

ASSEMBLY, No. 1039

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen DORIA and KAVANAUGH

1 AN ACT concerning State aid for education, supplementing and  
2 amending P.L.1990, c.52 (C.18A:7D-1 et al.) and supplementing  
3 Title 18A of the New Jersey Statutes.

4

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

7

8 1. (New section) This act shall be known and may be cited as the  
9 "School Freedom of Choice Act."

10

11 2. (New section) The Legislature finds and declares that:

12 a. There is no one school or program which is best for all children;

13 b. School choice will give all children in the State an extended  
14 range of educational opportunity;

15 c. School choice will expand the role of parents in their child's  
16 education through selection of the educational program and school  
17 which best suits their child's needs;

18 d. School choice will offer at-risk students educational options  
19 which may not be available to them in the public schools of their  
20 district; and

21 e. School choice will provide an incentive to all schools to improve  
22 and expand their educational programs.

23

24 3. (New section) a. A public school choice program is established  
25 to enable any pupil to attend a school or program in a participating  
26 district in which the pupil does not reside.

27 b. A school board may, by resolution, determine that nonresident  
28 pupils may attend any of its schools or programs pursuant to this  
29 section. No school district shall be required to accept nonresident  
30 pupils in any of its schools or programs pursuant to this section.

31 c. A nonresident school district which chooses to participate in the  
32 public school choice program shall fix a tuition rate for nonresident

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

**Matter underlined thus is new matter.**

1 pupils who seek to attend the schools of the district. The tuition rate  
2 may not exceed the State foundation amount multiplied by the  
3 foundation weight established in section 6 of P.L.1990, c.52  
4 (C.18A:7D-6) for the grade level in which the pupil is being accepted.  
5 The tuition shall be paid, in whole or in part, with the school choice  
6 grant amount determined pursuant to section 6 of P.L. , c.  
7 (C. ) (now pending before the Legislature as this bill). The  
8 district of residence may supplement the school choice grant amount  
9 through local levy funds, which shall be paid directly to the school  
10 district of attendance, in an amount not to exceed one half of the State  
11 foundation amount multiplied by the foundation weight for the grade  
12 level in which the pupil is being accepted. Whenever the tuition  
13 exceeds the school choice grant amount plus the amount of any  
14 foundation aid payable to the district pursuant to section 5 of the  
15 "School Freedom of Choice Act," P.L. , c. (C. ) (now pending  
16 before the Legislature as this bill) and local levy supplement, the  
17 pupil's parent or guardian shall pay the difference directly to the public  
18 school of attendance.

19

20 4. (New section) a. In order for a pupil to attend a school or  
21 program in a district outside of the district of residence, the pupil's  
22 parent or guardian shall submit an application to the participating  
23 nonresident district. Before submitting an application, the pupil and  
24 the pupil's parent or guardian shall discuss with a school guidance  
25 counselor, or other appropriate staff member employed by the district  
26 the pupil is currently attending, the pupil's academic or other reason  
27 for applying to enroll in a school or program of a nonresident district.  
28 However, the guidance counselor or other staff member shall not  
29 prohibit the pupil from attending the schools of another district. The  
30 pupil's application shall identify the reason for seeking enrollment in  
31 the nonresident district. The pupil's parent or guardian shall submit an  
32 application by November 15 for initial enrollment beginning the  
33 following school year. The application shall be on a form provided by  
34 the Commissioner of Education. A particular school or program may  
35 be requested by the pupil's parent or guardian. Once enrolled in a  
36 nonresident district, the pupil shall remain enrolled therein and shall  
37 not be required to submit annual or periodic applications for renewal.  
38 To return to the resident district or to attend the schools of a different  
39 nonresident district, the parent or guardian of the pupil shall provide  
40 notice to both the resident district and the nonresident district or apply  
41 to a different nonresident district by November 15 for enrollment  
42 beginning the following school year.

