district has failed to make reasonable progress in
36 the implementation of a corrective action plan to achieve
37 certification, the commissioner shall direct that a comprehensive
38 compliance investigation be conducted by the Department of
39 Education. If the commissioner directs that a comprehensive
40 compliance investigation be conducted, the commissioner may
41 order any necessary action to insure the security of the books,
42 papers, vouchers and records of the district.

43 d. Whenever a district in level II monitoring is directed to
44 establish a corrective action plan or whenever a district in level
45 III monitoring shall be required to implement an approved
46 corrective action plan pursuant to this section, the commissioner
47 shall determine the cost to the district of implementation of
48 those portions of the corrective action plan which are directly
49 responsive to the district's deficiencies as identified in the
50 report of the external review team or, where applicable, by the
51 commissioner. In making this fiscal assessment, the
52 commissioner shall identify those aspects of the corrective action
53 plan which are already contained in the district's current expense
54 budget. Where appropriate, the commissioner shall reallocate

1 funds within the district's budget to support the corrective
2 action plan. Once reallocated, any transfers among line items of
3 the district's budget may occur only with the commissioner's
4 approval. The commissioner shall further determine the amount
5 of additional revenue, if any, needed to implement the corrective
6 action plan and shall recertify a budget for the district.

7 e. A comprehensive compliance investigation shall entail a
8 thorough and detailed examination of a district's educational
9 programs, fiscal practices, governance and management. Based
10 on the investigation, the commissioner shall issue a report which
11 will document any irregularities and list all those aspects of the
12 corrective action plan established pursuant to subsections b. and
13 c. of this section which have not been successfully implemented
14 by the district or the conditions which would preclude the district
15 from successfully implementing a plan. A copy of this report
16 shall be given to the district. The commissioner shall also order
17 the local board to show cause why an administrative order,
18 subject to the provisions of section 15 of P.L.1975, c.212
19 (C.18A:7A-15) and section 1 of P.L.1987, c.399 (C.18A:7A-34)
20 should not be implemented. The plenary hearing before a judge of
21 the Office of Administrative Law, pursuant to the
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.), upon said order to show cause shall be conducted in the
24 manner prescribed by subdivision B of article 2 of chapter 6 of
25 Title 18A of the New Jersey Statutes. A final decision shall be
26 rendered within 120 days of the issuance of the order to show
27 cause.

28 In the proceeding the State shall have the burden of showing
29 that the recommended administrative order is not arbitrary,
30 unreasonable or capricious.

31 (cf. P.L.1991, c.3,s.3)

32 2. Section 2 of P.L.1987, c.399 (C.18A:7A-35) is amended to
33 read as follows:

34 2. a. The schools of a State-operated school district shall be
35 conducted by and under the supervision of a State district
36 superintendent of schools appointed by the State board upon
37 recommendation of the commissioner. The individual selected
38 shall be qualified by training and experience for the particular
39 district.

40 b. The State district superintendent shall be appointed for an
41 original term not to exceed five years. Notwithstanding any
42 other provision of law, no person so appointed shall acquire
43 tenure nor shall the commissioner, with approval of the State
44 board, be precluded from terminating the superintendent's
45 services pursuant to the terms of the superintendent's individual
46 contract of employment. For the purpose of the New Jersey Tort
47 Claims Act, N.J.S. 59:1-1 et seq., the State district
48 superintendent shall be considered a State officer.

49 c. The salary of the State district superintendent shall be fixed
50 by the commissioner and adjusted from time to time as the
51 commissioner deems appropriate. The cost for said salary and for
52 the salaries of all persons appointed pursuant to this amendatory
53 and supplementary act shall be an expense of the local school
54 district.

1 d. The State district superintendent shall perform all the
2 duties and possess all the powers heretofore and hereafter
3 assigned in Title 18A of the New Jersey Statutes to central
4 administrative and supervisory staff, instructional and
5 noninstructional, which shall be but not be limited to the
6 superintendent of schools, secretary of the board of education,
7 school business administrator, school business manager, and
8 assistants and clerks thereto.

9 e. Except as otherwise provided in this amendatory and
10 supplementary act, the State district superintendent shall have
11 the power to perform all acts and do all things consistent with
12 law necessary for the proper conduct, maintenance and
13 supervision of the schools in the district.

14 f. The State district superintendent may make, amend and
15 repeal district rules, policies and guidelines, not inconsistent with
16 law for the proper conduct, maintenance and supervision of the
17 schools in the district.

18 g. The State district superintendent shall provide in each
19 school a mechanism for parent, teacher and community
20 involvement. In addition, the State district superintendent shall
21 provide for at least one public meeting in both the fall and the
22 spring semesters to advise parents and members of the
23 community on the activities within the district and to provide an
24 opportunity for those parents, teachers and community members
25 who wish to be heard. The meetings shall be at such times and
26 places as to assure maximum public participation.

27 h. The State district superintendent shall ensure that the
28 district is in compliance with all federal and State laws, rules and
29 regulations relating to equal employment opportunities,
30 affirmative action and minority business opportunities.

31 (cf: P.L.1987, c.399, s.2)

32 3. Section 11 of P.L.1987, c.399 (C.18A:7A-44) is amended to
33 read as follows:

34 11. a. Notwithstanding any other provision of law or contract,
35 the positions of the district's chief school administrator and
36 those executive administrators responsible for curriculum,
37 business and finance, and personnel shall be abolished upon
38 creation of the State-operated school district. The affected
39 individuals shall be given 60 days' notice of termination or 60
40 days' pay. The notice or payment shall be in lieu of any other
41 claim or recourse against the employing board or the school
42 district based on law or contract. Any individual whose position
43 is abolished by operation of this subsection shall be entitled to
44 assert a claim to any position or to placement upon a preferred
45 eligibility list for any position to which the individual may be
46 entitled by virtue of tenure or seniority within the district. No
47 individual whose position is abolished by operation of this
48 subsection shall retain any right to tenure or seniority in the
49 positions abolished herein.

50 b. [The] Within one year of the establishment of the
51 State-operated school district, the State district superintendent
52 shall prepare a reorganization of the district's central
53 administrative and supervisory staff and shall evaluate all
54 individuals employed in central administrative and supervisory

1 staff positions. [Within six months of the establishment of the
2 State-operated district the] The State district superintendent
3 shall implement the reorganization on the July 1 next following
4 its preparation.

5 c. Notwithstanding any other provision of law or contract, the
6 positions of the central administrative and supervisory staff,
7 instructional and noninstructional, other than those positions
8 abolished pursuant to subsection a. of this section, shall be
9 abolished upon the reorganization of the State-operated school
10 district's staff. The State district superintendent may hire an
11 individual whose position is so abolished, based upon the
12 evaluation of the individual and the staffing needs of the
13 reorganized district staff. These individuals shall be hired with
14 tenure if they had tenure in their prior position. If they did not
15 have tenure in their prior position, they may obtain tenure
16 pursuant to the provisions of N.J.S. 18A:28-6. Individuals hired
17 as State assistant superintendents shall not be hired with tenure
18 and shall not acquire tenure. Employees or officers not hired for
19 the reorganized staff shall be given 60 days' notice of
20 termination or 60 days' pay. The notice or payment shall be in
21 lieu of any other claim or recourse against the employing board
22 or the school district based on law or contract. Notwithstanding
23 this limitation, nothing herein shall preclude an individual from
24 asserting upon separation from service any legal contractual right
25 to health care coverage, annuities, accrued vacation days,
26 accrued sick leave, insurance and approved tuition costs. Any
27 employee whose position is abolished by operation of this
28 subsection shall be entitled to assert a claim to any position or to
29 placement upon a preferred eligibility list for any position to
30 which the employee may be entitled by virtue of tenure or
31 seniority within the district. No employee whose position is
32 abolished by operation of this subsection shall retain any right to
33 tenure or seniority in the positions abolished herein.

34 (cf. P.L.1987, c.399, s.11)

35 4. Section 12 of P.L.1987, c.388 (C.18A:7A-45) is amended to
36 read as follows:

37 12. a. The Commissioner of Education shall adopt criteria for
38 the evaluation of building principals in a State-operated school
39 district.

40 b. Upon appointment, the State district superintendent shall
41 establish an assessment unit which shall conduct on-site
42 evaluations of each building principal in accordance with the
43 criteria established by the commissioner and render evaluation
44 reports to the State district superintendent. No less than three
45 evaluations shall be performed for each building principal within
46 six months following the implementation of the reorganization of
47 the central administrative and supervisory staff required by
48 section 11 of [this act] P.L.1987, c.399 (C.18A:7A-44). All
49 personnel records for building principals prepared before the
50 establishment of the State-operated district shall be sealed upon
51 issuance of the State Board of Education order establishing the
52 State-operated school district.

53 c. Notwithstanding any other provision of law or contract, the
54 State district superintendent, after completion of an assessment

1 cycle of not less than [12] 18 months, may dismiss any tenured
2 building principal for inefficiency, incapacity, unbecoming
3 conduct or other just cause as defined by the criteria for
4 principal performance in State-operated districts established by
5 the commissioner pursuant to subsection a. of this section.
6 Nothing herein shall preclude the dismissal of a tenured building
7 principal prior to the completion of an assessment cycle of not
8 less than [12] 18 months if the basis for the dismissal is
9 incapacity or unbecoming conduct. All dismissals of tenured
10 building principals shall be conducted in accordance with the
11 procedures set forth in sections 10, 11, 13, 14, 16 and 17 of
12 chapter 6 of Title 18A of the New Jersey Statutes, except that
13 the State district superintendent shall act as the board of
14 education in all respects.

15 d. The commissioner and the Office of Administrative Law are
16 empowered and directed to take any necessary action to expedite
17 hearings for dismissal of tenured principals, including relaxation
18 of any time requirements established by law or practice. In no
19 event shall a hearing commence later than 45 days after
20 certification of charges. Hearings shall be completed within 45
21 days of commencement. In no event shall a final decision be
22 issued later than 120 days following the certification of charges.
23 If the final decision upholds the dismissal of a tenured principal
24 that dismissal shall take effect on the July 1 next following the
25 decision, unless the State district superintendent determines that
26 such a delay would not be in the best interests of the pupils of the
27 school district.

28 e. Evaluations of building principals conducted by district
29 personnel prior to the establishment of the State-operated school
30 district shall not be admissible in a tenure hearing for any
31 building principal except in the following circumstances:

32 (1) Evaluations of building principals performed by members of
33 the State-operated school district's central administrative and
34 supervisory staff who are hired by the State district
35 superintendent to fill one of the positions in the reorganized
36 central office of the State-operated district shall be admissible;

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

42 (cf. P.L.1987, c.399, s.12)

43 5. Section 14 of P.L.1987, c.399 (C18A:7A-47) is amended to
44 read as follows:

45 14. Within 60 days, the commissioner shall establish a board of
46 education consisting of not more than 15 persons from among the
47 residents of the district. The membership of the board shall be
48 representative of the community's racial and ethnic balance.
49 Previous members of the board of education shall not be
50 precluded from consideration for membership on this board. Of
51 the 15 members, 13 shall be appointed by the commissioner and
52 two shall be appointed by the local governing body of the
53 municipality in which the school district is located. If the school
54 district includes more than one municipality, then the governing

1 body of each constituent municipality shall have one appointment
2 to the board and the number of appointments by the
3 commissioner shall be reduced accordingly. If the local governing
4 body fails to agree upon the selection of board members within 60
5 days of the establishment of a State-operated school district,
6 then the commissioner may make the additional two
7 appointments. Any vacancies on the board shall be filled by the
8 appropriate appointing authority within 45 days of the occurrence
9 of the vacancy. All individuals appointed to the board shall meet
10 all of the statutory requirements for membership on a board of
11 education and shall be required to attend all meetings of the
12 board, all meetings of standing board committees to which the
13 member is appointed, and all in-service training sessions provided
14 for board members. Any member of the board who, during the
15 course of any school year, fails to attend eighty percent of all
16 meetings of the board and of standing board committees and
17 in-service training sessions shall be removed upon
18 recommendation of the board chairman to the appropriate
19 appointing authority. Members of the board of education shall
20 serve [at the pleasure of] for terms to be fixed by the appointing
21 authority at the time of appointment, unless removed from the
22 board as provided herein. The board shall meet as soon as may be
23 possible after its appointment and shall select a chairman and a
24 vice-chairman from among its members.

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

45 The commissioner, in consultation with the [appropriate
46 educational organizations] New Jersey School Boards Association,
47 shall provide the members of the board of education with
48 appropriate in-service training in school matters.
49 (cf. P.L.1987, c.399, s.14)

50 6. Section 15 of P.L.1987, c.399 (C.18A:7A-4B) is amended to
51 read as follows:

52 15. At the April school election in the fourth full academic
53 year following the creation of a State-operated school district,
54 nine board members shall be elected from among the 15

1 appointed board members, three to serve a one year term, three
2 to serve a two year term, and three to serve a three year term.
3 If there are not nine members from the 15 appointed members
4 who are willing to run for election, the commissioner shall retain
5 the right to appoint the remaining members of the board.
6 Following the election of ... board, the State district
7 superintendent shall bring matters of curriculum before the board
8 and may bring other matters before the board for a vote; however
9 the State district superintendent shall retain veto power until
10 such time as the State board determines that local control should
11 be reestablished. In each subsequent year, three board members
12 will be elected from the community at large.

13 (cf: P.L.1992, c.159, s.5)

14 7. Section 16 of P.L.1987, c.399 (C.18A:7A-49) is amended to
15 read as follows:

16 16. a. The State district superintendent shall annually provide
17 to the commissioner an assessment of the progress of the district
18 toward meeting the requirements necessary for State
19 certification. In addition, the commissioner shall ensure that the
20 district is regularly monitored by the Department of Education in
21 the manner provided for all school districts in level III monitoring
22 pursuant to section 14 of P.L. 1975,c.212 (C.18A:7A-14). The
23 commissioner shall formally report to the State board and to the
24 Governor and the Legislature on the district's progress.

25 b. Based upon the annual assessment of progress and the
26 district's having received State certification, but not sooner than
27 five years after the establishment of the State-operated school
28 district, the commissioner may recommend to the State board
29 that local control be reestablished. If the State board so
30 determines, local control shall be reestablished effective on the
31 July 1 next ensuing.

