

[First Reprint]

**ASSEMBLY, No. 355**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

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**District 27 (Essex)**

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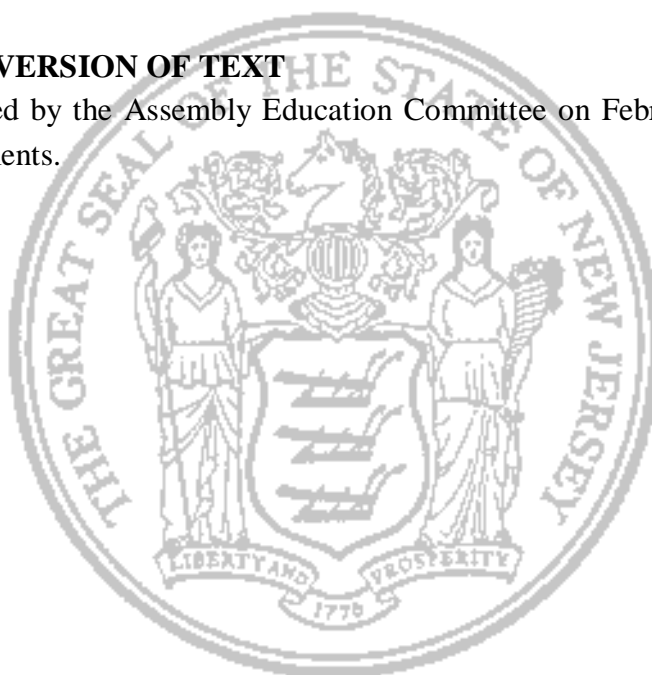
**Assemblymen DiMaio, Schaer, Assemblywoman Spencer and  
Assemblyman O'Scanlon**

**SYNOPSIS**

Establishes a permanent Interdistrict Public School Choice Program.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Education Committee on February 18, 2010,  
with amendments.



**(Sponsorship Updated As Of: 3/23/2010)**

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 **<sup>1</sup>["Receiving district" means the district receiving a student from  
19 a sending district;]<sup>1</sup>**

20 "Sending district" means the district of residence of a <sup>1</sup>choice<sup>1</sup>  
21 student.

22

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

28

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

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

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

41 (3) a description of the student application process and any  
42 criteria required for admission; <sup>1</sup>and<sup>1</sup>

**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:

<sup>1</sup>Assembly AED committee amendments adopted February 18, 2010.

1 (4) an analysis of the potential impact of the program on student  
2 population diversity in all potential participating districts and a plan  
3 for maintaining diversity in all potential participating districts,  
4 which plan shall not be used to supersede a court-ordered or  
5 administrative court-ordered desegregation plan <sup>1</sup>;

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

9 (6) after agreement with potential sending districts, the school  
10 district responsible for the transportation, or aid-in-lieu-of  
11 transportation, for students participating in the choice program from  
12 each of the potential sending districts<sup>1</sup>.

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

19 The commissioner shall notify the State Board of Education of  
20 the approval of a choice district application and the State board  
21 shall include a public notice of the approval on the next agenda for  
22 its public monthly meeting.

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

30 (1) directing a choice district to take appropriate steps to  
31 implement successfully the district's plan for maintaining student  
32 population diversity;

33 (2) restricting the number of choice students from a sending  
34 district or the authority of a choice district to accept choice students  
35 in the future; and

36 (3) revoking approval of the choice district. Any choice student  
37 who is attending a designated school in a choice district at the time  
38 of the commissioner's revocation of approval shall be entitled to  
39 continue to be enrolled in that school until graduation.