43 b. A district that accepts nonresident pupils, according to the  
44 "School Freedom of Choice Act," P.L. , c. (C. )(now pending  
45 before the Legislature as this bill) shall notify a pupil's parent or  
46 guardian in writing within 40 days following receipt of an application

1 whether the application has been accepted or rejected. If an  
2 application is rejected, the district shall state in the notification the  
3 reason for rejection. The pupil's parent or guardian shall notify the  
4 nonresident district within 21 days following acceptance whether the  
5 pupil intends to enroll in the nonresident district. Notice of intent to  
6 enroll in the nonresident district obligates the pupil to attend the  
7 nonresident district during the following school year, unless the school  
8 boards of the resident and the nonresident districts agree in writing to  
9 allow the pupil to transfer back to the resident district, or the pupil's  
10 residence changes to another district. The nonresident district shall  
11 notify the resident district and the Commissioner of Education of the  
12 pupil's intent to enroll in the nonresident district. The procedures set  
13 forth in this subsection shall also apply to a pupil who applies to  
14 transfer from one participating nonresident district to another  
15 participating nonresident district.

16 c. A school board of a participating district shall adopt, by  
17 resolution, specific standards for acceptance and rejection of  
18 applications. Standards may include the capacity of a program, class,  
19 grade level, or school building. Standards may not include previous  
20 academic achievement, athletic or other extracurricular ability,  
21 handicapping conditions, proficiency in the English language, or  
22 previous disciplinary proceedings.

23 d. A nonresident district shall award a diploma to a nonresident  
24 pupil participating in the public school choice program if the pupil  
25 meets State graduation requirements.

26  
27 5. (New section) a. A nonresident district participating in the  
28 public school choice program shall submit to the Commissioner of  
29 Education on the first day of October, December, February, April and  
30 June proof of a pupil's enrollment or continued enrollment in the  
31 nonresident district pursuant to the nonpublic school choice program  
32 and proof that payment has been received for tuition up to the date of  
33 the reporting. If a pupil ceases to attend the nonpublic school during  
34 the school year, the nonresident district shall notify the commissioner  
35 immediately. Upon receipt of the proof of enrollment and payment of  
36 tuition the commissioner shall pay to the parent or guardian of the  
37 pupil an amount equal to the school choice aid calculated pursuant to  
38 section 6 of the "School Freedom of Choice Act," P.L. , c.  
39 (C. ) (now pending before the Legislature as this bill). The school  
40 choice grant amount shall be paid to the parent or guardian of the  
41 pupil in five equal installments on the first day of September,  
42 November, January, March and May. Notwithstanding the above, the  
43 first installment payment on September 1 shall be made based upon the  
44 initial intent to enroll by the pupil. The funds so paid shall be used  
45 solely for the purpose of paying tuition at the public school.

46 b. The commissioner shall also pay to the nonresident school

1 district, to be credited toward the pupil's tuition, an amount equal to  
2 the foundation aid attributable to a pupil in the district of residence for  
3 the year of attendance minus the school choice amount which shall be  
4 paid from the foundation aid of the district of residence. The amount  
5 of foundation aid paid pursuant to this section shall not, when  
6 combined with the school choice grant amount and local levy  
7 supplement, exceed the tuition rate established by the nonresident  
8 district. The commissioner shall also pay to the nonresident district  
9 any special education aid, aid for bilingual pupils, and at-risk aid for  
10 which a student is eligible pursuant to chapter 7D of Title 18A of the  
11 New Jersey Statutes. The amount so calculated shall be paid to the  
12 nonresident school district in 10 equal monthly installments on the first  
13 day of each month from September through June.

14 c. The commissioner shall annually reduce the State aid entitlement  
15 of a school district of residence by the foundation aid attributable to  
16 a pupil. The commissioner shall also deduct from the aid entitlement  
17 of a resident district any special education aid, aid for bilingual pupils  
18 or at-risk aid which is attributable to a pupil.

19

20 6. (New section) The school choice aid shall equal \$1,250 for  
21 pupils in grades K through 5, \$1,400 for pupils in grades 6 through 8,  
22 or \$1,750 for pupils in grades 9 through 12 which shall be paid from  
23 the "School Choice Fund" established pursuant to section 16 of  
24 P.L. , c. (C. ) (now pending before the Legislature as this bill).  
25 This amount may be annually adjusted by the commissioner to account  
26 for increases in educational costs.