32 c. Upon [a determination by the State board that local control
33 should be reestablished] the reestablishment of local control, the
34 board of education shall assume full responsibility for the
35 operation of the school district, however, the State district
36 superintendent and those members of the superintendent's staff
37 appointed by operation of these laws relating to State-operated
38 school districts shall continue to serve for a one year transition
39 period upon conclusion of which their term of service shall expire
40 without prejudice to the right of the district board of education
41 to reappoint any or all such persons to similar positions within the
42 district. During the transition period, the State district
43 superintendent may continue to bring matters before the board
44 for a vote. The board of education shall act upon all such
45 matters brought before it by the State district superintendent.

46 d. Not more than one year following the reestablishment of
47 local control, the board shall conduct a special election for
48 purposes of placing the question of classification status before
49 the voters of the district.

50 e. If the voters of the district shall elect to become a type I
51 district, it shall be governed by the provisions of chapter 9 of
52 Title 18A of the New Jersey Statutes relating to type I districts
53 after January 31 next ensuing, unless the district is established in
54 a city of the first class, in which case it shall be governed after

1 June 30 next ensuing. The members of the district board of
2 education at the time of said election shall continue in office
3 until expiration of their respective terms and the qualification in
4 office of their successors.

5 f. If the voters of the district shall so select that the district
6 shall become a type II district, it shall be governed by the
7 provisions of chapter 9 of Title 18A relating to type II districts
8 and the members of the board of education at the time of said
9 election shall remain and continue in office until the expiration
10 of their respective terms and the qualification of their respective
11 successors.

12 g. If the commissioner cannot recommend that local control be
13 reestablished in a district five years after the establishment of a
14 State-operated school district, then the commissioner shall
15 provide a comprehensive report to the State board and to the
16 Governor and the Legislature, including a detailed analysis of the
17 causes for the failure of the district to achieve certification and
18 an assessment of the amount of time necessary for the
19 continuation of the State-operated school district. On the basis
20 of that report the State board shall determine whether to
21 continue the State-operated school district or return the district
22 to local control pursuant to this section.

23 (cf: P.L.1987, c.399, s.16)

24 8. Section 19 of P.L.1987, c.399 (C.18A:7A-52) is amended to
25 read as follows:

26 19. a. After the public hearing provided for by section 18 of
27 [this amendatory and supplementary act] P.L.1987, c.399
28 (C.18A:7A-51) but not later than April 8, the State district
29 superintendent shall fix and determine the amount of money
30 necessary to be appropriated for the ensuing school year and shall
31 certify the amounts to be raised by special district tax for school
32 purposes as well as the sum necessary for interest and debt
33 redemption, if any, to the county board of taxation and the
34 amount or amounts so certified shall be included in the taxes
35 assessed, levied and collected in the municipality or
36 municipalities comprising the district. Within 15 days after the
37 certification by the State district superintendent, the governing
38 body of the municipality or municipalities comprising the district
39 shall notify the State district superintendent of its intent to
40 appeal to the commissioner the amount determined to be
41 necessary to be appropriated for each item appearing in the
42 proposed budget. The commissioner, upon receipt of the appeal
43 from the governing body of the municipality or municipalities
44 comprising the district and upon completion of the hearing
45 process, shall determine the amount necessary for the district to
46 provide a thorough and efficient educational program including
47 the implementation of the plan to correct deficiencies.

48 b. Notwithstanding that the State-operated district shall
49 receive State education aid for its budget as prepared by the
50 State district superintendent and as approved by the
51 commissioner pursuant to subsection a. of this section, the
52 governing body of the municipality or municipalities comprising
53 the district may, not later than April 15, apply to the Director of
54 the Division of Local Government Services in the Department of

1 Community Affairs for a determination that the local share of
2 revenues needed to support the district's budget results in an
3 unreasonable tax burden. The director's findings of an
4 unreasonable tax burden in a State-operated school district may
5 be based on the overall school, county and municipal tax rates
6 including any overlapping obligation of the community, cash
7 deficit, insufficient percentage of tax collections, insufficient
8 collection of other revenues, overanticipation of the revenues of
9 prior years, nonliquidation of interfund transfers, reliance on
10 emergency authorizations, continual rollover of tax anticipation
11 notes, or other factors indicating a constrained ability to raise
12 sufficient revenues to meet its budgetary requirements. In
13 addition, the director's review may include but need not be
14 limited to an analysis of the ratable base of the community, the
15 per capita income of the residents of the district and the
16 percentage of residents on a fixed income, cash reserves and
17 receivables of the district including the availability of any
18 deferred tax, the ability of the community to dispose of property
19 for which no public purpose is anticipated and all other current
20 revenue raising capacity including procedures for collection
21 which may permit greater anticipation of revenue.

22 c. Based upon his review, the director shall certify the amount
23 of revenues which can be raised locally to support the budget of
24 the State-operated district and shall notify the Governor and the
25 Legislature of amount of that certification by May 1; however,
26 the director shall not change or reduce the amount of the school
27 tax levy certified by the State district superintendent to the
28 county board of taxation pursuant to subsection a. of this
29 section. Any difference between the amount which the director
30 certifies and the total amount of local revenues required by the
31 budget approved by the commissioner shall be paid by the State
32 to the municipality or municipalities comprising the district in
33 the fiscal year in which the expenditures are made, subject to the
34 availability of appropriations.

35 d. Whenever local control is reestablished in a school district
36 pursuant to section 16 of P.L.1987, c.399 (C.18A:7A-49), the
37 amount of additional State aid paid to the municipality or
38 municipalities comprising the district as provided pursuant to
39 subsection c. of this section shall be paid as follows:

40 (1) For the first academic year, an amount equal to the amount
41 paid in the last year of State operation of the school district;

42 (2) For the second academic year following the reestablishment
43 of local control, an amount equal to 75% of the amount paid in
44 the last year of State operation of the school district;

45 (3) For the third academic year following the reestablishment
46 of local control, an amount equal to 50% of the amount paid in
47 the last year of State operation of the school district;

48 (4) For the fourth academic year following the reestablishment
49 of local control, an amount equal to 25% of the amount paid in
50 the last year of State operation of the school district.

51 Beginning with the fifth academic year and thereafter, the
52 district and the municipality comprising that district shall not be
53 entitled to any further State funding pursuant to subsection c. of
54 this section.

55 (cf. P.L.1992, c.159, s.8)

1 9. (New section) The Joint Committee on the Public Schools,
2 in cooperation with the commissioner, may develop a plan for
3 monitoring conditions within the school district following the
4 reestablishment of local control in a State-operated school
5 district. The plan developed by the committee shall include
6 provisions for independent documentation and assessment.

7 Three years following the reestablishment of local control, the
8 Joint Committee on the Public Schools shall report to the
9 Governor and the Legislature on the impact which the
10 establishment of the State-operated school district has had on
11 the quality of the educational program within the school district.
12 The report shall detail the progress made in each district, and
13 shall include and recommendations for changes in the legislation
14 which the committee deems appropriate.

15 10. This act shall take effect immediately.

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20 SPONSOR'S STATEMENT

21 This bill makes a number of changes in the statutes which
22 provide for the establishment of State-operated school districts.
23 The bill changes the time-lines for the reorganization of the
24 district as follows:

25 The State-district superintendent is to prepare a
26 reorganization of the district's central staff within one year of
27 take-over, rather than within six months.

28 The cycle for the evaluation of building principals is extended
29 from 12 to 18 months.

30 All actions, including the eventual reestablishment of local
31 control are to occur on July 1 to avoid disruption of the district
32 by extensive personnel or administrative changes during the
33 school year.

34 With regard to the advisory board, the bill requires the
35 municipal appointments to be made within 60 days, and provides
36 that any vacancy must be filled within 45 days. Also, training of
37 board members is to be done by the New Jersey School Boards
38 Association. Also, board members must attend all board
39 meetings, committee meetings and in-service sessions and may
40 be removed from office for failure to attend at least 80% of
41 them. Following the election of the board of education in fourth
42 year after the State-operated district is established, the State
43 district superintendent must bring curriculum matters for a vote
44 before the board, although the superintendent retains veto power.

45 The bill also provides for an expedited hearing when an order to
46 show cause is issued, and requires that regular level III monitoring
47 continue while a district is under State operation.

48 The bill clarifies that when local control is reestablished, the
49 board of education assumes full control over the district.
50 However, during a one year transition, the board must act upon
51 matters brought before it by the State district superintendent.

52 In addition, the bill requires that a municipality must appeal to
53 the Director of Local Government Services by April 15, and that
54 the Director make his assessment of the taxing ability of the
55 district by May 1, and so advise the Governor and the

1 Legislature. The bill also clarifies the payment of additional aid,
2 and provides for a four year phase out of this aid when local
3 control is reestablished.

4 Finally, the bill provides that for purposes of salary and
5 benefits, the State district superintendent is to be considered an
6 employee of the Department of Education at the assistant
7 commissioner's level.

8
9
10

11 _____
12 Makes various revisions in the statutes providing for
13 State-operated school districts.

[SECOND REPRINT]
ASSEMBLY, No. 2900

STATE OF NEW JERSEY

INTRODUCED MAY 22, 1995

By Assemblymen LUSTBADER, DORIA, Mikulak and Rocco

1 AN ACT concerning State operated school districts, amending
2 P.L.1975, c.212 and P.L.1987, c.399.

3
4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 ¹[1. Section 14 of P.L.1975, c.212 (C.18A:7A-14) is amended
7 to read as follows:

8 14. a. (1) The commissioner shall review the results of the
9 evaluations conducted and reports submitted pursuant to sections
10 10 and 11 of P.L.1975, c.212 (C.18A:7A-10 and 18A:7A-11). The
11 commissioner shall establish a mechanism for parent, school
12 employee and community resident input into the review process.
13 If the commissioner shall find that a school district satisfies the
14 evaluation criteria, the commissioner shall recommend that the
15 State board certify the school district for a period of seven years
16 as providing a thorough and efficient system of education. If the
17 commissioner finds that a school district can correct the
18 deficiency or deficiencies without additional diagnostic
19 monitoring or technical assistance, the commissioner may certify
20 the school district with the condition that the district correct the
21 deficiency within a period of time to be determined by the
22 commissioner. If the commissioner shall find that a school
23 district has failed to show sufficient progress toward the goals,
24 guidelines, objectives and standards, including the State goals and
25 any local interim goals concerning pupil proficiency in reading,
26 writing, mathematics, science and health, geography, history,
27 civics, physical education and the arts established in and pursuant
28 to this act, the commissioner shall advise the local board of
29 education of such determination, and shall direct that the district
30 enter level II monitoring, as defined pursuant to law and
31 regulation.

32 (2) The board of education of a school district which is
33 directed to enter level II monitoring may appeal that decision to
34 the State Board of Education. The State board may refer the
35 hearing of that appeal to a committee of not less than three of
36 its members, which committee shall hear the appeal and report
37 thereon, recommending its conclusions, to the board and the
38 board shall decide the appeal by resolution in open meeting. A
39 determination of the appeal by the State board shall be
40 considered final.

41 b. (1) When a district enters level II monitoring, the
42 commissioner shall establish procedures whereby parents, school

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AED committee amendments adopted June 1, 1995.

² Assembly floor amendments adopted June 12, 1995.

1 employees and community residents may meet with the
2 commissioner or the commissioner's designee to discuss their
3 concerns and the county superintendent shall appoint an external
4 review team whose members shall be qualified by training and
5 experience to examine the conditions in the specific district. In
6 conjunction with the Department of Education, the team, at the
7 direction of the commissioner, shall either examine only those
8 aspects of the district's operations bearing on the areas of
9 deficiency, or shall examine all aspects of the district's
10 operation, including but not limited to education, governance,
11 management and finance. In addition, the team shall examine
12 conditions in the community which may adversely affect the
13 ability of the pupils to learn and the team may recommend
14 measures to mitigate the effects of those conditions. The team
15 shall report its findings and conclusions, including directives to be
16 utilized by the district in the preparation of a corrective action
17 plan to achieve certification and recommendations as to the
18 technical assistance which the district will require in order to
19 effectively implement the corrective action plan, to the
20 commissioner. The commissioner shall direct the district to
21 respond to the report of the external review team in establishing
22 a corrective action plan. The corrective action plan shall be
23 submitted to and approved by the commissioner. The
24 commissioner shall assure that the local district's budget
25 provides the resources necessary to implement the approved plan,
26 including the necessary technical assistance. The entire cost of
27 those activities associated with the review team shall be paid by
28 the Department of Education.

29 (2) If the commissioner finds that the district is unsuccessful
30 in correcting the deficiencies noted in the evaluation process, the
31 commissioner shall direct that the district enter level III
32 monitoring, as defined pursuant to law and regulation. However,
33 if the commissioner determines that a district is making
34 reasonable progress toward correcting deficiencies, the
35 commissioner may grant an extension for a specific period of
36 time. During this extension the district will remain under level II
37 monitoring. At the end of the extension the commissioner shall
38 determine whether the district is eligible for certification or if
39 the district must be directed to enter level III monitoring.

40 c. (1) When a district which has had a comprehensive
41 examination of all aspects of the district's operations by an
42 external review team pursuant to subsection b. of this section is
43 directed to enter level III monitoring the commissioner shall
44 prepare an administrative order directing the corrective actions
45 which shall be taken by the district based upon the findings and
46 conclusions of the level II external review team and the
47 department's monitoring of the level II plan. The commissioner
48 shall insure that technical assistance is provided to the district in
49 order to implement those actions. The commissioner shall also
50 have the power to order necessary budgetary reallocations within
51 the district, or such other measures as the commissioner deems
52 necessary and appropriate.

53 (2) When a district which has not had a comprehensive
54 examination of all aspects of the district's operations by an

1 external review team pursuant to subsection b. of this section is
2 directed to enter level III monitoring, the commissioner shall
3 designate the county superintendent to appoint an external
4 review team whose members shall be qualified by training and
5 experience to examine the conditions in the specific district. In
6 conjunction with the Department of Education, the team shall
7 examine all aspects of the district's operations including but not
8 limited to education, governance, management and finance. The
9 team shall report its findings and conclusions, including directives
10 to be utilized in the preparation of a corrective action plan to
11 achieve certification, to the commissioner. The commissioner
12 shall prepare an administrative order directing the corrective
13 actions which shall be taken by the district based upon the
14 findings and conclusions of the level III external review team and
15 the department's monitoring of the level II plan. The
16 commissioner shall insure that technical assistance is provided to
17 the district in order to implement those actions. The
18 commissioner shall also have the power to order necessary
19 budgetary reallocations within the district, or such other
20 measures as the commissioner deems necessary and appropriate.

