

# ASSEMBLY EDUCATION COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2153

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 17, 1996

The Assembly Education Committee favorably reports Assembly Bill No. 1739.

In a recent Appellate Division case, G. Michael Nelson v. Board of Education of the Township of Old Bridge, the court held that tenure under the administrative certificate extends to all endorsements held by an individual under that certificate regardless of whether the position at issue is one of those enumerated in the tenure statute, N.J.S.18A:28-5. This decision means that if a tenured supervisor holds the appropriate endorsement, that individual may now claim a position as a principal or assistant superintendent over a non-tenured person in that position in the event of a reduction in force, even if the individual had never before been employed in a similar position.

In coming to the above decision, the court overturned the traditional interpretation of N.J.S.18A:28-5 that all titles listed within the section are separately tenurable. As amended by committee, this bill amends N.J.S.18A:28-5 to specifically provide that tenure in any of the administrative or supervisory positions listed in that section accrues only by employment in that administrative or supervisory position and does not extend to any other administrative or supervisory position. The bill also stipulates that nothing within its provisions limits or restricts tenure rights which were or may be acquired under N.J.S.18A:28-6 in a position in which the individual actually served. The provision of the bill concerning N.J.S.18A:28-6 is intended to protect the tenure rights of those individuals accruing tenure pursuant to that statute but to insure that tenure is limited in scope to the specifically enumerated positions. The provisions of the bill are limited to administrative or supervisory positions because the Nelson case addressed only positions covered by the administrative certificate.

The committee amended the bill to limit its scope to administrative or supervisory positions and to add language clarifying that the bill is not intended to limit tenure rights acquired under N.J.S.18A:28-6. The amendments also delete reference to the positions of director and supervisor.