27

28 7. (New section) A nonpublic school choice program is established  
29 to enable any pupil who is eligible for a free public education pursuant  
30 to N.J.S.18A:38-1 to attend a participating nonpublic school within  
31 the State and have the tuition paid, in full or in part, with the State  
32 school choice aid provided pursuant to section 6 of P.L. , c. (C.  
33 ) (now pending before the Legislature as this bill).

34 In order to participate in this program, a nonpublic school shall  
35 annually:

36 a. Notify the Commissioner of Education of its desire to participate  
37 in the program by August 30 of the school year preceding any school  
38 year in which pupils will be enrolled under this section.

39 b. File a disclosure statement with the Commissioner of Education  
40 by September 30 of the school year preceding a school year in which  
41 pupils will be enrolled under this section setting forth, on a form  
42 provided by the commissioner, the following information:

43 (1) The tuition rate established for the school year for which the  
44 statement is being filed. The tuition rate shall be uniform for all  
45 students attending the nonpublic school;

46 (2) The number of pupils currently enrolled in the school by grade

1 level, the number of pupils enrolled under this section, and the  
2 anticipated openings available for pupils applying under this section for  
3 the school year for which the disclosure statement is being filed;

4 (3) The number of teachers at the nonpublic school and the  
5 percentage of teachers who hold State certification;

6 (4) A brief description of the school facilities; computer, science,  
7 music or art resources; library services; food services; extracurricular  
8 activities; or any other information required by the Commissioner of  
9 Education;

10 (5) Ownership information;

11 (6) Indicators of student achievement;

12 (7) A description of the course of instruction to be offered by the  
13 school;

14 (8) Any other information which the Commissioner of Education,  
15 in consultation with the Director of the Division of Consumer Affairs  
16 in the Department of Law and Public Safety, may require.

17 c. Obtain a performance bond payable to the Commissioner of  
18 Education in an amount equal to the number of pupils electing to  
19 attend the nonpublic school pursuant to this section for the school year  
20 for which the bond is being filed multiplied by the school's tuition rate  
21 per pupil. The bond shall be filed with the Commissioner of Education  
22 by August 1 preceding each school year. The bond shall be used to  
23 guarantee the compliance of the nonpublic school with the  
24 requirements of P.L. , c. (C. )(now pending before the Legislature  
25 as this bill).

26

27 8. (New section) In order to qualify for tuition reimbursement  
28 under the "School Freedom of Choice Act," P.L. , c. (C. )(now  
29 pending before the Legislature as this bill) a pupil's parent or guardian  
30 shall submit an application, on a form provided by the Commissioner  
31 of Education, to a participating nonpublic school by November 15 of  
32 the school year preceding the school year for which the pupil wants to  
33 enroll. Before submitting an application, the pupil and the pupil's  
34 parent or guardian must discuss with a school guidance counselor or  
35 other appropriate staff member employed by the district the pupil is  
36 currently attending the pupil's academic or other reason for applying  
37 to enroll in a nonpublic school. However, the guidance counselor or  
38 other staff member may not prohibit the pupil from transferring to a  
39 nonpublic school. The pupil's application shall identify the reason for  
40 seeking enrollment in the nonpublic school. Within 40 days following  
41 receipt of the application, a participating nonpublic school shall notify  
42 the applicant, in writing, as to whether the application has been  
43 accepted. A participating nonpublic school shall determine acceptance  
44 on a nondiscriminatory basis. A pupil's parent or guardian shall notify  
45 the nonpublic school within 21 days following acceptance whether the  
46 pupil intends to enroll in the nonpublic school. Notice of intent to

1 enroll in the nonpublic school obligates the pupil to attend the  
2 nonpublic school during the following school year, unless the resident  
3 district and the nonpublic school agree in writing to allow the pupil to  
4 transfer back to the resident district. The nonpublic school shall notify  
5 the resident district and the Commissioner of Education of the pupil's  
6 intent to enroll in the nonpublic school. Once enrolled in a nonpublic  
7 school, the pupil will remain enrolled therein and shall not be required  
8 to submit annual or periodic applications for renewal. To return to the  
9 resident district, the parent or guardian of the pupil shall provide  
10 notice to the resident district by November 15 for enrollment  
11 beginning the following school year. The procedures set forth in this  
12 section shall also apply to a pupil who applies to transfer from one  
13 participating nonpublic school to another participating nonpublic  
14 school.