21 (3) The board of education of a school district which is
22 directed to enter level III monitoring may appeal that decision to
23 the State Board of Education. The State board may refer the
24 hearing of that appeal to a committee of not less than three of
25 its members, which committee shall hear the appeal and report
26 thereon, recommending its conclusions, to the board and the
27 board shall decide the appeal by resolution in open meeting. A
28 determination of the appeal by the State board shall be
29 considered final.

30 (4) If the commissioner finds, based upon the findings and
31 directives of the level II or level III review team and the
32 Department of Education, that conditions within the district may
33 preclude the successful implementation of a corrective action
34 plan or that the district has failed to make reasonable progress in
35 the implementation of a corrective action plan to achieve
36 certification, the commissioner shall direct that a comprehensive
37 compliance investigation be conducted by the Department of
38 Education. If the commissioner directs that a comprehensive
39 compliance investigation be conducted, the commissioner may
40 order any necessary action to insure the security of the books,
41 papers, vouchers and records of the district.

42 d. Whenever a district in level II monitoring is directed to
43 establish a corrective action plan or whenever a district in level
44 III monitoring shall be required to implement an approved
45 corrective action plan pursuant to this section, the commissioner
46 shall determine the cost to the district of implementation of
47 those portions of the corrective action plan which are directly
48 responsive to the district's deficiencies as identified in the
49 report of the external review team or, where applicable, by the
50 commissioner. In making this fiscal assessment, the
51 commissioner shall identify those aspects of the corrective action
52 plan which are already contained in the district's current expense
53 budget. Where appropriate, the commissioner shall reallocate
54 funds within the district's budget to support the corrective

1 action plan. Once reallocated, any transfers among line items of
2 the district's budget may occur only with the commissioner's
3 approval. The commissioner shall further determine the amount
4 of additional revenue, if any, needed to implement the corrective
5 action plan and shall recertify a budget for the district.

6 e. A comprehensive compliance investigation shall entail a
7 thorough and detailed examination of a district's educational
8 programs, fiscal practices, governance and management. Based
9 on the investigation, the commissioner shall issue a report which
10 will document any irregularities and list all those aspects of the
11 corrective action plan established pursuant to subsections b. and
12 c. of this section which have not been successfully implemented
13 by the district or the conditions which would preclude the district
14 from successfully implementing a plan. A copy of this report
15 shall be given to the district. The commissioner shall also order
16 the local board to show cause why an administrative order,
17 subject to the provisions of section 15 of P.L.1975, c.212
18 (C.18A:7A-15) and section 1 of P.L.1987, c.399 (C.18A:7A-34)
19 should not be implemented. The plenary hearing before a judge of
20 the Office of Administrative Law, pursuant to the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.), upon said order to show cause shall be conducted in the
23 manner prescribed by subdivision B of article 2 of chapter 6 of
24 Title 18A of the New Jersey Statutes. A final decision shall be
25 rendered within 120 days of the issuance of the order to show
26 cause.

27 In the proceeding the State shall have the burden of showing
28 that the recommended administrative order is not arbitrary,
29 unreasonable or capricious.

30 (cf: P.L.1991, c.3, s.3)]¹

31 ¹[2.] ¹ Section 2 of P.L.1987, c.399 (C.18A:7A-35) is
32 amended to read as follows:

33 2. a. The schools of a State-operated school district shall be
34 conducted by and under the supervision of a State district
35 superintendent of schools appointed by the State board upon
36 recommendation of the commissioner. The individual selected
37 shall be qualified by training and experience for the particular
38 district.

39 b. The State district superintendent shall be appointed for an
40 original term not to exceed five years. Notwithstanding any
41 other provision of law, no person so appointed shall acquire
42 tenure nor shall the commissioner, with approval of the State
43 board, be precluded from terminating the superintendent's
44 services pursuant to the terms of the superintendent's individual
45 contract of employment. For the purpose of the New Jersey Tort
46 Claims Act, N.J.S.59:1-1 et seq., the State district
47 superintendent shall be considered a State officer.

48 c. The salary of the State district superintendent shall be fixed
49 by the commissioner and adjusted from time to time as the
50 commissioner deems appropriate. The cost for said salary and for
51 the salaries of all persons appointed pursuant to this amendatory
52 and supplementary act shall be an expense of the local school
53 district.

54 d. The State district superintendent shall perform all the

1 duties and possess all the powers heretofore and hereafter
2 assigned in Title 18A of the New Jersey Statutes to central
3 administrative and supervisory staff, instructional and
4 noninstructional, which shall include but not be limited to the
5 superintendent of schools, secretary of the board of education,
6 school business administrator, school business manager, and
7 assistants and clerks thereto.

8 e. Except as otherwise provided in this amendatory and
9 supplementary act, the State district superintendent shall have
10 the power to perform all acts and do all things consistent with
11 law necessary for the proper conduct, maintenance and
12 supervision of the schools in the district.

13 f. The State district superintendent may make, amend and
14 repeal district rules, policies and guidelines, not inconsistent with
15 law for the proper conduct, maintenance and supervision of the
16 schools in the district.

17 g. The State district superintendent shall provide in each
18 school a mechanism for parent, teacher and community
19 involvement. In addition, the State district superintendent shall
20 provide for at least one public meeting in both the fall and the
21 spring semesters to advise parents and members of the
22 community on the activities within the district and to provide an
23 opportunity for those parents, teachers and community members
24 who wish to be heard. The meetings shall be at such times and
25 places as to assure maximum public participation.

26 h. The State district superintendent shall ensure that the
27 district is in compliance with all federal and State laws, rules and
28 regulations relating to equal employment opportunities,
29 affirmative action and minority business opportunities.

30 (cf: P.L.1987, c.399, s.2)

31 ¹[3.] ^{2,1} Section 11 of P.L.1987, c.399 (C.18A:7A-44) is
32 amended to read as follows:

33 11. a. Notwithstanding any other provision of law or contract,
34 the positions of the district's chief school administrator and
35 those executive administrators responsible for curriculum,
36 business and finance, and personnel shall be abolished upon
37 creation of the State-operated school district. The affected
38 individuals shall be given 60 days' notice of termination or 60
39 days' pay. The notice or payment shall be in lieu of any other
40 claim or recourse against the employing board or the school
41 district based on law or contract. Any individual whose position
42 is abolished by operation of this subsection shall be entitled to
43 assert a claim to any position or to placement upon a preferred
44 eligibility list for any position to which the individual may be
45 entitled by virtue of tenure or seniority within the district. No
46 individual whose position is abolished by operation of this
47 subsection shall retain any right to tenure or seniority in the
48 positions abolished herein.

49 b. [The] Within one year of the establishment of the
50 State-operated school district, the State district superintendent
51 shall prepare a reorganization of the district's central
52 administrative and supervisory staff and shall evaluate all
53 individuals employed in central administrative and supervisory
54 staff positions. [Within six months of the establishment of the

1 State-operated district the] The State district superintendent
2 shall implement the reorganization on the July 1 next following
3 its preparation, unless otherwise directed by the commissioner.

4 c. Notwithstanding any other provision of law or contract, the
5 positions of the central administrative and supervisory staff,
6 instructional and noninstructional, other than those positions
7 abolished pursuant to subsection a. of this section, shall be
8 abolished upon the reorganization of the State-operated school
9 district's staff. The State district superintendent may hire an
10 individual whose position is so abolished, based upon the
11 evaluation of the individual and the staffing needs of the
12 reorganized district staff. These individuals shall be hired with
13 tenure if they had tenure in their prior position. If they did not
14 have tenure in their prior position, they may obtain tenure
15 pursuant to the provisions of N.J.S. 18A:28-6. Individuals hired
16 as State assistant superintendents shall not be hired with tenure
17 and shall not acquire tenure. Employees or officers not hired for
18 the reorganized staff shall be given 60 days' notice of
19 termination or 60 days' pay. The notice or payment shall be in
20 lieu of any other claim or recourse against the employing board
21 or the school district based on law or contract. Notwithstanding
22 this limitation, nothing herein shall preclude an individual from
23 asserting upon separation from service any legal contractual right
24 to health care coverage, annuities, accrued vacation days,
25 accrued sick leave, insurance and approved tuition costs. Any
26 employee whose position is abolished by operation of this
27 subsection shall be entitled to assert a claim to any position or to
28 placement upon a preferred eligibility list for any position to
29 which the employee may be entitled by virtue of tenure or
30 seniority within the district. No employee whose position is
31 abolished by operation of this subsection shall retain any right to
32 tenure or seniority in the positions abolished herein.

33 (cf: P.L.1987, c.399, s.11)

34 ¹[4.] 3.¹ Section 12 of P.L.1987, c.388 (C.18A:7A-45) is
35 amended to read as follows:

36 12. a. The Commissioner of Education shall adopt criteria for
37 the evaluation of building principals ¹and vice-principals¹ in a
38 State-operated school district.

39 b. Upon appointment, the State district superintendent shall
40 establish an assessment unit which shall conduct on-site
41 evaluations of each building principal ¹and vice-principal¹ in
42 accordance with the criteria established by the commissioner and
43 render evaluation reports to the State district superintendent.
44 No less than three evaluations shall be performed for each
45 building principal ¹and vice-principal¹ within ~~[six]~~ 18 months
46 following the [reorganization of the central administrative and
47 supervisory staff required by section 11 of this act] establishment
48 of State operation. All personnel records for building principals
49 ¹and vice-principals¹ prepared before the establishment of the
50 State-operated district shall be sealed upon issuance of the State
51 Board of Education order establishing the State-operated school
52 district.

53 c. Notwithstanding any other provision of law or contract, the
54 State district superintendent, after completion of an assessment

1 cycle of not less than 12 months, may dismiss any tenured
2 building principal ¹or vice-principal¹ for inefficiency, incapacity,
3 unbecoming conduct or other just cause as defined by the criteria
4 for principal ¹or vice-principal¹ performance in State-operated
5 districts established by the commissioner pursuant to subsection
6 a. of this section. Nothing herein shall preclude the dismissal of
7 a tenured building principal ¹or vice-principal¹ prior to the
8 completion of an assessment cycle of not less than 12 months if
9 the basis for the dismissal is incapacity or unbecoming conduct.
10 All dismissals of tenured building principals ¹or vice-principals¹
11 shall be conducted in accordance with the procedures set forth in
12 sections 10, 11, 13, 14, 16 and 17 of chapter 6 of Title 18A of the
13 New Jersey Statutes, except that the State district
14 superintendent shall act as the board of education in all respects.

15 d. The commissioner and the Office of Administrative Law are
16 empowered and directed to take any necessary action to expedite
17 hearings for dismissal of tenured principals ¹or vice-principals¹ ,
18 including relaxation of any time requirements established by law
19 or practice. In no event shall a hearing commence later than 45
20 days after certification of charges. Hearings shall be completed
21 within 45 days of commencement. In no event shall a final
22 decision be issued later than 120 days following the certification
23 of charges.

24 e. Evaluations of building principals ¹or vice-principals¹
25 conducted by district personnel prior to the establishment of the
26 State-operated school district shall not be admissible in a tenure
27 hearing for any building principal ¹or vice-principal¹ except in
28 the following circumstances:

29 (1) Evaluations of building principals ¹or vice-principals¹
30 performed by members of the State-operated school district's
31 central administrative and supervisory staff who are hired by the
32 State district superintendent to fill one of the positions in the
33 reorganized central office of the State-operated district shall be
34 admissible;

35 (2) Evaluations of building principals ¹or vice-principals¹ made
36 by individuals who were no longer employed by the school district
37 as of the date it became a State-operated school district shall be
38 admissible only if the evaluation was performed more than five
39 years preceding the date of the establishment of the
40 State-operated district.

41 (cf: P.L.1987, c.399, s.12)

42 ¹[5.] ⁴ Section 14 of P.L.1987, c.399 (C18A:7A-47) is
43 amended to read as follows:

44 14. Within 60 days, the commissioner shall establish a board of
45 education consisting of not more than 15 persons from among the
46 residents of the district. The membership of the board shall be
47 representative of the community's racial and ethnic balance.
48 Previous members of the board of education shall not be
49 precluded from consideration for membership on this board. Of
50 the 15 members, 13 shall be appointed by the commissioner and
51 two shall be appointed by the local governing body of the
52 municipality in which the school district is located. If the school
53 district includes more than one municipality, then the governing
54 body of each constituent municipality shall have one appointment

1 to the board and the number of appointments by the
2 commissioner shall be reduced accordingly. If the local governing
3 body fails to agree upon the selection of board members within 60
4 days of the establishment of the State-operated school district.
5 then the commissioner may make the additional two
6 appointments. Any vacancies on the board shall be filled by the
7 appropriate appointing authority within 45 days of the occurrence
8 of the vacancy. All individuals appointed to the board shall meet
9 all of the statutory requirements for membership on a board of
10 education and shall be required to attend all meetings of the
11 board, all meetings of standing board committees to which the
12 member is appointed, and all in-service training sessions provided
13 for board members. Any member of the board who, during the
14 course of any school year, fails to attend eighty percent of all
15 meetings of the board and of standing board committees and
16 in-service training sessions shall be removed upon
17 recommendation of the ¹[board chairman] State district
18 superintendent¹ to the appropriate appointing authority.
19 Members of the board of education shall serve [at the pleasure of]
20 for ²two-year² terms ²[to be fixed by the appointing authority at
21 the time of appointment]², unless removed from the board as
22 provided herein. The board shall meet as soon as may be possible
23 after its appointment and shall select a chairman and a
24 vice-chairman from among its members.

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

45 The commissioner, in consultation with the [appropriate
46 educational organizations] New Jersey School Boards Association,
47 shall provide the members of the board of education with
48 appropriate in-service training in school matters.
49 (cf: P.L.1987, c.399, s.14)

50 ¹[6.] 5.¹ Section 15 of P.L.1987, c.399 (C.18A:7A-48) is
51 amended to read as follows:

52 15. a. At the April school election in the fourth full academic
53 year following the creation of a State-operated school district,
54 nine board members shall be elected from among the 15

1 appointed board members, three to serve a one year term, three
2 to serve a two year term, and three to serve a three year term.
3 If there are not nine members from the 15 appointed members
4 who are willing to run for election, the commissioner shall retain
5 the right to appoint the remaining members of the board. In each
6 subsequent year, board members shall be elected from the
7 community at large.

