

**SENATE, No. 2982**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

INTRODUCED JUNE 22, 2009

**Sponsored by:**

**Senator SHIRLEY K. TURNER**

**District 15 (Mercer)**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Essex, Morris, Somerset and Union)**

**SYNOPSIS**

Establishes a permanent Interdistrict Public School Choice Program.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/24/2009)**

1 AN ACT establishing a permanent Interdistrict Public School Choice  
2 Program, supplementing chapter 36B of Title 18A of the New  
3 Jersey Statutes, and repealing parts of the statutory law.

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

7  
8 1. This act shall be known and may be cited as the "Interdistrict  
9 Public School Choice Program Act."

10  
11 2. As used in this act:

12 "Choice district" means a public school district, established  
13 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey  
14 Statutes, which is authorized under the interdistrict public school  
15 choice program to open a school or schools to students from  
16 sending districts;

17 "Commissioner" means the Commissioner of Education;

18 "Receiving district" means the district receiving a student from a  
19 sending district;

20 "Sending district" means the district of residence of a student.

21  
22 3. The Commissioner of Education shall establish an  
23 interdistrict public school choice program which shall provide for  
24 the creation of choice districts. A choice district may enroll  
25 students across district lines in designated schools of the choice  
26 district.

27  
28 4. a. A proposed choice district shall submit an application to  
29 the commissioner no later than April 30 in the year prior to the  
30 school year in which the choice program will be implemented;  
31 except that for the first year of implementation of the program  
32 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
33 this bill), the application shall be submitted no later than the date  
34 specified by the commissioner. The application shall include, but  
35 not be limited to, the following information:

36 (1) a description of programs and schools and the number of  
37 student openings in each school identified by grade level which are  
38 available for selection;

39 (2) the provision for the creation of a parent information center;

40 (3) a description of the student application process and any  
41 criteria required for admission;

42 (4) an analysis of the potential impact of the program on student  
43 population diversity in all potential participating districts and a plan  
44 for maintaining diversity in all potential participating districts,  
45 which plan shall not be used to supersede a court-ordered or  
46 administrative court-ordered desegregation plan;

1 (5) the provision for screening out students during the  
2 application process who wish to attend a school for athletic,  
3 extracurricular, or social reasons; and

4 (6) after agreement with potential sending districts, the school  
5 district responsible for the transportation, or aid-in-lieu-of  
6 transportation, for students participating in the choice program from  
7 each of the potential sending districts.

8 The commissioner shall notify a choice district of the approval or  
9 disapproval of its application no later than July 30, and the reasons  
10 for disapproval shall be included in the notice; except that for the  
11 first year of implementation of the program pursuant to P.L. , c.  
12 (C. ) (pending before the Legislature as this bill), notification  
13 shall be no later than the date specified by the commissioner.

14 The commissioner shall notify the State Board of Education of  
15 the approval of a choice district application and the State board  
16 shall include a public notice of the approval on the next agenda for  
17 its public monthly meeting.

18 b. The commissioner may take appropriate action, consistent  
19 with State and federal law, to provide that student population  
20 diversity in all districts participating in a choice district program is  
21 maintained. Student population diversity shall include, but not be  
22 limited to, the ethnic, racial, economic, and geographic diversity of  
23 a district's student population. The actions may include, but need  
24 not be limited to:

25 (1) directing a choice district to take appropriate steps to  
26 implement successfully the district's plan for maintaining student  
27 population diversity;

28 (2) restricting the number of choice students from a sending  
29 district or the authority of a choice district to accept choice students  
30 in the future; and

31 (3) revoking approval of the choice district. Any choice student  
32 who is attending a designated school in a choice district at the time  
33 of the commissioner's revocation of approval shall be entitled to  
34 continue to be enrolled in that school until graduation.  
35

36 5. The commissioner shall evaluate an application submitted by  
37 a proposed choice district according to the following criteria:

38 a. the fiscal impact on the district;