15

16 9. (New section) a. A nonpublic school participating in the  
17 nonpublic school choice program shall submit to the Commissioner of  
18 Education on the first day of October, December, February, April and  
19 June proof of a pupil's enrollment in the nonpublic school pursuant to  
20 the nonpublic school choice program and proof that payment has been  
21 received for tuition up to the date of the reporting. If a pupil ceases  
22 to attend the school during the school year, the nonpublic school shall  
23 notify the commissioner immediately. Upon receipt of the proof of  
24 enrollment and payment of tuition the commissioner shall pay to the  
25 parent or guardian of the pupil an amount equal to the school choice  
26 aid calculated pursuant to section 6 of the "School Freedom of Choice  
27 Act," P.L. , c. (C. ) (now pending before the Legislature as this  
28 bill). The school choice grant amount so calculated shall be paid to  
29 the parent or guardian of the pupil in 5 equal installments on the first  
30 day of September, November, January, March and May.  
31 Notwithstanding the above, the initial installment payment on  
32 September 1 shall be made based upon the pupil's intent to enroll.  
33 The funds so paid shall be used solely for the purpose of paying tuition  
34 at the nonpublic school. The district of residence may supplement the  
35 school choice grant amount through local levy funds in an amount not  
36 to exceed one half of the State foundation amount multiplied by the  
37 foundation weight for the grade level in which pupils are being  
38 accepted. However, the school choice aid plus the amount of any  
39 local levy supplement paid to the parent or guardian of a pupil  
40 pursuant to this section shall not exceed the tuition rate established by  
41 the nonpublic school for the year of attendance. Whenever the tuition  
42 exceeds the school choice grant amount plus the amount of any local  
43 levy supplement, the pupil or the pupil's parent or guardian may be  
44 required to pay any difference directly to the nonpublic school.

45 b. The commissioner shall annually reduce the foundation aid of the  
46 school district of residence by the amount of foundation aid

1 attributable to a pupil whenever a pupil who participates in the  
2 nonpublic school choice program was enrolled in the public schools of  
3 the district in the prior year. Pupils attending a nonpublic school  
4 pursuant to the "School Freedom of Choice Act," P.L. , c.  
5 (C. ) (now pending before the Legislature as this bill) shall not be  
6 eligible for State special education aid pursuant to section 14 of  
7 P.L.1990, c.52 (C.18A:7D-16) or aid for bilingual pupils pursuant to  
8 section 81 of P.L.1990, c.52 (C.18A:7D-21).

9

10 10. (New section) A school district of residence shall make  
11 available to its pupils and parents and guardians of pupils by  
12 November 1 of each school year a list of the schools participating in  
13 the "School Freedom of Choice Act," P.L. , c. (C. ) (now  
14 pending before the Legislature as this bill). The list shall be annually  
15 prepared by the Commissioner of Education and provided to each  
16 school district.

17 Public and nonpublic schools accepting pupils pursuant to that act  
18 shall make available to interested persons information about the  
19 district, schools, programs, policies and procedures.

20

21 11. (New section) The commissioner shall take such steps,  
22 including the initiation of litigation, as may be necessary to recapture  
23 from the parent or guardian of a pupil any funds, including local levy  
24 supplements, provided under the "School Freedom of Choice Act,"  
25 P.L. , c. (C. ) (now pending before the Legislature as this bill)  
26 which are not directly expended for the educational programs provided  
27 thereunder.

28

29 12. (New section) a. Transportation shall be provided to pupils  
30 attending a nonpublic school under the "School Freedom of Choice  
31 Act," P.L. , c. (C. ) (now pending before the Legislature as  
32 this bill) pursuant to the provisions of N.J.S.18A:39-1.