8 [Following the election of the board] b. Beginning in the
9 second year of State operation, the State district superintendent
10 shall bring matters of curriculum before the board and may bring
11 other matters before the board for a vote [; however]. Beginning
12 in the third year of State operation, the State district
13 superintendent shall bring legal matters before the board for a
14 vote. Beginning in the fourth year of State operation, the State
15 district superintendent shall bring fiscal matters before the board
16 for a vote. However, the State district superintendent shall
17 retain veto power until [such time as] the [State board determines
18 that local control should be reestablished. In each subsequent
19 year, three board members will be elected from the community
20 at large] reestablishment of local control.

21 (cf: P.L.1992, c.159, s.5)

22 ¹[7.] 6.¹ Section 16 of P.L.1987; c.399 (C.18A:7A-49) is
23 amended to read as follows:

24 16. a. The State district superintendent shall annually provide
25 to the commissioner an assessment of the progress of the district
26 toward meeting the requirements necessary for State
27 certification. In addition, the commissioner shall ensure that the
28 district is regularly monitored by the Department of Education in
29 the manner provided for all school districts in level III monitoring
30 pursuant to section 14 of P.L. 1975,c.212 (C.18A:7A-14). The
31 commissioner shall formally report to the State board and to the
32 Governor and the Legislature on the district's progress.

33 b. Based upon the annual assessment of progress and the
34 district's having received State certification, but not sooner than
35 five years after the establishment of the State-operated school
36 district, the commissioner may recommend to the State board
37 that local control be reestablished. If the State board so
38 determines, local control shall be reestablished effective on the
39 July 1 next ensuing.

40 c. Upon [a determination by the State board that local control
41 should be reestablished] the reestablishment of local control, the
42 board of education shall assume full responsibility for the
43 operation of the school district; however, the State district
44 superintendent and those members of the superintendent's staff
45 appointed by operation of these laws relating to State-operated
46 school districts shall continue to serve for a one year transition
47 period upon conclusion of which their term of service shall expire
48 without prejudice to the right of the district board of education
49 to reappoint any or all such persons to similar positions within the
50 district. During the transition period, the State district
51 superintendent may place matters before the board for a vote.
52 The board of education shall act upon all such matters brought
53 before it by the State district superintendent.

54 d. Not more than one year following the reestablishment of

1 local control, the board shall conduct a special election for
2 purposes of placing the question of classification status before
3 the voters of the district.

4 e. If the voters of the district shall elect to become a type I
5 district, it shall be governed by the provisions of chapter 9 of
6 Title 18A of the New Jersey Statutes relating to type I districts
7 after January 31 next ensuing, unless the district is established in
8 a city of the first class, in which case it shall be governed after
9 June 30 next ensuing. The members of the district board of
10 education at the time of said election shall continue in office
11 until expiration of their respective terms and the qualification in
12 office of their successors.

13 f. If the voters of the district shall so select that the district
14 shall become a type II district, it shall be governed by the
15 provisions of chapter 9 of Title 18A relating to type II districts
16 and the members of the board of education at the time of said
17 election shall remain and continue in office until the expiration
18 of their respective terms and the qualification of their respective
19 successors.

20 g. If the commissioner cannot recommend that local control be
21 reestablished in a district five years after the establishment of a
22 State-operated school district, then the commissioner shall
23 provide a comprehensive report to the State board and to the
24 Governor and the Legislature, including a detailed analysis of the
25 causes for the failure of the district to achieve certification and
26 an assessment of the amount of time necessary for the
27 continuation of the State-operated school district. On the basis
28 of that report the State board shall determine whether to
29 continue the State-operated school district or return the district
30 to local control pursuant to this section.

31 (cf: P.L.1987, c.399, s.16)

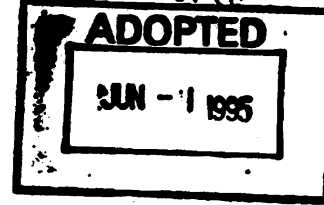
32 ¹[8.] 7.¹ This act shall take effect immediately.

33
34
35
36
37 Makes various revisions in the statutes providing for
38 State-operated school districts.

46/
ER 0021
SR-XXXX 067
TR-XXXX 0146

ASSEMBLY AED COMMITTEE

AMENDMENTS



to

ASSEMBLY, No. 2900

(Sponsored by Assemblymen Lustbader & Doria)

OMIT SECTION 1 IN ITS ENTIRETY

RENUMBER SECTIONS 2 AND 3 AS 1 AND 2

REPLACE SECTION 4 TO READ:

¹[4.] 3.¹ Section 12 of P.L.1987, c.388 (C.18A:7A-45) is amended to read as follows:

12. a. The Commissioner of Education shall adopt criteria for the evaluation of building principals ¹and vice-principals¹ in a State-operated school district.

b. Upon appointment, the State district superintendent shall establish an assessment unit which shall conduct on-site evaluations of each building principal ¹and vice-principal¹ in accordance with the criteria established by the commissioner and render evaluation reports to the State district superintendent. No less than three evaluations shall be performed for each building principal ¹and vice-principal¹ within [six] 18 months following the [reorganization of the central administrative and supervisory staff required by section 11 of this act] establishment of State operation. All personnel records for building principals ¹and vice-principals¹ prepared before the establishment of the State-operated district shall be sealed upon issuance of the State Board of Education order establishing the State-operated school district.

c. Notwithstanding any other provision of law or contract, the State district superintendent, after completion of an assessment cycle of not less than 12 months, may dismiss any tenured building principal ¹or vice-principal¹ for inefficiency, incapacity, unbecoming conduct or other just cause as defined by the criteria for principal ¹or vice-principal¹ performance in State-operated districts established by the commissioner pursuant to subsection a. of this section. Nothing herein shall preclude the dismissal of a tenured building principal ¹or vice-principal¹ prior to the completion of an assessment cycle of not less than 12 months if the basis for the dismissal is incapacity or unbecoming conduct. All dismissals of tenured building principals ¹or vice-principals¹ shall be conducted in accordance with the procedures set forth in sections 10, 11, 13, 14, 16 and 17 of chapter 6 of Title 18A of the New Jersey Statutes, except that the State district superintendent shall act as the board of education in all respects.

d. The commissioner and the Office of Administrative Law are empowered and directed to take any necessary action to expedite hearings for dismissal of tenured principals ¹or vice-principals¹, including relaxation of any time requirements established by law

or practice. In no event shall a hearing commence later than 45 days after certification of charges. Hearings shall be completed within 45 days of commencement. In no event shall a final decision be issued later than 120 days following the certification of charges.

e. Evaluations of building principals ¹or vice-principals¹ conducted by district personnel prior to the establishment of the State-operated school district shall not be admissible in a tenure hearing for any building principal ¹or vice-principal¹ except in the following circumstances:

(1) Evaluations of building principals ¹or vice-principals¹ performed by members of the State-operated school district's central administrative and supervisory staff who are hired by the State district superintendent to fill one of the positions in the reorganized central office of the State-operated district shall be admissible;

(2) Evaluations of building principals ¹or vice-principals¹ made by individuals who were no longer employed by the school district as of the date it became a State-operated school district shall be admissible only if the evaluation was performed more than five years preceding the date of the establishment of the State-operated district.

(cf: P.L.1987, c.399, s.12)

REPLACE SECTION 5 TO READ:

¹[5.] 4.1 Section 14 of P.L.1987, c.399 (C18A:7A-47) is amended to read as follows:

14. Within 60 days, the commissioner shall establish a board of education consisting of not more than 15 persons from among the residents of the district. The membership of the board shall be representative of the community's racial and ethnic balance. Previous members of the board of education shall not be precluded from consideration for membership on this board. Of the 15 members, 13 shall be appointed by the commissioner and two shall be appointed by the local governing body of the municipality in which the school district is located. If the school district includes more than one municipality, then the governing body of each constituent municipality shall have one appointment to the board and the number of appointments by the commissioner shall be reduced accordingly. If the local governing body fails to agree upon the selection of board members within 60 days of the establishment of the State-operated school district, then the commissioner may make the additional two appointments. Any vacancies on the board shall be filled by the appropriate appointing authority within 45 days of the occurrence of the vacancy. All individuals appointed to the board shall meet all of the statutory requirements for membership on a board of education and shall be required to attend all meetings of the

board, all meetings of standing board committees to which the member is appointed, and all in-service training sessions provided for board members. Any member of the board who, during the course of any school year, fails to attend eighty percent of all meetings of the board and of standing board committees and in-service training sessions shall be removed upon recommendation of the ¹[board chairman] State district superintendent¹ to the appropriate appointing authority. Members of the board of education shall serve [at the pleasure of] for terms to be fixed by the appointing authority at the time of appointment, unless removed from the board as provided herein. The board shall meet as soon as may be possible after its appointment and shall select a chairman and a vice-chairman from among its members.

The State district superintendent shall meet with the board of education at least once in each month and may meet more frequently as necessary for the effective operation of the school district. The meetings of the board shall be convened and scheduled at the direction of the State district superintendent, and the State district superintendent shall determine the agenda. At the meetings, the State district superintendent shall report to the board on all actions taken and on pending actions in a timely fashion, and provide an opportunity for a full discussion by the board and by the public of those actions. Meetings shall be conducted pursuant to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). On a regular basis, but no less than twice each year, the board of education shall report in writing directly to the State district superintendent concerning its assessment of the progress of the district. Copies of the report shall be forwarded to the commissioner and the State board. The State district superintendent shall make such clerical and other resources available as are necessary for the effective operation of the board of education.

The commissioner, in consultation with the [appropriate educational organizations] New Jersey School Boards Association, shall provide the members of the board of education with appropriate in-service training in school matters.
(cf: P.L.1987, c.399, s 14)

RENUMBER SECTIONS 6 THROUGH 8 AS 5 THROUGH 7

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2900

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 1, 1995

The Assembly Education Committee favorably reports Assembly Bill No. 2900 with committee amendments.

As amended by committee, this bill revises the statutes which provide for the establishment of a State-operated school district.

Under the bill's provisions, several time-lines are changed. The reorganization of the district's central staff would be prepared within one year of takeover, rather than within six months. Building principals would be evaluated 18 months following the take-over rather than six months after the reorganization. Also, the bill includes vice-principals in the evaluation procedure. The date for the implementation of reorganization and for the reestablishment of local control would occur on July 1 in order to avoid disruption of the district during the school year.

The bill requires the State district superintendent to provide for at least one public meeting in both the fall and spring semesters to advise parents and community members of the district's activities and to provide an opportunity for them to be heard.

With regard to the advisory board, the bill requires the municipal appointments to be made within 60 days, and provides that any vacancy must be filled within 45 days. Training of board members would be done by the New Jersey School Boards Association. Board members are required to attend all board meetings, committee meetings and in-service sessions and may be removed from office for failure to attend at least 80% of them upon the recommendation of the State district superintendent. Beginning in the second year of State operation, the State district superintendent would bring matters of curriculum before the board for a vote; beginning in the third year, the superintendent would bring legal matters before the board; and beginning in the fourth year, the superintendent would bring fiscal matters before the board. The State district superintendent would retain veto power, however, until the reestablishment of local control.

The bill clarifies that when local control is reestablished, the board of education would assume full responsibility for the operation of the school district. During the transition period, however, the board must act upon matters brought before it by the State district superintendent.

The committee amended the bill to delete the requirement that the final decision of an administrative law judge resulting from a plenary hearing conducted in regard to a State board order to show cause creating a State-operated school district be rendered within 120 days of the issuance of the order. The amendments also provide

for the assessment of vice-principals upon the establishment of State operation and provide that a member of the advisory board of education who fails to attend board meetings shall be removed by the appointing authority upon the recommendation of the State district superintendent as opposed to the recommendation of the board chairman.

As amended by committee, this bill is identical to the Senate Committee Substitute for Senate Bill No. 1664.

ASSEMBLY Amendments
(Proposed by Assemblymen Lustbader and Doria)

to

ASSEMBLY, No. 2900 (1R)

(Sponsored by Assemblymen Lustbader and Doria)



REPLACE SECTION 4 TO READ:

¹[5.] 4.¹ Section 14 of P.L.1987, c.399 (C18A:7A-47) is amended to read as follows:

14. Within 60 days, the commissioner shall establish a board of education consisting of not more than 15 persons from among the residents of the district. The membership of the board shall be representative of the community's racial and ethnic balance. Previous members of the board of education shall not be precluded from consideration for membership on this board. Of the 15 members, 13 shall be appointed by the commissioner and two shall be appointed by the local governing body of the municipality in which the school district is located. If the school district includes more than one municipality, then the governing body of each constituent municipality shall have one appointment to the board and the number of appointments by the commissioner shall be reduced accordingly. If the local governing body fails to agree upon the selection of board members within 60 days of the establishment of the State-operated school district, then the commissioner may make the additional two appointments. Any vacancies on the board shall be filled by the appropriate appointing authority within 45 days of the occurrence of the vacancy. All individuals appointed to the board shall meet all of the statutory requirements for membership on a board of education and shall be required to attend all meetings of the board, all meetings of standing board committees to which the member is appointed, and all in-service training sessions provided for board members. Any member of the board who, during the course of any school year, fails to attend eighty percent of all meetings of the board and of standing board committees and in-service training sessions shall be removed upon recommendation of the ¹[board chairman] State district superintendent¹ to the appropriate appointing authority. Members of the board of education shall serve [at the pleasure of] for ²two-year² terms ²[to be fixed by the appointing authority at the time of appointment]², unless removed from the board as provided herein. The board shall meet as soon as may be possible after its appointment and shall select a chairman and a vice-chairman from among its members.

The State district superintendent shall meet with the board of education at least once in each month and may meet more frequently as necessary for the effective operation of the school district. The meetings of the board shall be convened and scheduled at the direction of the State district superintendent, and the State district superintendent shall determine the agenda. At the meetings, the State district superintendent shall report to the board on all actions taken and on pending actions in a timely fashion, and provide an opportunity for a full discussion by the board and by the public of those actions. Meetings shall be conducted pursuant to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). On a regular basis, but no less than twice each year, the board of education shall report in writing directly to the State district superintendent concerning its assessment of the progress of the district. Copies of the report shall be forwarded to the commissioner and the State board. The State district superintendent shall make such clerical and other resources available as are necessary for the effective operation of the board of education.