40  
41 5. The commissioner shall evaluate an application submitted by  
42 a proposed choice district according to the following criteria:

43 a. the fiscal impact on the district;

44 b. the quality and variety of academic programs offered within  
45 the district;

46 c. the potential effectiveness of the student application process  
47 and of the admissions criteria utilized;

1 d. the impact on student population diversity in the district; and  
2 e. the degree to which the program will promote or reduce  
3 educational quality in the choice district and the sending districts.  
4

5 6. Any choice district established by the commissioner prior to  
6 the effective date of P.L. , c. (C. ) (pending before the  
7 Legislature as this bill) is authorized to continue operation as if the  
8 choice district had been approved pursuant to the provisions of  
9 P.L. , c. (C. ) (pending before the Legislature as this bill).  
10

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

29 'If there is an opening in a designated school of a choice district  
30 and there is no student who is enrolled in a sending district who  
31 meets the attendance requirements of this subsection, including a  
32 student who has been placed on a waiting list based on a lottery  
33 held in the choice district, then the choice district may fill that  
34 opening with a public school student who does not meet the  
35 attendance requirements of this subsection or a nonpublic school  
36 student.'<sup>1</sup>

37 b. A choice district may evaluate a prospective student on  
38 '[reasonable criteria, including]'<sup>1</sup> the student's interest in the  
39 program offered by a designated school. The district shall not  
40 discriminate in its admission policies or practices on the basis of  
41 athletic ability, intellectual aptitude, English language proficiency,  
42 status as a handicapped person, or any basis prohibited by State or  
43 federal law.

44 c. A choice district shall not prohibit the enrollment of a  
45 student based upon a determination that the additional cost of  
46 educating the student would exceed the amount of additional State  
47 aid received as a result of the student's enrollment. A choice

1 district may reject the application for enrollment of a student who  
2 has been classified as eligible for special education services  
3 pursuant to chapter 46 of Title 18A of the New Jersey Statutes if  
4 that student's individualized education program could not be  
5 implemented in the district, or if the enrollment of that student  
6 would require the district to fundamentally alter the nature of its  
7 educational program, or would create an undue financial or  
8 administrative burden on the district.

9 d. A student whose application is rejected by a choice district  
10 shall be provided with a reason for the rejection in the letter of  
11 notice. The appeal of a rejection notice may be made to the  
12 commissioner.

13 e. Once a student is enrolled in a designated school, the student  
14 shall not be required to reapply for each school year and shall  
15 continue to be permitted to be enrolled until graduation. A student  
16 shall be permitted to transfer back to a school of the sending district  
17 or may apply to a different choice district during the next  
18 application period.

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

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

23  
24 8. a. (1) <sup>1</sup>~~Upon adoption of a resolution, the school board of a~~  
25 ~~sending district may restrict enrollment of its students in a choice~~  
26 ~~district to 2% of the number of students per grade level per year in~~  
27 ~~the sending district, limited by any resolution adopted pursuant to~~  
28 ~~paragraph (2) of this subsection.~~

29 (2) Upon adoption of a resolution, the school board of a sending  
30 district may restrict enrollment of its students in a choice district to  
31 7% of the total number of students enrolled in the sending district.

32 (3) <sup>1</sup>~~The school board of a sending district may adopt a~~  
33 ~~resolution to~~ <sup>1</sup>~~exceed the enrollment restriction percentages of~~  
34 ~~paragraphs (1) and (2) of this subsection]~~ restrict enrollment of its  
35 students in a choice district <sup>1</sup> to a maximum of 10% of the number  
36 of students per grade level per year limited by any resolution  
37 adopted pursuant to this paragraph and 15% of the total number of  
38 students enrolled in the sending district, provided that the resolution  
39 shall be subject to approval by the commissioner upon a  
40 determination that the resolution is in the best interest of the  
41 district's students and that it will not adversely affect the district's  
42 programs, services, operations, or fiscal conditions, and that the  
43 resolution will not adversely affect or limit the diversity of the  
44 remainder of the student population in the district who do not  
45 participate in the choice program.