39 b. the quality and variety of academic programs offered within  
40 the district;

41 c. the potential effectiveness of the student application process  
42 and of the admissions criteria utilized;

43 d. the impact on student population diversity in the district; and

44 e. the degree to which the program will promote or reduce  
45 educational quality in the choice district and the sending districts.  
46

47 6. Any choice district established by the commissioner prior to  
48 the effective date of P.L. , c. (C. ) (pending before the

1 Legislature as this bill) is authorized to continue operation as if the  
2 choice district had been approved pursuant to the provisions of  
3 P.L. , c. (C. ) (pending before the Legislature as this bill).

4  
5 7. a. The parents or guardian of a student shall notify the  
6 sending district of the student's intention to participate in the choice  
7 program and shall submit an application to the choice district,  
8 indicating the school the student wishes to attend, no later than the  
9 date specified by the commissioner. To be eligible to participate in  
10 the program, a student shall be enrolled at the time of application in  
11 grades preschool through 9 in a school of the sending district and  
12 have attended school in the sending district for at least one full year  
13 immediately preceding enrollment in the choice district; except that  
14 the one-year requirement shall not apply to a student enrolling in  
15 preschool or kindergarten in the choice district, if that student has a  
16 sibling enrolled in the choice district. Openings in a designated  
17 school of a choice district shall be on a space-available basis, and if  
18 more applications are received for a designated school than there  
19 are spaces available, a lottery shall be held to determine the  
20 selection of students. Preference for enrollment may be given to  
21 siblings of students who are enrolled in a designated school.

22 b. A choice district may evaluate a prospective student on  
23 reasonable criteria, including the student's interest in the program  
24 offered by a designated school. The district shall not discriminate  
25 in its admission policies or practices on the basis of athletic ability,  
26 intellectual aptitude, English language proficiency, status as a  
27 handicapped person, or any basis prohibited by State or federal law.

28 c. A choice district shall not prohibit the enrollment of a  
29 student based upon a determination that the additional cost of  
30 educating the student would exceed the amount of additional State  
31 aid received as a result of the student's enrollment. A choice  
32 district may reject the application for enrollment of a student who  
33 has been classified as eligible for special education services  
34 pursuant to chapter 46 of Title 18A of the New Jersey Statutes if  
35 that student's individualized education program could not be  
36 implemented in the district, or if the enrollment of that student  
37 would require the district to fundamentally alter the nature of its  
38 educational program, or would create an undue financial or  
39 administrative burden on the district.

40 d. A student whose application is rejected by a choice district  
41 shall be provided with a reason for the rejection in the letter of  
42 notice. The appeal of a rejection notice may be made to the  
43 commissioner.

44 e. Once a student is enrolled in a designated school, the student  
45 shall not be required to reapply for each school year and shall  
46 continue to be permitted to be enrolled until graduation. A student  
47 shall be permitted to transfer back to a school of the sending district

1 or may apply to a different choice district during the next  
2 application period.

3 f. A choice district shall accept all of the credits earned toward  
4 graduation by a student in the schools of the sending district.

5 g. A choice district shall notify a sending district upon the  
6 enrollment of a choice student resident in that district.

7

8 8. a. (1) Upon adoption of a resolution, the school board of a  
9 sending district may restrict enrollment of its students in a choice  
10 district to 2% of the number of students per grade level per year in  
11 the sending district, limited by any resolution adopted pursuant to  
12 paragraph (2) of this subsection.

13 (2) Upon adoption of a resolution, the school board of a sending  
14 district may restrict enrollment of its students in a choice district to  
15 7% of the total number of students enrolled in the sending district.