The commissioner, in consultation with the [appropriate educational organizations] New Jersey School Boards Association, shall provide the members of the board of education with appropriate in-service training in school matters.

(cf: P.L.1987, c.399, s.14)

STATEMENT

These amendments provide that members of the board of education in a State-operated school district shall serve for two-year terms rather than for terms to be fixed at the time of appointment.

[FIRST REPRINT]
ASSEMBLY, No. 2900

STATE OF NEW JERSEY

INTRODUCED MAY 22, 1995

By Assemblymen LUSTBADER, DORIA, Mikulak and Rocco

1 AN ACT concerning State operated school districts, amending
2 P.L.1975, c.212 and P.L.1987, c.399.

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 ¹[1. Section 14 of P.L.1975, c.212 (C.18A:7A-14) is amended to
7 read as follows:

8 14. a. (1) The commissioner shall review the results of the
9 evaluations conducted and reports submitted pursuant to sections
10 10 and 11 of P.L.1975, c.212 (C.18A:7A-10 and 18A:7A-11). The
11 commissioner shall establish a mechanism for parent, school
12 employee and community resident input into the review process.
13 If the commissioner shall find that a school district satisfies the
14 evaluation criteria, the commissioner shall recommend that the
15 State board certify the school district for a period of seven years
16 as providing a thorough and efficient system of education. If the
17 commissioner finds that a school district can correct the
18 deficiency or deficiencies without additional diagnostic
19 monitoring or technical assistance, the commissioner may certify
20 the school district with the condition that the district correct the
21 deficiency within a period of time to be determined by the
22 commissioner. If the commissioner shall find that a school
23 district has failed to show sufficient progress toward the goals,
24 guidelines, objectives and standards, including the State goals and
25 any local interim goals concerning pupil proficiency in reading,
26 writing, mathematics, science and health, geography, history,
27 civics, physical education and the arts established in and pursuant
28 to this act, the commissioner shall advise the local board of
29 education of such determination, and shall direct that the district
30 enter level II monitoring, as defined pursuant to law and
31 regulation.

32 (2) The board of education of a school district which is
33 directed to enter level II monitoring may appeal that decision to
34 the State Board of Education. The State board may refer the
35 hearing of that appeal to a committee of not less than three of
36 its members, which committee shall hear the appeal and report
37 thereon, recommending its conclusions, to the board and the
38 board shall decide the appeal by resolution in open meeting. A
39 determination of the appeal by the State board shall be
40 considered final.

41 b. (1) When a district enters level II monitoring, the
42 commissioner shall establish procedures whereby parents, school

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
Assembly AED committee amendments adopted June 1, 1995.

1 employees and community residents may meet with the
2 commissioner or the commissioner's designee to discuss their
3 concerns and the county superintendent shall appoint an external
4 review team whose members shall be qualified by training and
5 experience to examine the conditions in the specific district. In
6 conjunction with the Department of Education, the team, at the
7 direction of the commissioner, shall either examine only those
8 aspects of the district's operations bearing on the areas of
9 deficiency, or shall examine all aspects of the district's
10 operation, including but not limited to education, governance,
11 management and finance. In addition, the team shall examine
12 conditions in the community which may adversely affect the
13 ability of the pupils to learn and the team may recommend
14 measures to mitigate the effects of those conditions. The team
15 shall report its findings and conclusions, including directives to be
16 utilized by the district in the preparation of a corrective action
17 plan to achieve certification and recommendations as to the
18 technical assistance which the district will require in order to
19 effectively implement the corrective action plan, to the
20 commissioner. The commissioner shall direct the district to
21 respond to the report of the external review team in establishing
22 a corrective action plan. The corrective action plan shall be
23 submitted to and approved by the commissioner. The
24 commissioner shall assure that the local district's budget
25 provides the resources necessary to implement the approved plan,
26 including the necessary technical assistance. The entire cost of
27 those activities associated with the review team shall be paid by
28 the Department of Education.

29 (2) If the commissioner finds that the district is unsuccessful
30 in correcting the deficiencies noted in the evaluation process, the
31 commissioner shall direct that the district enter level III
32 monitoring, as defined pursuant to law and regulation. However,
33 if the commissioner determines that a district is making
34 reasonable progress toward correcting deficiencies, the
35 commissioner may grant an extension for a specific period of
36 time. During this extension the district will remain under level II
37 monitoring. At the end of the extension the commissioner shall
38 determine whether the district is eligible for certification or if
39 the district must be directed to enter level III monitoring.

40 c. (1) When a district which has had a comprehensive
41 examination of all aspects of the district's operations by an
42 external review team pursuant to subsection b. of this section is
43 directed to enter level III monitoring the commissioner shall
44 prepare an administrative order directing the corrective actions
45 which shall be taken by the district based upon the findings and
46 conclusions of the level II external review team and the
47 department's monitoring of the level II plan. The commissioner
48 shall insure that technical assistance is provided to the district in
49 order to implement those actions. The commissioner shall also
50 have the power to order necessary budgetary reallocations within
51 the district, or such other measures as the commissioner deems
52 necessary and appropriate.

53 (2) When a district which has not had a comprehensive
54 examination of all aspects of the district's operations by an

1 external review team pursuant to subsection b. of this section is
2 directed to enter level III monitoring, the commissioner shall
3 designate the county superintendent to appoint an external
4 review team whose members shall be qualified by training and
5 experience to examine the conditions in the specific district. In
6 conjunction with the Department of Education, the team shall
7 examine all aspects of the district's operations including but not
8 limited to education, governance, management and finance. The
9 team shall report its findings and conclusions, including directives
10 to be utilized in the preparation of a corrective action plan to
11 achieve certification, to the commissioner. The commissioner
12 shall prepare an administrative order directing the corrective
13 actions which shall be taken by the district based upon the
14 findings and conclusions of the level III external review team and
15 the department's monitoring of the level II plan. The
16 commissioner shall insure that technical assistance is provided to
17 the district in order to implement those actions. The
18 commissioner shall also have the power to order necessary
19 budgetary reallocations within the district, or such other
20 measures as the commissioner deems necessary and appropriate.

21 (3) The board of education of a school district which is
22 directed to enter level III monitoring may appeal that decision to
23 the State Board of Education. The State board may refer the
24 hearing of that appeal to a committee of not less than three of
25 its members, which committee shall hear the appeal and report
26 thereon, recommending its conclusions, to the board and the
27 board shall decide the appeal by resolution in open meeting. A
28 determination of the appeal by the State board shall be
29 considered final.

30 (4) If the commissioner finds, based upon the findings and
31 directives of the level II or level III review team and the
32 Department of Education, that conditions within the district may
33 preclude the successful implementation of a corrective action
34 plan or that the district has failed to make reasonable progress in
35 the implementation of a corrective action plan to achieve
36 certification, the commissioner shall direct that a comprehensive
37 compliance investigation be conducted by the Department of
38 Education. If the commissioner directs that a comprehensive
39 compliance investigation be conducted, the commissioner may
40 order any necessary action to insure the security of the books,
41 papers, vouchers and records of the district.

42 d. Whenever a district in level II monitoring is directed to
43 establish a corrective action plan or whenever a district in level
44 III monitoring shall be required to implement an approved
45 corrective action plan pursuant to this section, the commissioner
46 shall determine the cost to the district of implementation of
47 those portions of the corrective action plan which are directly
48 responsive to the district's deficiencies as identified in the
49 report of the external review team or, where applicable, by the
50 commissioner. In making this fiscal assessment, the
51 commissioner shall identify those aspects of the corrective action
52 plan which are already contained in the district's current expense
53 budget. Where appropriate, the commissioner shall reallocate
54 funds within the district's budget to support the corrective

1 action plan. Once reallocated, any transfers among line items of
2 the district's budget may occur only with the commissioner's
3 approval. The commissioner shall further determine the amount
4 of additional revenue, if any, needed to implement the corrective
5 action plan and shall recertify a budget for the district.

6 e. A comprehensive compliance investigation shall entail a
7 thorough and detailed examination of a district's educational
8 programs, fiscal practices, governance and management. Based
9 on the investigation, the commissioner shall issue a report which
10 will document any irregularities and list all those aspects of the
11 corrective action plan established pursuant to subsections b. and
12 c. of this section which have not been successfully implemented
13 by the district or the conditions which would preclude the district
14 from successfully implementing a plan. A copy of this report
15 shall be given to the district. The commissioner shall also order
16 the local board to show cause why an administrative order,
17 subject to the provisions of section 15 of P.L.1975, c.212
18 (C.18A:7A-15) and section 1 of P.L.1987, c.399 (C.18A:7A-34)
19 should not be implemented. The plenary hearing before a judge of
20 the Office of Administrative Law, pursuant to the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.), upon said order to show cause shall be conducted in the
23 manner prescribed by subdivision B of article 2 of chapter 6 of
24 Title 18A of the New Jersey Statutes. A final decision shall be
25 rendered within 120 days of the issuance of the order to show
26 cause.

27 In the proceeding the State shall have the burden of showing
28 that the recommended administrative order is not arbitrary,
29 unreasonable or capricious.

30 (cf: P.L.1991, c.3,s.3)¹

31 ¹[2.]¹ Section 2 of P.L.1987, c.399 (C.18A:7A-35) is amended
32 to read as follows:

33 2. a. The schools of a State-operated school district shall be
34 conducted by and under the supervision of a State district
35 superintendent of schools appointed by the State board upon
36 recommendation of the commissioner. The individual selected
37 shall be qualified by training and experience for the particular
38 district.

39 b. The State district superintendent shall be appointed for an
40 original term not to exceed five years. Notwithstanding any
41 other provision of law, no person so appointed shall acquire
42 tenure nor shall the commissioner, with approval of the State
43 board, be precluded from terminating the superintendent's
44 services pursuant to the terms of the superintendent's individual
45 contract of employment. For the purpose of the New Jersey Tort
46 Claims Act, N.J.S.59:1-1 et seq., the State district
47 superintendent shall be considered a State officer.

48 c. The salary of the State district superintendent shall be fixed
49 by the commissioner and adjusted from time to time as the
50 commissioner deems appropriate. The cost for said salary and for
51 the salaries of all persons appointed pursuant to this amendatory
52 and supplementary act shall be an expense of the local school
53 district.

54 d. The State district superintendent shall perform all the

1 duties and possess all the powers heretofore and hereafter
2 assigned in Title 18A of the New Jersey Statutes to central
3 administrative and supervisory staff, instructional and
4 noninstructional, which shall include but not be limited to the
5 superintendent of schools, secretary of the board of education,
6 school business administrator, school business manager, and
7 assistants and clerks thereto.

8 e. Except as otherwise provided in this amendatory and
9 supplementary act, the State district superintendent shall have
10 the power to perform all acts and do all things consistent with
11 law necessary for the proper conduct, maintenance and
12 supervision of the schools in the district.

13 f. The State district superintendent may make, amend and
14 repeal district rules, policies and guidelines, not inconsistent with
15 law for the proper conduct, maintenance and supervision of the
16 schools in the district.

17 g. The State district superintendent shall provide in each
18 school a mechanism for parent, teacher and community
19 involvement. In addition, the State district superintendent shall
20 provide for at least one public meeting in both the fall and the
21 spring semesters to advise parents and members of the
22 community on the activities within the district and to provide an
23 opportunity for those parents, teachers and community members
24 who wish to be heard. The meetings shall be at such times and
25 places as to assure maximum public participation.

26 h. The State district superintendent shall ensure that the
27 district is in compliance with all federal and State laws, rules and
28 regulations relating to equal employment opportunities,
29 affirmative action and minority business opportunities.

30 (cf: P.L.1987, c.399, s.2)

31 ¹[3.]² Section 11 of P.L.1987, c.399 (C.18A:7A-44) is
32 amended to read as follows:

33 11. a. Notwithstanding any other provision of law or contract,
34 the positions of the district's chief school administrator and
35 those executive administrators responsible for curriculum,
36 business and finance, and personnel shall be abolished upon
37 creation of the State-operated school district. The affected
38 individuals shall be given 60 days' notice of termination or 60
39 days' pay. The notice or payment shall be in lieu of any other
40 claim or recourse against the employing board or the school
41 district based on law or contract. Any individual whose position
42 is abolished by operation of this subsection shall be entitled to
43 assert a claim to any position or to placement upon a preferred
44 eligibility list for any position to which the individual may be
45 entitled by virtue of tenure or seniority within the district. No
46 individual whose position is abolished by operation of this
47 subsection shall retain any right to tenure or seniority in the
48 positions abolished herein.

49 b. [The] Within one year of the establishment of the
50 State-operated school district, the State district superintendent
51 shall prepare a reorganization of the district's central
52 administrative and supervisory staff and shall evaluate all
53 individuals employed in central administrative and supervisory
54 staff positions. [Within six months of the establishment of the

1 State-operated district the] The State district superintendent
2 shall implement the reorganization on the July 1 next following
3 its preparation, unless otherwise directed by the commissioner.

4 c. Notwithstanding any other provision of law or contract, the
5 positions of the central administrative and supervisory staff,
6 instructional and noninstructional, other than those positions
7 abolished pursuant to subsection a. of this section, shall be
8 abolished upon the reorganization of the State-operated school
9 district's staff. The State district superintendent may hire an
10 individual whose position is so abolished, based upon the
11 evaluation of the individual and the staffing needs of the
12 reorganized district staff. These individuals shall be hired with
13 tenure if they had tenure in their prior position. If they did not
14 have tenure in their prior position, they may obtain tenure
15 pursuant to the provisions of N.J.S. 18A:28-6. Individuals hired
16 as State assistant superintendents shall not be hired with tenure
17 and shall not acquire tenure. Employees or officers not hired for
18 the reorganized staff shall be given 60 days' notice of
19 termination or 60 days' pay. The notice or payment shall be in
20 lieu of any other claim or recourse against the employing board
21 or the school district based on law or contract. Notwithstanding
22 this limitation, nothing herein shall preclude an individual from
23 asserting upon separation from service any legal contractual right
24 to health care coverage, annuities, accrued vacation days,
25 accrued sick leave, insurance and approved tuition costs. Any
26 employee whose position is abolished by operation of this
27 subsection shall be entitled to assert a claim to any position or to
28 placement upon a preferred eligibility list for any position to
29 which the employee may be entitled by virtue of tenure or
30 seniority within the district. No employee whose position is
31 abolished by operation of this subsection shall retain any right to
32 tenure or seniority in the positions abolished herein.