33 b. For pupils attending a public school pursuant to the "School  
34 Freedom of Choice Act," P.L. , c. (C. ) (now pending before  
35 the Legislature as this bill) who reside more than two miles from the  
36 school of attendance for elementary school pupils or two and one-half  
37 miles for secondary school pupils, the school district of residence shall  
38 provide transportation from the residence of the pupil to the school of  
39 attendance. However, if the lowest bid received for providing such  
40 transportation exceeds \$675, or the amount determined for nonpublic  
41 school transportation costs per pupil pursuant to N.J.S.18A:39-1a, the  
42 district shall not be required to provide such transportation and the  
43 parent or guardian of the pupil to be transported shall be eligible to  
44 receive \$675, or the amount determined for nonpublic school  
45 transportation costs per pupil pursuant to N.J.S.18A:39-1a. If the  
46 school district of residence does not provide transportation to public

1 school pupils pursuant to N.J.S.18A:39-1, the school district of  
2 attendance shall provide the transportation required pursuant to this  
3 section. If neither the school district of residence nor the school  
4 district of attendance provide transportation to public school pupils  
5 pursuant to N.J.S.18A:39-1, neither district shall be required to  
6 provide transportation pursuant to this section, and the parent or  
7 guardian of the pupil to be transported shall be eligible to receive  
8 \$675, or the amount determined for nonpublic school transportation  
9 costs per pupil pursuant to N.J.S.18A:39-1a. Any school district  
10 providing transportation pursuant to this section shall receive State  
11 transportation aid pursuant to section 16 of P.L.1990, c.52  
12 (C.18A:7D-18).

13

14 13. (New section) No funds provided to a parent or guardian  
15 pursuant to the "School Freedom of Choice Act," P.L. , c.  
16 (C. ) (now pending before the Legislature as this bill) shall be  
17 considered income to the recipient for State income tax purposes.

18

19 14. Section 3 of P.L.1990, c.52 (C.18A:7D-3) is amended to read  
20 as follows:

21 3. For the purposes of this act, unless the context clearly requires  
22 a different meaning:

23 "Adjusted resident enrollment" means the number of pupils who, on  
24 the last school day prior to October 16 of the prebudget year, are  
25 residents of the district and are enrolled in: (1) the public schools of  
26 the district, except as a post-graduate or evening school pupil; or (2)  
27 another school district to which the district of residence pays tuition  
28 other than a county vocational school district in the same county or  
29 county special services school district; provided that a district shall  
30 count pupils in a shared-time vocational program who are regularly  
31 attending both the schools of the district and of a county vocational  
32 school district on an equated full-time basis in accordance with  
33 procedures to be established by the commissioner. For purposes of  
34 this section, resident enrollment shall include, beginning in the 1992-93  
35 school year and thereafter, regardless of nonresidence, the enrolled  
36 children of teaching staff members of the school district who are  
37 permitted, by contract or local district policy, to enroll their children  
38 in the educational program of the school district without payment of  
39 tuition.

40 "Bilingual education pupil" means a pupil enrolled in a program of  
41 bilingual education approved by the State board.

42 "County vocational school, special education services pupil" means  
43 a pupil who is attending a county vocational school and who is  
44 receiving specific services pursuant to chapter 46 of Title 18A of the  
45 New Jersey Statutes in special class programs when the pupil is  
46 enrolled in a special class register.

1 "CPI" means the average annual increase, expressed as a decimal,  
2 in the consumer price index for all urban consumers in the New York  
3 City and Philadelphia areas during the three fiscal years preceding the  
4 prebudget year as reported by the United States Department of Labor.

5 "Current expense" means all expenses of the school district, as  
6 enumerated in N.J.S.18A:22-8, other than those required for interest  
7 and debt redemption charges and any budgeted capital outlay.

8 "Debt service" means and includes payments of principal and  
9 interest upon school bonds and other obligations issued to finance the  
10 acquisition of school sites and the acquisition, construction or  
11 reconstruction of school buildings, including furnishings, equipment  
12 and the costs of issuance of such obligations and shall include  
13 payments of principal and interest upon bonds heretofore issued to  
14 fund or refund such obligations, and upon municipal bonds and other  
15 obligations which the commissioner approves as having been issued for  
16 such purposes. Debt service pursuant to the provisions of P.L.1978,  
17 c.74 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.)  
18 and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded.