16 (3) The school board of a sending district may adopt a  
17 resolution to exceed the enrollment restriction percentages of  
18 paragraphs (1) and (2) of this subsection to a maximum of 10% of  
19 the number of students per grade level per year limited by any  
20 resolution adopted pursuant to this paragraph and 15% of the total  
21 number of students enrolled in the sending district, provided that  
22 the resolution shall be subject to approval by the commissioner  
23 upon a determination that the resolution is in the best interest of the  
24 district's students and that it will not adversely affect the district's  
25 programs, services, operations, or fiscal conditions, and that the  
26 resolution will not adversely affect or limit the diversity of the  
27 remainder of the student population in the district who do not  
28 participate in the choice program.

29 (4) Enrollment restriction percentages adopted by any resolution  
30 pursuant to paragraph (1), (2), or (3) shall not be compounded from  
31 year to year and shall be based upon the enrollment counts for the  
32 year preceding the sending district's initial year of participation in  
33 the choice program, except that in any year of the program in which  
34 there is an increase in enrollment, the percentage enrollment  
35 restriction may be applied to the increase and the result added to the  
36 preceding year's count of students eligible to attend a choice  
37 district. If there is a decrease in enrollment at any time during the  
38 duration of the program, the number of students eligible to attend a  
39 choice district shall be the number of students enrolled in the choice  
40 program in the initial year of the district's participation in the  
41 program, provided that a student attending a choice district school  
42 shall be entitled to remain enrolled in that school until graduation.

43 (5) The calculation of the enrollment of a sending district shall  
44 be based on the enrollment count as reported on the Application for  
45 State School Aid in October preceding the school year during which  
46 the restriction on enrollment shall be applicable.

47 b. The school board of a sending district may restrict  
48 enrollment of a student on the basis of an exceptional circumstance

1 that would affect the sending district's instructional program upon  
2 the adoption of a resolution detailing the reasons for the restriction.  
3 The restriction shall be subject to the approval of the commissioner.

4 c. A choice district shall not be eligible to enroll students on a  
5 tuition basis pursuant to N.J.S.18A:38-3 while participating in the  
6 interdistrict public school choice program. Any student enrolled on  
7 a tuition basis prior to the establishment of the choice program shall  
8 be entitled to remain enrolled in the choice district as a choice  
9 student.

10

11 9. (New section) Transportation, or aid in-lieu-of  
12 transportation, shall be provided to an elementary school pupil who  
13 lives more than two miles from the receiving district school of  
14 attendance and to a secondary school pupil who lives more than two  
15 and one-half miles from the receiving district school of attendance,  
16 provided the receiving district school is not more than 20 miles  
17 from the residence of the pupil. Transportation, or aid in-lieu-of  
18 transportation, shall be the responsibility of such district as  
19 designated in the application submitted pursuant to section 4 of  
20 P.L. , c. (C. ) (pending before the Legislature as this bill).

21

22 10. (New section) A choice district shall establish and maintain  
23 a parent information center. The center shall collect and  
24 disseminate information about participating programs and schools  
25 and shall assist parents and guardians in submitting applications for  
26 enrollment of students in an appropriate program and school.

27

28 11. (New section) The commissioner shall annually report to the  
29 State Board of Education, the Legislature, and the Joint Committee  
30 on the Public Schools on the effectiveness of the interdistrict public  
31 school choice program.

32

33 12. Sections 1 through 10 and 14 through 17 of P.L.1999, c.413  
34 (C.18A:36B-1 through 18A:36B-13) are repealed.

35

36 13. This act shall take effect immediately.

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STATEMENT

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41 This bill makes permanent the interdistrict public school choice  
42 program. A five-year interdistrict public school choice program  
43 was established in 2000 and expired on June 30, 2005. As under  
44 the original choice program, the permanent program provides for  
45 the establishment of choice districts which will be able to enroll  
46 students across district lines in designated schools of the choice  
47 district. The permanent program, however, includes no limitation  
48 on the total number of choice districts permitted in the State.

1 A local or regional district electing to participate in the program  
2 would submit an application to the commissioner no later than April  
3 30 in the year prior to the school year in which the choice program  
4 would be implemented, and the commissioner would notify an  
5 applicant district of the approval or disapproval of its application no  
6 later than July 30. The commissioner is authorized to take  
7 appropriate action, consistent with State and federal law, to provide  
8 that student population diversity in all districts participating in a  
9 choice district program is maintained.