33 (cf: P.L.1987, c.399, s.11)

34 ¹[4.] 3.¹ Section 12 of P.L.1987, c.388 (C.18A:7A-45) is
35 amended to read as follows:

36 12. a. The Commissioner of Education shall adopt criteria for
37 the evaluation of building principals ¹and vice-principals¹ in a
38 State-operated school district.

39 b. Upon appointment, the State district superintendent shall
40 establish an assessment unit which shall conduct on-site
41 evaluations of each building principal ¹and vice-principal¹ in
42 accordance with the criteria established by the commissioner and
43 render evaluation reports to the State district superintendent.
44 No less than three evaluations shall be performed for each
45 building principal ¹and vice-principal¹ within [six] 18 months
46 following the [reorganization of the central administrative and
47 supervisory staff required by section 11 of this act] establishment
48 of State operation. All personnel records for building principals
49 ¹and vice-principals¹ prepared before the establishment of the
50 State-operated district shall be sealed upon issuance of the State
51 Board of Education order establishing the State-operated school
52 district.

53 c. Notwithstanding any other provision of law or contract, the
54 State district superintendent, after completion of an assessment

1 cycle of not less than 12 months, may dismiss any tenured
2 building principal ¹or vice-principal¹ for inefficiency, incapacity,
3 unbecoming conduct or other just cause as defined by the criteria
4 for principal ¹or vice-principal¹ performance in State-operated
5 districts established by the commissioner pursuant to subsection
6 a. of this section. Nothing herein shall preclude the dismissal of
7 a tenured building principal ¹or vice-principal¹ prior to the
8 completion of an assessment cycle of not less than 12 months if
9 the basis for the dismissal is incapacity or unbecoming conduct.
10 All dismissals of tenured building principals ¹or vice-principals¹
11 shall be conducted in accordance with the procedures set forth in
12 sections 10, 11, 13, 14, 16 and 17 of chapter 6 of Title 18A of the
13 New Jersey Statutes, except that the State district
14 superintendent shall act as the board of education in all respects.

15 d. The commissioner and the Office of Administrative Law are
16 empowered and directed to take any necessary action to expedite
17 hearings for dismissal of tenured principals ¹or vice-principals¹,
18 including relaxation of any time requirements established by law
19 or practice. In no event shall a hearing commence later than 45
20 days after certification of charges. Hearings shall be completed
21 within 45 days of commencement. In no event shall a final
22 decision be issued later than 120 days following the certification
23 of charges.

24 e. Evaluations of building principals ¹or vice-principals¹
25 conducted by district personnel prior to the establishment of the
26 State-operated school district shall not be admissible in a tenure
27 hearing for any building principal ¹or vice-principal¹ except in
28 the following circumstances:

29 (1) Evaluations of building principals ¹or vice-principals¹
30 performed by members of the State-operated school district's
31 central administrative and supervisory staff who are hired by the
32 State district superintendent to fill one of the positions in the
33 reorganized central office of the State-operated district shall be
34 admissible;

35 (2) Evaluations of building principals ¹or vice-principals¹ made
36 by individuals who were no longer employed by the school district
37 as of the date it became a State-operated school district shall be
38 admissible only if the evaluation was performed more than five
39 years preceding the date of the establishment of the
40 State-operated district.

41 (cf: P.L.1987, c.399, s.12)

42 ¹[5.] 4¹ Section 14 of P.L.1987, c.399 (C18A:7A-47) is
43 amended to read as follows:

44 14. Within 60 days, the commissioner shall establish a board of
45 education consisting of not more than 15 persons from among the
46 residents of the district. The membership of the board shall be
47 representative of the community's racial and ethnic balance.
48 Previous members of the board of education shall not be
49 precluded from consideration for membership on this board. Of
50 the 15 members, 13 shall be appointed by the commissioner and
51 two shall be appointed by the local governing body of the
52 municipality in which the school district is located. If the school
53 district includes more than one municipality, then the governing
54 body of each constituent municipality shall have one appointment

1 to the board and the number of appointments by the
2 commissioner shall be reduced accordingly. If the local governing
3 body fails to agree upon the selection of board members within 60
4 days of the establishment of the State-operated school district.
5 then the commissioner may make the additional two
6 appointments. Any vacancies on the board shall be filled by the
7 appropriate appointing authority within 45 days of the occurrence
8 of the vacancy. All individuals appointed to the board shall meet
9 all of the statutory requirements for membership on a board of
10 education and shall be required to attend all meetings of the
11 board, all meetings of standing board committees to which the
12 member is appointed, and all in-service training sessions provided
13 for board members. Any member of the board who, during the
14 course of any school year, fails to attend eighty percent of all
15 meetings of the board and of standing board committees and
16 in-service training sessions shall be removed upon
17 recommendation of the ¹[board chairman] State district
18 superintendent¹ to the appropriate appointing authority. Members
19 of the board of education shall serve [at the pleasure of] for
20 terms to be fixed by the appointing authority at the time of
21 appointment, unless removed from the board as provided herein.
22 The board shall meet as soon as may be possible after its
23 appointment and shall select a chairman and a vice-chairman
24 from among its members.

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

45 The commissioner, in consultation with the [appropriate
46 educational organizations] New Jersey School Boards Association,
47 shall provide the members of the board of education with
48 appropriate in-service training in school matters.
49 (cf: P.L.1987, c.399, s.14)

50 ¹[6.] 5.1 Section 15 of P.L.1987, c.399 (C.18A:7A-48) is
51 amended to read as follows:

52 15. a. At the April school election in the fourth full academic
53 year following the creation of a State-operated school district,
54 nine board members shall be elected from among the 15

1 appointed board members, three to serve a one year term, three
2 to serve a two year term, and three to serve a three year term.
3 If there are not nine members from the 15 appointed members
4 who are willing to run for election, the commissioner shall retain
5 the right to appoint the remaining members of the board. In each
6 subsequent year, board members shall be elected from the
7 community at large.

8 [Following the election of the board] b. Beginning in the
9 second year of State operation, the State district superintendent
10 shall bring matters of curriculum before the board and may bring
11 other matters before the board for a vote [; however]. Beginning
12 in the third year of State operation, the State district
13 superintendent shall bring legal matters before the board for a
14 vote. Beginning in the fourth year of State operation, the State
15 district superintendent shall bring fiscal matters before the board
16 for a vote. However, the State district superintendent shall
17 retain veto power until [such time as] the [State board determines
18 that local control should be reestablished. In each subsequent
19 year, three board members will be elected from the community
20 at large] reestablishment of local control.

21 (cf: P.L.1992, c.159, s.5)

22 ¹[7.]¹ Section 16 of P.L.1987, c.399 (C.18A:7A-49) is
23 amended to read as follows:

24 16. a. The State district superintendent shall annually provide
25 to the commissioner an assessment of the progress of the district
26 toward meeting the requirements necessary for State
27 certification. In addition, the commissioner shall ensure that the
28 district is regularly monitored by the Department of Education in
29 the manner provided for all school districts in level III monitoring
30 pursuant to section 14 of P.L. 1975.c.212 (C.18A:7A-14). The
31 commissioner shall formally report to the State board and to the
32 Governor and the Legislature on the district's progress.

33 b. Based upon the annual assessment of progress and the
34 district's having received State certification, but not sooner than
35 five years after the establishment of the State-operated school
36 district, the commissioner may recommend to the State board
37 that local control be reestablished. If the State board so
38 determines, local control shall be reestablished effective on the
39 July 1 next ensuing.

40 c. Upon [a determination by the State board that local control
41 should be reestablished] the reestablishment of local control, the
42 board of education shall assume full responsibility for the
43 operation of the school district; however, the State district
44 superintendent and those members of the superintendent's staff
45 appointed by operation of these laws relating to State-operated
46 school districts shall continue to serve for a one year transition
47 period upon conclusion of which their term of service shall expire
48 without prejudice to the right of the district board of education
49 to reappoint any or all such persons to similar positions within the
50 district. During the transition period, the State district
51 superintendent may place matters before the board for a vote.
52 The board of education shall act upon all such matters brought
53 before it by the State district superintendent.

54 d. Not more than one year following the reestablishment of

1 local control, the board shall conduct a special election for
2 purposes of placing the question of classification status before
3 the voters of the district.

4 e. If the voters of the district shall elect to become a type I
5 district, it shall be governed by the provisions of chapter 9 of
6 Title 18A of the New Jersey Statutes relating to type I districts
7 after January 31 next ensuing, unless the district is established in
8 a city of the first class, in which case it shall be governed after
9 June 30 next ensuing. The members of the district board of
10 education at the time of said election shall continue in office
11 until expiration of their respective terms and the qualification in
12 office of their successors.

13 f. If the voters of the district shall so select that the district
14 shall become a type II district, it shall be governed by the
15 provisions of chapter 9 of Title 18A relating to type II districts
16 and the members of the board of education at the time of said
17 election shall remain and continue in office until the expiration
18 of their respective terms and the qualification of their respective
19 successors.

20 g. If the commissioner cannot recommend that local control be
21 reestablished in a district five years after the establishment of a
22 State-operated school district, then the commissioner shall
23 provide a comprehensive report to the State board and to the
24 Governor and the Legislature, including a detailed analysis of the
25 causes for the failure of the district to achieve certification and
26 an assessment of the amount of time necessary for the
27 continuation of the State-operated school district. On the basis
28 of that report the State board shall determine whether to
29 continue the State-operated school district or return the district
30 to local control pursuant to this section.

31 (cf: P.L.1987, c.399, s.16)

32 ¹[8.]¹ This act shall take effect immediately.

33

34

35

36

37 Makes various revisions in the statutes providing for
38 State-operated school districts.

ASSEMBLY, No. 2900

STATE OF NEW JERSEY

INTRODUCED MAY 22, 1995

By Assemblymen LUSTBADER, DORIA, Mikulak and Rocco

1 AN ACT concerning State operated school districts, amending
2 P.L.1975, c.212 and P.L.1987, c.399.

3

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

6 1. Section 14 of P.L.1975, c.212 (C.18A:7A-14) is amended to
7 read as follows:

8 14. a. (1) The commissioner shall review the results of the
9 evaluations conducted and reports submitted pursuant to sections
10 10 and 11 of P.L.1975, c.212 (C.18A:7A-10 and 18A:7A-11). The
11 commissioner shall establish a mechanism for parent, school
12 employee and community resident input into the review process.
13 If the commissioner shall find that a school district satisfies the
14 evaluation criteria, the commissioner shall recommend that the
15 State board certify the school district for a period of seven years
16 as providing a thorough and efficient system of education. If the
17 commissioner finds that a school district can correct the
18 deficiency or deficiencies without additional diagnostic
19 monitoring or technical assistance, the commissioner may certify
20 the school district with the condition that the district correct the
21 deficiency within a period of time to be determined by the
22 commissioner. If the commissioner shall find that a school
23 district has failed to show sufficient progress toward the goals,
24 guidelines, objectives and standards, including the State goals and
25 any local interim goals concerning pupil proficiency in reading,
26 writing, mathematics, science and health, geography, history,
27 civics, physical education and the arts established in and pursuant
28 to this act, the commissioner shall advise the local board of
29 education of such determination, and shall direct that the district
30 enter level II monitoring, as defined pursuant to law and
31 regulation.

32 (2) The board of education of a school district which is
33 directed to enter level II monitoring may appeal that decision to
34 the State Board of Education. The State board may refer the
35 hearing of that appeal to a committee of not less than three of
36 its members, which committee shall hear the appeal and report
37 thereon, recommending its conclusions, to the board and the
38 board shall decide the appeal by resolution in open meeting. A
39 determination of the appeal by the State board shall be
40 considered final.

41 b. (1) When a district enters level II monitoring, the
42 commissioner shall establish procedures whereby parents, school

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

Matter underlined thus is new matter.

1 employees and community residents may meet with the
2 commissioner or the commissioner's designee to discuss their
3 concerns and the county superintendent shall appoint an external
4 review team whose members shall be qualified by training and
5 experience to examine the conditions in the specific district. In
6 conjunction with the Department of Education, the team, at the
7 direction of the commissioner, shall either examine only those
8 aspects of the district's operations bearing on the areas of
9 deficiency, or shall examine all aspects of the district's
10 operation, including but not limited to education, governance,
11 management and finance. In addition, the team shall examine
12 conditions in the community which may adversely affect the
13 ability of the pupils to learn and the team may recommend
14 measures to mitigate the effects of those conditions. The team
15 shall report its findings and conclusions, including directives to be
16 utilized by the district in the preparation of a corrective action
17 plan to achieve certification and recommendations as to the
18 technical assistance which the district will require in order to
19 effectively implement the corrective action plan, to the
20 commissioner. The commissioner shall direct the district to
21 respond to the report of the external review team in establishing
22 a corrective action plan. The corrective action plan shall be
23 submitted to and approved by the commissioner. The
24 commissioner shall assure that the local district's budget
25 provides the resources necessary to implement the approved plan,
26 including the necessary technical assistance. The entire cost of
27 those activities associated with the review team shall be paid by
28 the Department of Education.

29 (2) If the commissioner finds that the district is unsuccessful
30 in correcting the deficiencies noted in the evaluation process, the
31 commissioner shall direct that the district enter level III
32 monitoring, as defined pursuant to law and regulation. However,
33 if the commissioner determines that a district is making
34 reasonable progress toward correcting deficiencies, the
35 commissioner may grant an extension for a specific period of
36 time. During this extension the district will remain under level II
37 monitoring. At the end of the extension the commissioner shall
38 determine whether the district is eligible for certification or if
39 the district must be directed to enter level III monitoring.

40 c. (1) When a district which has had a comprehensive
41 examination of all aspects of the district's operations by an
42 external review team pursuant to subsection b. of this section is
43 directed to enter level III monitoring the commissioner shall
44 prepare an administrative order directing the corrective actions
45 which shall be taken by the district based upon the findings and
46 conclusions of the level II external review team and the
47 department's monitoring of the level II plan. The commissioner
48 shall insure that technical assistance is provided to the district in
49 order to implement those actions. The commissioner shall also
50 have the power to order necessary budgetary reallocations within
51 the district, or such other measures as the commissioner deems
52 necessary and appropriate.