19 "District income" means the aggregate income of the residents of  
20 the taxing district or taxing districts, based upon data provided by the  
21 Bureau of the Census in the United States Department of Commerce  
22 for the most recent year prior to the budget year.

23 With respect to regional districts and their constituent districts,  
24 however, the district income as described above shall be allocated  
25 among the regional and constituent districts in proportion to the  
26 number of pupils in each of them. For the 1991-92 school year,  
27 regional and constituent pupils shall include pupils attending the  
28 schools of a county vocational school or a county special services  
29 school district. Part-time post-secondary vocational pupils are to be  
30 excluded from this calculation.

31 "Equalized valuation" means the equalized valuation of the taxing  
32 district or taxing districts as certified by the Director of the Division  
33 of Taxation on October 1 of the prebudget year.

34 With respect to regional districts and their constituent districts,  
35 however, the equalized valuations as described above shall be  
36 allocated among the regional and constituent districts in proportion to  
37 the number of pupils in each of them. For the 1991-92 school year,  
38 regional and constituent pupils shall include pupils attending the  
39 schools of a county vocational school or a county special services  
40 school district. Part-time post-secondary vocational pupils are to be  
41 excluded from this calculation. With respect to certain operating  
42 school districts, other than school districts that received funds through  
43 a municipal budget in 1989 as determined pursuant to column 1 (c) of  
44 Section C of the Abstract of Ratables, that are composed of one or  
45 more taxing districts, where 20% or more of the land area of the  
46 taxing district is situated within the development district subject to an

1 intermunicipal tax sharing agreement pursuant to P.L.1968, c.404  
2 (C.13:17-1 et seq.), the equalized valuation shall equal the product of  
3 .70 and the amount of equalized valuation certified by the director.

4 "Evening school pupils" means the equated full-time resident  
5 enrollment of pupils enrolled in a public evening school established  
6 pursuant to N.J.S.18A:48-1.

7 "Foundation aid attributable to a pupil" means an amount equal to  
8 the average per pupil foundation aid received by a district for all pupils  
9 in the same grade as the pupil seeking enrollment under the "School  
10 Freedom of Choice Act," P.L. , c. (C. ) (now pending before the  
11 Legislature as this bill.) This amount shall be calculated using the  
12 foundation weights for the appropriate grade level set forth in section  
13 6 of P.L.1990, c.52 (C.18A:7D-6).

14 "Local levy budget" means the sum of the foundation aid and  
15 transition aid received by a school district and the district's local levies  
16 for current expense and capital outlay.

17 "Maximum Statewide foundation aid" shall be determined annually  
18 by subtracting the total State aid payable pursuant to sections 14, 16,  
19 80 and 81 of P.L.1990, c.52 (C.18A:7D-16, 18A:7D-18, 18A:7D-20  
20 and 18A:7D-21) and sections 26, 29, 30 and 31 of P.L.1991, c.62  
21 (C.18A:7D-21.1 et al.) from the maximum State school aid, by  
22 subtracting the funds appropriated pursuant to section 38 of P.L.1991,  
23 c.62 (C.18A:7D-28.2), and by adding any additional State aid which  
24 results from the provisions of section 27 of P.L.1991, c.62.

25 "Maximum State school aid" shall be determined for the 1992-93  
26 school year and annually thereafter by adding 80% of the increase in  
27 the State school aid inflator and the maximum State school aid for the  
28 prebudget year. However, beginning in the 1993-94 school year, the  
29 Governor may increase the maximum State school aid to an amount  
30 not to exceed the value of the State school aid inflator.

31 The State school aid inflator shall be determined for the 1992-93  
32 school year and annually thereafter by multiplying the value of the  
33 school aid inflator for the prebudget year by the sum of 1.01 and the  
34 PCI. For the 1991-92 school year, the value of the school aid inflator  
35 is \$4,250,000,000.