10 A proposed choice district's application would be evaluated by  
11 the commissioner using such criteria as the fiscal impact on the  
12 district, the quality and variety of academic programs offered within  
13 the district, and the degree to which the program will promote or  
14 reduce educational quality in the choice district and the sending  
15 districts.

16 The parents or guardian of a student would notify the sending  
17 district of the student's intention to participate in the choice  
18 program and submit an application to the choice district, indicating  
19 the school the student wishes to attend. To be eligible to participate  
20 in the program, a student must be enrolled at the time of application  
21 in grades preschool through 9 in a school of the sending district and  
22 have attended school in the sending district for at least one full year  
23 immediately preceding enrollment in the choice district. However,  
24 the one-year requirement would not apply to a student enrolling in  
25 preschool or kindergarten in the choice district, if the student's  
26 sibling also attends that choice district. Openings in a designated  
27 school of a choice district would be on a space available basis, and  
28 if more applications are received for a designated school than there  
29 are spaces available, a lottery would be held to determine the  
30 selection of students. Preference for enrollment may be given to  
31 siblings of students who are enrolled in a designated school.

32 A choice district would be permitted to evaluate a prospective  
33 student on reasonable criteria, including the student's interest in the  
34 program offered by a designated school. The district may not,  
35 however, discriminate in its admission policies or practices on the  
36 basis of athletic ability, intellectual aptitude, English language  
37 proficiency, status as a handicapped person, or any other basis  
38 prohibited by State or federal law.

39 In addition, a choice district could not prohibit the enrollment of  
40 a student based upon a determination that the additional cost of  
41 educating the student would exceed the amount of additional State  
42 aid received as a result of the student's enrollment. A choice  
43 district may reject the application for enrollment of a student who  
44 has been classified as eligible for special education services if that  
45 student's individualized education program could not be  
46 implemented in the district, or if the enrollment of that student  
47 would require the district to fundamentally alter the nature of its

1 educational program, or would create an undue financial or  
2 administrative burden on the district.

3 Upon adoption of a resolution, the school board of a sending  
4 district could restrict enrollment of its students in a choice district  
5 to 2% of the number of students per grade level per year in the  
6 sending district and to 7% of the total number of students enrolled  
7 in the sending district. Upon the commissioner's approval,  
8 however, a school board could adopt a resolution to exceed these  
9 restrictions. The bill provides that a student attending a choice  
10 district as a choice student is entitled to remain enrolled in that  
11 school until graduation.

12 Transportation, or aid in-lieu-of transportation, would be  
13 provided to an elementary school pupil who lives more than two  
14 miles from the receiving district school of attendance and to a  
15 secondary school pupil who lives more than two and one-half miles  
16 from the receiving district school of attendance, provided the  
17 receiving district school is not more than 20 miles from the  
18 residence of the pupil. Transportation, or aid in-lieu-of  
19 transportation, would be the responsibility of the district which is  
20 designated in the application submitted by the proposed choice  
21 district.

22 A choice district is required to establish and maintain a parent  
23 information center. The center would collect and disseminate  
24 information about participating programs and schools and assist  
25 parents and guardians in submitting applications for enrollment of  
26 students in an appropriate program and school.

27 This bill recognizes the choice districts established under the  
28 expired interdistrict public school choice program and provides that  
29 those choice districts will be permitted to continue operation as if  
30 they had been approved under the provisions of the bill. Funding  
31 for choice students was addressed in the "School Funding Reform  
32 Act of 2008," and aid for these students will continue to be  
33 calculated pursuant to that law under section 20 of P.L.2007, c.260  
34 (C.18A:7F-62).

35 The bill repeals the sections of law which established the five-  
36 year interdistrict public school choice program which expired in  
37 2005.