53 (2) When a district which has not had a comprehensive
54 examination of all aspects of the district's operations by an

1 external review team pursuant to subsection b. of this section is
2 directed to enter level III monitoring, the commissioner shall
3 designate the county superintendent to appoint an external
4 review team whose members shall be qualified by training and
5 experience to examine the conditions in the specific district. In
6 conjunction with the Department of Education, the team shall
7 examine all aspects of the district's operations including but not
8 limited to education, governance, management and finance. The
9 team shall report its findings and conclusions, including directives
10 to be utilized in the preparation of a corrective action plan to
11 achieve certification, to the commissioner. The commissioner
12 shall prepare an administrative order directing the corrective
13 actions which shall be taken by the district based upon the
14 findings and conclusions of the level III external review team and
15 the department's monitoring of the level II plan. The
16 commissioner shall insure that technical assistance is provided to
17 the district in order to implement those actions. The
18 commissioner shall also have the power to order necessary
19 budgetary reallocations within the district, or such other
20 measures as the commissioner deems necessary and appropriate.

21 (3) The board of education of a school district which is
22 directed to enter level III monitoring may appeal that decision to
23 the State Board of Education. The State board may refer the
24 hearing of that appeal to a committee of not less than three of
25 its members, which committee shall hear the appeal and report
26 thereon, recommending its conclusions, to the board and the
27 board shall decide the appeal by resolution in open meeting. A
28 determination of the appeal by the State board shall be
29 considered final.

30 (4) If the commissioner finds, based upon the findings and
31 directives of the level II or level III review team and the
32 Department of Education, that conditions within the district may
33 preclude the successful implementation of a corrective action
34 plan or that the district has failed to make reasonable progress in
35 the implementation of a corrective action plan to achieve
36 certification, the commissioner shall direct that a comprehensive
37 compliance investigation be conducted by the Department of
38 Education. If the commissioner directs that a comprehensive
39 compliance investigation be conducted, the commissioner may
40 order any necessary action to insure the security of the books,
41 papers, vouchers and records of the district.

42 d. Whenever a district in level II monitoring is directed to
43 establish a corrective action plan or whenever a district in level
44 III monitoring shall be required to implement an approved
45 corrective action plan pursuant to this section, the commissioner
46 shall determine the cost to the district of implementation of
47 those portions of the corrective action plan which are directly
48 responsive to the district's deficiencies as identified in the
49 report of the external review team or, where applicable, by the
50 commissioner. In making this fiscal assessment, the
51 commissioner shall identify those aspects of the corrective action
52 plan which are already contained in the district's current expense
53 budget. Where appropriate, the commissioner shall reallocate
54 funds within the district's budget to support the corrective

1 action plan. Once reallocated, any transfers among line items of
2 the district's budget may occur only with the commissioner's
3 approval. The commissioner shall further determine the amount
4 of additional revenue, if any, needed to implement the corrective
5 action plan and shall recertify a budget for the district.

6 e. A comprehensive compliance investigation shall entail a
7 thorough and detailed examination of a district's educational
8 programs, fiscal practices, governance and management. Based
9 on the investigation, the commissioner shall issue a report which
10 will document any irregularities and list all those aspects of the
11 corrective action plan established pursuant to subsections b. and
12 c. of this section which have not been successfully implemented
13 by the district or the conditions which would preclude the district
14 from successfully implementing a plan. A copy of this report
15 shall be given to the district. The commissioner shall also order
16 the local board to show cause why an administrative order,
17 subject to the provisions of section 15 of P.L.1975, c.212
18 (C.18A:7A-15) and section 1 of P.L.1987, c.399 (C.18A:7A-34)
19 should not be implemented. The plenary hearing before a judge of
20 the Office of Administrative Law, pursuant to the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.), upon said order to show cause shall be conducted in the
23 manner prescribed by subdivision B of article 2 of chapter 6 of
24 Title 18A of the New Jersey Statutes. A final decision shall be
25 rendered within 120 days of the issuance of the order to show
26 cause.

27 In the proceeding the State shall have the burden of showing
28 that the recommended administrative order is not arbitrary,
29 unreasonable or capricious.

30 (cf: P.L.1991, c.3,s.3)

31 2. Section 2 of P.L.1987, c.399 (C.18A:7A-35) is amended to
32 read as follows:

33 2. a. The schools of a State-operated school district shall be
34 conducted by and under the supervision of a State district
35 superintendent of schools appointed by the State board upon
36 recommendation of the commissioner. The individual selected
37 shall be qualified by training and experience for the particular
38 district.

39 b. The State district superintendent shall be appointed for an
40 original term not to exceed five years. Notwithstanding any
41 other provision of law, no person so appointed shall acquire
42 tenure nor shall the commissioner, with approval of the State
43 board, be precluded from terminating the superintendent's
44 services pursuant to the terms of the superintendent's individual
45 contract of employment. For the purpose of the New Jersey Tort
46 Claims Act, N.J.S.59:1-1 et seq., the State district
47 superintendent shall be considered a State officer.

48 c. The salary of the State district superintendent shall be fixed
49 by the commissioner and adjusted from time to time as the
50 commissioner deems appropriate. The cost for said salary and for
51 the salaries of all persons appointed pursuant to this amendatory
52 and supplementary act shall be an expense of the local school
53 district.

54 d. The State district superintendent shall perform all the

1 duties and possess all the powers heretofore and hereafter
2 assigned in Title 18A of the New Jersey Statutes to central
3 administrative and supervisory staff, instructional and
4 noninstructional, which shall include but not be limited to the
5 superintendent of schools, secretary of the board of education,
6 school business administrator, school business manager, and
7 assistants and clerks thereto.

8 e. Except as otherwise provided in this amendatory and
9 supplementary act, the State district superintendent shall have
10 the power to perform all acts and do all things consistent with
11 law necessary for the proper conduct, maintenance and
12 supervision of the schools in the district.

13 f. The State district superintendent may make, amend and
14 repeal district rules, policies and guidelines, not inconsistent with
15 law for the proper conduct, maintenance and supervision of the
16 schools in the district.

17 g. The State district superintendent shall provide in each
18 school a mechanism for parent, teacher and community
19 involvement. In addition, the State district superintendent shall
20 provide for at least one public meeting in both the fall and the
21 spring semesters to advise parents and members of the
22 community on the activities within the district and to provide an
23 opportunity for those parents, teachers and community members
24 who wish to be heard. The meetings shall be at such times and
25 places as to assure maximum public participation.

26 h. The State district superintendent shall ensure that the
27 district is in compliance with all federal and State laws, rules and
28 regulations relating to equal employment opportunities,
29 affirmative action and minority business opportunities.

30 (cf: P.L.1987, c.399, s.2)

31 3. Section 11 of P.L.1987, c.399 (C.18A:7A-44) is amended to
32 read as follows:

33 11. a. Notwithstanding any other provision of law or contract,
34 the positions of the district's chief school administrator and
35 those executive administrators responsible for curriculum,
36 business and finance, and personnel shall be abolished upon
37 creation of the State-operated school district. The affected
38 individuals shall be given 60 days' notice of termination or 60
39 days' pay. The notice or payment shall be in lieu of any other
40 claim or recourse against the employing board or the school
41 district based on law or contract. Any individual whose position
42 is abolished by operation of this subsection shall be entitled to
43 assert a claim to any position or to placement upon a preferred
44 eligibility list for any position to which the individual may be
45 entitled by virtue of tenure or seniority within the district. No
46 individual whose position is abolished by operation of this
47 subsection shall retain any right to tenure or seniority in the
48 positions abolished herein.

49 b. [The] Within one year of the establishment of the
50 State-operated school district, the State district superintendent
51 shall prepare a reorganization of the district's central
52 administrative and supervisory staff and shall evaluate all
53 individuals employed in central administrative and supervisory
54 staff positions. [Within six months of the establishment of the

1 State-operated district the] The State district superintendent
2 shall implement the reorganization on the July 1 next following
3 its preparation, unless otherwise directed by the commissioner.

4 c. Notwithstanding any other provision of law or contract, the
5 positions of the central administrative and supervisory staff,
6 instructional and noninstructional, other than those positions
7 abolished pursuant to subsection a. of this section, shall be
8 abolished upon the reorganization of the State-operated school
9 district's staff. The State district superintendent may hire an
10 individual whose position is so abolished, based upon the
11 evaluation of the individual and the staffing needs of the
12 reorganized district staff. These individuals shall be hired with
13 tenure if they had tenure in their prior position. If they did not
14 have tenure in their prior position, they may obtain tenure
15 pursuant to the provisions of N.J.S. 18A:28-6. Individuals hired
16 as State assistant superintendents shall not be hired with tenure
17 and shall not acquire tenure. Employees or officers not hired for
18 the reorganized staff shall be given 60 days' notice of
19 termination or 60 days' pay. The notice or payment shall be in
20 lieu of any other claim or recourse against the employing board
21 or the school district based on law or contract. Notwithstanding
22 this limitation, nothing herein shall preclude an individual from
23 asserting upon separation from service any legal contractual right
24 to health care coverage, annuities, accrued vacation days,
25 accrued sick leave, insurance and approved tuition costs. Any
26 employee whose position is abolished by operation of this
27 subsection shall be entitled to assert a claim to any position or to
28 placement upon a preferred eligibility list for any position to
29 which the employee may be entitled by virtue of tenure or
30 seniority within the district. No employee whose position is
31 abolished by operation of this subsection shall retain any right to
32 tenure or seniority in the positions abolished herein.

33 (cf: P.L.1987, c.399, s.11)

34 4. Section 12 of P.L.1987, c.388 (C.18A:7A-45) is amended to
35 read as follows:

36 12. a. The Commissioner of Education shall adopt criteria for
37 the evaluation of building principals in a State-operated school
38 district.

39 b. Upon appointment, the State district superintendent shall
40 establish an assessment unit which shall conduct on-site
41 evaluations of each building principal in accordance with the
42 criteria established by the commissioner and render evaluation
43 reports to the State district superintendent. No less than three
44 evaluations shall be performed for each building principal within
45 [six] 18 months following the [reorganization of the central
46 administrative and supervisory staff required by section 11 of this
47 act] establishment of State operation. All personnel records for
48 building principals prepared before the establishment of the
49 State-operated district shall be sealed upon issuance of the State
50 Board of Education order establishing the State-operated school
51 district.

52 c. Notwithstanding any other provision of law or contract, the
53 State district superintendent, after completion of an assessment
54 cycle of not less than 12 months, may dismiss any tenured

1 building principal for inefficiency, incapacity, unbecoming
2 conduct or other just cause as defined by the criteria for
3 principal performance in State-operated districts established by
4 the commissioner pursuant to subsection a. of this section.
5 Nothing herein shall preclude the dismissal of a tenured building
6 principal prior to the completion of an assessment cycle of not
7 less than 12 months if the basis for the dismissal is incapacity or
8 unbecoming conduct. All dismissals of tenured building principals
9 shall be conducted in accordance with the procedures set forth in
10 sections 10, 11, 13, 14, 16 and 17 of chapter 6 of Title 18A of the
11 New Jersey Statutes, except that the State district
12 superintendent shall act as the board of education in all respects.

13 d. The commissioner and the Office of Administrative Law are
14 empowered and directed to take any necessary action to expedite
15 hearings for dismissal of tenured principals, including relaxation
16 of any time requirements established by law or practice. In no
17 event shall a hearing commence later than 45 days after
18 certification of charges. Hearings shall be completed within 45
19 days of commencement. In no event shall a final decision be
20 issued later than 120 days following the certification of charges.

21 e. Evaluations of building principals conducted by district
22 personnel prior to the establishment of the State-operated school
23 district shall not be admissible in a tenure hearing for any
24 building principal except in the following circumstances:

25 (1) Evaluations of building principals performed by members of
26 the State-operated school district's central administrative and
27 supervisory staff who are hired by the State district
28 superintendent to fill one of the positions in the reorganized
29 central office of the State-operated district shall be admissible;

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

35 (cf: P.L.1987, c.399, s.12)

36 5. Section 14 of P.L.1987, c.399 (C18A:7A-47) is amended to
37 read as follows:

38 14. Within 60 days, the commissioner shall establish a board of
39 education consisting of not more than 15 persons from among the
40 residents of the district. The membership of the board shall be
41 representative of the community's racial and ethnic balance.
42 Previous members of the board of education shall not be
43 precluded from consideration for membership on this board. Of
44 the 15 members, 13 shall be appointed by the commissioner and
45 two shall be appointed by the local governing body of the
46 municipality in which the school district is located. If the school
47 district includes more than one municipality, then the governing
48 body of each constituent municipality shall have one appointment
49 to the board and the number of appointments by the
50 commissioner shall be reduced accordingly. If the local governing
51 body fails to agree upon the selection of board members within 60
52 days of the establishment of the State-operated school district,
53 then the commissioner may make the additional two
54 appointments. Any vacancies on the board shall be filled by the

1 appropriate appointing authority within 45 days of the occurrence
2 of the vacancy. All individuals appointed to the board shall meet
3 all of the statutory requirements for membership on a board of
4 education and shall be required to attend all meetings of the
5 board, all meetings of standing board committees to which the
6 member is appointed, and all in-service training sessions provided
7 for board members. Any member of the board who, during the
8 course of any school year, fails to attend eighty percent of all
9 meetings of the board and of standing board committees and
10 in-service training sessions shall be removed upon
11 recommendation of the board chairman to the appropriate
12 appointing authority. Members of the board of education shall
13 serve [at the pleasure of] for terms to be fixed by the appointing
14 authority at the time of appointment, unless removed from the
15 board as provided herein. The board shall meet as soon as may be
16 possible after its appointment and shall select a chairman and a
17 vice-chairman from among its members.

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

38 The commissioner, in consultation with the [appropriate
39 educational organizations] New Jersey School Boards Association,
40 shall provide the members of the board of education with
41 appropriate in-service training in school matters.
42 (cf: P.L.1987, c.399, s.14)

43 6. Section 15 of P.L.1987, c.399 (C.18A:7A-48) is amended to
44 read as follows:

45 15. a. At the April school election in the fourth full academic
46 year following the creation of a State-operated school district,
47 nine board members shall be elected from among the 15
48 appointed board members, three to serve a one year term, three
49 to serve a two year term, and three to serve a three year term.
50 If there are not nine members from the 15 appointed members
51 who are willing to run for election, the commissioner shall retain
52 the right to appoint the remaining members of the board. In each
53 subsequent year, board members shall be elected from the
54 community at large.