36 "Net budget" means the sum of the foundation aid received by a  
37 school district and the State aid received pursuant to sections 14, 16,  
38 25, 80, and 81 of P.L.1990, c.52 (C.18A:7D-16, 18A:7D-18,  
39 18A:7D-33, 18A:7D-20, and 18A:7D-21) and sections 26 and 31 of  
40 P.L.1991, c.62 (C.18A:7D-21.1 et al.) and the district's local levies for  
41 current expense and capital outlay. For a county special services  
42 school district, the net budget shall also include tuition received by the  
43 district to provide services pursuant to chapter 46 of Title 18A of the  
44 New Jersey Statutes.

45 "Net debt service" means the balance after deducting all revenues  
46 from the school debt service budget of the school district and the

1 school debt service amount included in the municipal budget, except  
2 the amounts to be raised by local taxation and State aid.

3 "Nonpublic school" means an elementary or secondary school  
4 within the State, other than a public school, offering education for  
5 grades kindergarten through 12, or any combination of them, wherein  
6 any child may legally fulfill compulsory school attendance  
7 requirements and which complies with the requirements of Title VI of  
8 the Civil Rights Act of 1964, Pub.L. 88-352 (42 U.S.C. §2000d et  
9 seq.).

10 "Postgraduate pupils" means pupils who have graduated from high  
11 school and are enrolled in a secondary school for additional high  
12 school level courses.

13 "Prebudget year" means the school year preceding the year in which  
14 the school budget will be implemented.

15 "Pupils eligible for free meals or free milk" means those children  
16 who have been determined to be eligible to receive a free meal or free  
17 milk under the National School Lunch Act, 42 U.S.C. §1751 et seq.,  
18 and the Child Nutrition Act of 1966, 42 U.S.C. §1771 et seq., as of  
19 October 15 of the prebudget year.

20 "PCI" means the average annual percentage increase, expressed as  
21 a decimal, in State per capita personal income over the four fiscal  
22 years ending on June 30 prior to the prebudget year. The per capita  
23 personal income for each of the four years shall be the average of the  
24 per capita personal income for the four quarters in each fiscal year  
25 utilizing the quarterly data for State personal income and State  
26 population as published by the United States Department of  
27 Commerce.

28 "Resident enrollment" means the number of pupils who, on the last  
29 school day prior to October 16 of the prebudget year, are residents of  
30 the district and are enrolled in: (1) the public schools of the district,  
31 including evening schools; (2) another school district, other than a  
32 county vocational school district in the same county or county special  
33 services school district on a full-time basis, State college  
34 demonstration school or private school to which the district of  
35 residence pays tuition; (3) a State facility; (4) are receiving home  
36 instruction; [or] (5) are in a shared-time vocational program and are  
37 regularly attending a school in the district and a county vocational  
38 school district ; or (6) a public school in the State pursuant to the  
39 "School Freedom of Choice Act," P.L. , c. (C. )(now pending  
40 before the Legislature as this bill) .

41 Pupils in a shared-time vocational program shall be counted on an  
42 equated full-time basis in accordance with procedures to be established  
43 by the commissioner. For purposes of this section, resident enrollment  
44 shall include, beginning in the 1992-93 school year and thereafter,  
45 regardless of nonresidence, the enrolled children of teaching staff  
46 members of the school district who are permitted, by contract or local

1 district policy, to enroll their children in the educational program of  
2 the school district without payment of tuition.

3 Handicapped children between three and five years of age and  
4 receiving programs and services pursuant to N.J.S.18A:46-6 shall be  
5 included in the resident enrollment of the district.

6 "School district" means any local or regional school district  
7 established pursuant to chapter 8 or chapter 13 of Title 18A of the  
8 New Jersey Statutes and any county special services or county  
9 vocational school districts established pursuant to chapter 46 or  
10 chapter 54 of Title 18A of the New Jersey Statutes.

11 "Special education services pupil" means a pupil receiving specific  
12 services pursuant to chapter 46 of Title 18A of the New Jersey  
13 Statutes in special class programs when the pupil is enrolled in a  
14 special class register.