46 <sup>1</sup>~~(4)] (2)~~ <sup>1</sup> Enrollment restriction percentages adopted by any  
47 resolution pursuant to paragraph (1) <sup>1</sup>~~[(2), or (3)]~~ of this

1 subsection<sup>1</sup> shall not be compounded from year to year and shall be  
2 based upon the enrollment counts for the year preceding the sending  
3 district's initial year of participation in the choice program, except  
4 that in any year of the program in which there is an increase in  
5 enrollment, the percentage enrollment restriction may be applied to  
6 the increase and the result added to the preceding year's count of  
7 students eligible to attend a choice district. If there is a decrease in  
8 enrollment at any time during the duration of the program, the  
9 number of students eligible to attend a choice district shall be the  
10 number of students enrolled in the choice program in the initial year  
11 of the district's participation in the program, provided that a student  
12 attending a choice district school shall be entitled to remain  
13 enrolled in that school until graduation.

14 ~~'[(5)] (3)'~~<sup>1</sup> The calculation of the enrollment of a sending  
15 district shall be based on the enrollment count as reported on the  
16 Application for State School Aid in October preceding the school  
17 year during which the restriction on enrollment shall be applicable.

18 b. ~~'[The school board of a sending district may restrict~~  
19 enrollment of a student on the basis of an exceptional circumstance  
20 that would affect the sending district's instructional program upon  
21 the adoption of a resolution detailing the reasons for the restriction.  
22 The restriction shall be subject to the approval of the commissioner.

23 c.]<sup>1</sup> A choice district shall not be eligible to enroll students on a  
24 tuition basis pursuant to N.J.S.18A:38-3 while participating in the  
25 interdistrict public school choice program. Any student enrolled on  
26 a tuition basis prior to the establishment of the choice program shall  
27 be entitled to remain enrolled in the choice district as a choice  
28 student.

29  
30 9. 'a.'<sup>1</sup> Transportation, or aid in-lieu-of transportation, shall be  
31 provided to an elementary school pupil who lives more than two  
32 miles from the ~~'[receiving] choice'~~<sup>1</sup> district school of attendance  
33 and to a secondary school pupil who lives more than two and  
34 one-half miles from the ~~'[receiving] choice'~~<sup>1</sup> district school of  
35 attendance, provided the ~~'[receiving] choice'~~<sup>1</sup> district school is not  
36 more than 20 miles from the residence of the pupil. Transportation,  
37 or aid in-lieu-of transportation, shall be the responsibility of ~~'[such~~  
38 district as designated in the application submitted pursuant to  
39 section 4 of P.L. , c. (C. ) (pending before the Legislature as  
40 this bill)] the sending district. The choice district and the sending  
41 district may enter into a shared service agreement in accordance  
42 with the "Uniform Shared Services and Consolidation Act,"  
43 sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through  
44 C.40A:65-35)'<sup>1</sup>.

45 'b. Notwithstanding the provisions of section 20 of P.L.2007,  
46 c.260 (C.18A:7F-62) to the contrary, the sending district shall

1 receive State aid for transportation calculated pursuant to section 15  
2 of P.L.2007, c.260 (C.18A:7F-57) for a student transported or  
3 receiving aid-in-lieu-of transportation pursuant to subsection a. this  
4 section.<sup>1</sup>

5  
6 10. A choice district shall establish and maintain a parent  
7 information center. The center shall collect and disseminate  
8 information about participating programs and schools and shall  
9 assist parents and guardians in submitting applications for  
10 enrollment of students in an appropriate program and school. 'The  
11 information about participating programs and schools shall be  
12 posted on the choice district's website.<sup>1</sup>

13  
14 11. The commissioner shall annually report to the State Board of  
15 Education, the Legislature, and the Joint Committee on the Public  
16 Schools on the effectiveness of the interdistrict public school choice  
17 program. 'The commissioner's annual report shall be posted on the  
18 Department of Education's website and on the website of each  
19 choice district.<sup>1</sup>

20  
21 12. Sections 1 through 10 and 14 through 17 of P.L.1999, c.413  
22 (C.18A:36B-1 through 18A:36B-13) are repealed.

23  
24 13. This act shall take effect immediately.