1 [Following the election of the board] b. Beginning in the
2 second year of State operation, the State district superintendent
3 shall bring matters of curriculum before the board and may bring
4 other matters before the board for a vote [; however]. Beginning
5 in the third year of State operation, the State district
6 superintendent shall bring legal matters before the board for a
7 vote. Beginning in the fourth year of State operation, the State
8 district superintendent shall bring fiscal matters before the board
9 for a vote. However, the State district superintendent shall
10 retain veto power until [such time as] the [State board determines
11 that local control should be reestablished. In each subsequent
12 year, three board members will be elected from the community
13 at large] reestablishment of local control.

14 (cf: P.L.1992, c.159, s.5)

15 7. Section 16 of P.L.1987, c.399 (C.18A:7A-49) is amended to
16 read as follows:

17 16. a. The State district superintendent shall annually provide
18 to the commissioner an assessment of the progress of the district
19 toward meeting the requirements necessary for State
20 certification. In addition, the commissioner shall ensure that the
21 district is regularly monitored by the Department of Education in
22 the manner provided for all school districts in level III monitoring
23 pursuant to section 14 of P.L. 1975,c.212 (C.18A:7A-14). The
24 commissioner shall formally report to the State board and to the
25 Governor and the Legislature on the district's progress.

26 b. Based upon the annual assessment of progress and the
27 district's having received State certification, but not sooner than
28 five years after the establishment of the State-operated school
29 district, the commissioner may recommend to the State board
30 that local control be reestablished. If the State board so
31 determines, local control shall be reestablished effective on the
32 July 1 next ensuing.

33 c. Upon [a determination by the State board that local control
34 should be reestablished] the reestablishment of local control, the
35 board of education shall assume full responsibility for the
36 operation of the school district; however, the State district
37 superintendent and those members of the superintendent's staff
38 appointed by operation of these laws relating to State-operated
39 school districts shall continue to serve for a one year transition
40 period upon conclusion of which their term of service shall expire
41 without prejudice to the right of the district board of education
42 to reappoint any or all such persons to similar positions within the
43 district. During the transition period, the State district
44 superintendent may place matters before the board for a vote.
45 The board of education shall act upon all such matters brought
46 before it by the State district superintendent.

47 d. Not more than one year following the reestablishment of
48 local control, the board shall conduct a special election for
49 purposes of placing the question of classification status before
50 the voters of the district.

51 e. If the voters of the district shall elect to become a type I
52 district, it shall be governed by the provisions of chapter 9 of
53 Title 18A of the New Jersey Statutes relating to type I districts
54 after January 31 next ensuing, unless the district is established in

1 a city of the first class, in which case it shall be governed after
2 June 30 next ensuing. The members of the district board of
3 education at the time of said election shall continue in office
4 until expiration of their respective terms and the qualification in
5 office of their successors.

6 f. If the voters of the district shall so select that the district
7 shall become a type II district, it shall be governed by the
8 provisions of chapter 9 of Title 18A relating to type II districts
9 and the members of the board of education at the time of said
10 election shall remain and continue in office until the expiration
11 of their respective terms and the qualification of their respective
12 successors.

13 g. If the commissioner cannot recommend that local control be
14 reestablished in a district five years after the establishment of a
15 State-operated school district, then the commissioner shall
16 provide a comprehensive report to the State board and to the
17 Governor and the Legislature, including a detailed analysis of the
18 causes for the failure of the district to achieve certification and
19 an assessment of the amount of time necessary for the
20 continuation of the State-operated school district. On the basis
21 of that report the State board shall determine whether to
22 continue the State-operated school district or return the district
23 to local control pursuant to this section.

24 (cf: P.L.1987, c.399, s.16)

25 8. This act shall take effect immediately.

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27
28 *S* PONSOR'S STATEMENT
29

30 This bill revises the statutes which provide for the
31 establishment of a State-operated school district.

32 Under the provisions of the bill, several time-lines are
33 changed. The reorganization of the district's central staff would
34 be prepared within one year of takeover, rather than within six
35 months. Building principals would be evaluated 18 months
36 following the take-over rather than six months after the
37 reorganization. The date for the implementation of
38 reorganization and for the reestablishment of local control would
39 occur on July 1 in order to avoid disruption of the district during
40 the school year.

41 The bill requires the State district superintendent to provide
42 for at least one public meeting in both the fall and spring
43 semesters to advise parents and community members of the
44 district's activities and to provide an opportunity for them to be
45 heard.

46 With regard to the advisory board, the bill requires the
47 municipal appointments to be made within 60 days, and provides
48 that any vacancy must be filled within 45 days. Training of board
49 members would be done by the New Jersey School Boards
50 Association. Board members are required to attend all board
51 meetings, committee meetings and in-service sessions and may
52 be removed from office for failure to attend at least 80% of
53 them. Beginning in the second year of State operation, the State
54 district superintendent would bring matters of curriculum before

1 the board for a vote; beginning in the third year, the
2 superintendent would bring legal matters before the board, and
3 beginning in the fourth year, the superintendent would bring
4 fiscal matters before the board. The State district
5 superintendent would retain veto power, however, until the
6 reestablishment of local control.

7 The bill clarifies that when local control is reestablished, the
8 board of education would assume full responsibility for the
9 operation of the school district. During the transition period,
10 however, the board must act upon matters brought before it by
11 the State district superintendent.

12

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16 Makes various revisions in the statutes providing for
17 State-operated school districts.



NEW JERSEY STATE BOARD OF EDUCATION
STATE-OPERATED SCHOOLS COMMITTEE REPORT

May 4, 1994
David Brandt, Chairman

In February of this year, President Anne Dillman appointed a committee of the board to look at the takeover law for failing school districts. The charge to the committee was to develop the State Board's policy for withdrawing from a state-operated school district. The members of the committee are: Nancy Schaenen, Bob Woodruff, Debbie Wolfe, Orlando Edreira and myself as the chair of the committee. Anne Dillman is also an ex-officio member. Our liaison to the department is Assistant Commissioner, Barbara Anderson.

BACKGROUND

The committee began by reviewing the takeover law and administrative code. Basically, the statute expanded the monitoring code to allow for the creation of state-operated districts. The statute also addresses how a state-operated district must operate during the takeover period. What's missing in the law is how to measure achievement, define success and how to determine when it's in the best interest of the children for the state to withdraw.

Four years into the takeover law, we are realizing the downside of an incomplete takeover policy. The takeover law was developed as an extension of the monitoring process. Districts who could not or would not meet the requirements for certification would be placed in Level II or Level III monitoring and given the opportunity to take corrective action. However, it was apparent that some districts have a management and governance problem which is so rife with political interference that the district's administrators may be unwilling or unable to take corrective action.

The premise at the time that the law was crafted was: bring in the state to correct the management and governance problem, rid the district of political interference and the negative influences impacting their effectiveness and then the district can take the necessary corrective actions and become certified. In hindsight, we may no longer agree that such a premise was adequate. Once there is a state-operated school district, is achieving the minimum necessary for certification the exclusive goal of the process? Are the students entitled to higher expectations? Another problem that may have affected the outcomes of the current process is the fact that the department has not had the staff or resources to complete the monitoring process. Some of the missing pieces affect our ability to assess progress in state-operated districts--as examples, we need the fourth grade test and we need content standards.

Jersey City and Paterson are both state-operated districts. According to the statute, the state may withdraw after five years. Jersey City was the first of the two districts to be taken over by the state and the five year period will end in October. Is the state's work there complete? Has success been achieved? What should be the state's exit plan? The committee's work will affect the current state-operated districts and any districts that may be taken over in the future but certainly Jersey City is the immediate concern.

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The committee has met several times to discuss and define its mission. Timelines for the committee's work are in part dictated by what's happening in Jersey City right now. We all know that Mayor Schundler has proposed a pilot voucher program in Jersey City and that Governor Whitman has indicated an interest. We heard the state administrators report to the State Board in January that it's too soon to withdraw--that progress is being made but there's more to do. We know that the legislature is taking another look at the takeover law and may be considering a pilot voucher program.

With that in mind, the committee looked at four areas. Number one, what are the educational goals of the two existing takeover districts and where do we stand in achieving those goals? In other words, how are we doing? Number two, we must answer the question about when and how the takeover should end. To answer that question, we need information about assessment--how should progress be determined and success measured when we take over a district? Also, how will we decide that we have reached the point that it is in the best interest of the children to return a state-operated school district to "local control?" Should changes be made in the form of governance for that local control? Third, given political realities in Jersey City, what role should the Department of Education play in designing a pilot "voucher" system that is grounded in good, sound educational principles. And finally, what action should be taken by the State Board of Education in Jersey City when the minimum five years for a state takeover ends this October. Should we end the takeover or extend the takeover and, if so, under what conditions and expectations.

PROCESS FOR THE COMMITTEE'S WORK

The State Board is the policy making body of the department. Our role is to look at the big picture and set the course for policy development. The process that the committee followed to do its work was to study each of the four areas and identify the issues that the department must address as they create a proposed policy.

The committee is presenting the issues that must be addressed in general terms and is asking the department to work on the specifics. We will ask the department to react to the report, develop a policy, and propose a plan of action for the implementation. The full board will consider the department's response.

ISSUES TO BE ADDRESSED

The first two issues that we are asking the department to address will affect the current state-operated districts and any future state-operated districts. The third and fourth issues are specifically related to Jersey City.

1. **Develop a policy for withdrawing from a state-operated school district which addresses the issues the committee has identified.**

Evaluation

We believe that a good withdrawal policy must address evaluation. What was the criteria for taking over the district and what were the conditions at the beginning of the takeover? We must assess whether or

not the conditions which contributed to state takeover have been or are being corrected.

Part of the evaluation procedure should include a process for monitoring the district to determine current conditions. We must be able to answer the question of whether or not the district can be certified.

Exit Criteria

What is the standard for success? The statute says take a look after five years. Is it time to withdraw if the district can become certified or will other problems have surfaced making withdrawal inadvisable or irresponsible? Should we develop a standard that requires that specific improvements are in place like current technology, student achievement, a safe environment or satisfactory evaluations for administrators and teachers?

Transition

How should the state withdraw? What is an appropriate "anti-back sliding" mechanism. Should a transition period last several years to make sure the district is doing OK on its own before the final exit? What "gates" or continuing performance criteria need to be met during the transition period? Are statutory changes necessary?

We believe a good withdrawal policy will include exit criteria that provides a transition period and guards against a return to past practices or destructive behavior.

Options Instead of Takeover

Are there other options to a state takeover? Have we learned things from the first two state takeovers that can help future failing districts? Are there interim interventions that can be taken or creative options that have not yet been tried?

2. Report to the State Board the progress of the Jersey City and Paterson state-operated districts based on an assessment of the available data.

In order to decide if it is time to withdraw from a state-operated district, we need a definitive statement of conditions as they are at this point in the takeover. Information about the current status will also help the department and the board define the standard for success for a takeover district and define the exit criteria.

Each year the State Board has heard a report prepared by the school district. We believe this process needs some structure to improve the value of the information that is received. For instance, should the State Board just accept the assessment of progress that is presented to us or make an independent judgment? Should the State Board and the department develop outcome goals on an annual basis for each state-operated district and assess progress as good, reasonable or deficient? Should achievement of a series of specific goals represent the exit point for the state takeover? Are the services of a third-party educational evaluator necessary?

We are asking the department to develop categories of assessment such as: achievement of students, corrective action to achieve certification, and evaluation of the administrators, including the state superintendent. We are also asking the department to consider whether or not the State Board should have oversight of a formal structure to assure the public that the department is thoroughly evaluating the administrators that they placed in these critical positions.

The last two issues address the immediate needs of Jersey City.

3. Address the issues of a voucher/choice program for Jersey City

Given the political reality that the governor and the mayor of Jersey City are considering a pilot voucher program, the State Board is asking the department to look at specific issues that must be addressed in an educationally credible voucher program.

There are many definitions of a voucher program. The State Board wants to ensure that a pilot voucher program is based on sound educational principles and guards against a voucher program that will result in "creaming," excessive diversion of limited public funds, racial or socio-economic imbalances and other similar potential problems. We want to help to create choices for the families and children of Jersey City. To do this in a responsible way, we believe that any voucher system must address the potential problems. Then, and only then, can a rational and proper decision be made which will be fair to the children in the public schools and not lead to inaccurate and inappropriate comparisons of schools.

4. Assess the current conditions in Jersey City and make a recommendation to the State Board to end the takeover and begin the transition period or extend the takeover under appropriate conditions.

The minimum five years for a takeover mandated by the statute ends for Jersey City in October 1994. The statute requires the State Board of Education to decide when to end the takeover. Therefore, we must know what action to take this October. We are asking the department to assess the current conditions in Jersey City so that the State Board can begin the process of deciding whether or not to extend the takeover in Jersey City or begin the transition year and return the district to local control.

To make that decision the State Board needs a definitive statement of the conditions in Jersey City and an assessment of their readiness to return to local control. We believe that this assessment should be based on available data but also input from the local community, the families of the school children, school personnel, administrators and the state superintendent.

We are directing the department to set up a one day session for the State Board and the department to jointly hear public testimony. We will ask the stakeholders to assess the current status of Jersey City's schools and give us information which will help us decide whether or not the takeover should end when the five years are up or if the takeover should be extended.

Based on the public testimony and an assessment of the available data, we are asking the Commissioner to return to the State Board with a recommendation for Jersey City. The recommendation should provide enough information to the State Board so that they can vote to end the takeover or extend the takeover. Either recommendation should clearly state the expected outcome and the terms for achieving that outcome.

Five years ago, we embarked on a very important journey in order to influence change and reverse serious, long-standing problems prohibiting the children in Jersey City from receiving the educational programs that they are entitled to receive. We must now evaluate the path that we have followed and decide which fork in the road to take. We must decide to end the takeover in Jersey City and begin a transition period or must decide to stay longer and extend the takeover for well defined reasons and with an end in sight. Either decision must serve the community well and be in the best interest of the children and families of Jersey City.

TIMELINES FOR THE DEPARTMENT'S RESPONSE TO THE REPORT

Recognizing that we have a new commissioner, who is involved in a reorganization and establishing goals and priorities with limited resources, we are asking the State Board of Education to endorse this report and to ask Commissioner Klagholz to respond to the board on the first three issues by the end of the year. However, the timelines for deciding to end the takeover or extend the takeover in Jersey City is an immediate need. Therefore, we are asking the Commissioner to return to the State Board as early as possible this summer.

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