15 "Special needs district" means any school district, other than a  
16 school district in which the equalized valuation per pupil is more than  
17 twice the average Statewide equalized valuation per pupil, which, as  
18 of June 5, 1990: a. was classified by the Department of Education as  
19 an urban school district and was included in the department's district  
20 factor group A or B; or b. in which the quotient produced by dividing  
21 the number of pupils eligible for AFDC by the resident enrollment, less  
22 the number of preschool, evening school and post-graduate pupils, is  
23 greater than or equal to 0.15 and the number of pupils eligible for  
24 AFDC is greater than 1,000. For this calculation, pupils eligible for  
25 AFDC means those children aged 5-17 and resident in the district who  
26 are members of families which are eligible for "Aid to Families with  
27 Dependent Children" pursuant to P.L.1959, c.86 (C.44:10-1 et seq.),  
28 as of September 30 of the prebudget year.

29 "State facility" means a State residential facility for the retarded; a  
30 day training center which is operated by or under contract with the  
31 State and in which all the children have been placed by the State,  
32 including a private school approved by the Department of Education  
33 which is operated under contract with the Bureau of Special  
34 Residential Services in the Division of Developmental Disabilities in  
35 the Department of Human Services; a State residential youth center;  
36 a State training school or correctional facility; a State child treatment  
37 center or psychiatric hospital.

38 "Statewide average equalized school tax rate" means the amount  
39 calculated by dividing the sum of the current expense and capital  
40 outlay tax levies for all school districts, other than county vocational  
41 school and county special services school districts, in the State for the  
42 pre-budget year by the equalized valuations of all taxing districts in the  
43 State except taxing districts for which there are no school tax levies.

44 "Statewide equalized valuation" means the equalized valuation of  
45 all taxing districts in the State as certified by the Director of the  
46 Division of Taxation on October 1 of the prebudget year. In the event

1 that the equalized table certified by the Director of the Division of  
2 Taxation shall be revised by the tax court after December 15 of the  
3 prebudget year, the revised valuations shall be used in the  
4 recomputation of aid for an individual school district filing an appeal,  
5 but shall have no effect upon the calculation of the property value  
6 multiplier.

7 "Total Statewide income" means the sum of the district incomes of  
8 all taxing districts in the State.

9 (cf: P.L.1991, c.62, s.1)

10

11 15. (New section) For the purposes of calculating each district's  
12 maximum permissible net budget pursuant to section 85 of P.L.1990,  
13 c.52 (C.18A:7D-28), a district's local levy budget shall include its  
14 foundation aid entitlement prior to any deductions made as a result of  
15 the "School Freedom of Choice Act," P.L. , c. (C. ) (now pending  
16 before the Legislature as this bill) and shall exclude any tuition  
17 payments whether paid through the school choice grant amount, local  
18 levy supplement or parental contribution made to the district as a  
19 result of that act. The Commissioner of Education shall make any  
20 adjustments to a district's maximum permissible net budget or equity  
21 spending cap which may be necessary as a result of that act.

22

23 16. (New section) There is established within the Property Tax  
24 Relief Fund a dedicated account to be known as the "School Choice  
25 Fund." The Treasurer shall deposit into the fund all foundation aid  
26 which has been calculated pursuant to the provisions of section 4 of  
27 P.L.1990, c.52 (C.18A:7D-4) but not distributed to a school district  
28 along with any other appropriation which may from time to time be  
29 made by the Legislature. The monies in the fund shall be used for the  
30 purposes designated in the "School Freedom of Choice Act," P.L. , c.  
31 (C. ) (now pending before the Legislature as this bill).

32

33 17. (New section) a. Any eleventh or twelfth grade student  
34 enrolled in a public or nonpublic secondary school within the State  
35 may, provided substantially similar courses are not being offered by  
36 the district of residence, take up to the equivalent of two year-long  
37 courses offered by a public institution or participating private  
38 institution of higher education within the State pursuant to the  
39 provisions of P.L.1986, c.193 (C.18A:61C-4 et seq.) or P.L.1986,  
40 c.194 (C.18A:61C-1 et seq.) and the State shall pay the tuition and  
41 fees for these courses.

42 b. All public institutions and participating private institutions of  
43 higher education shall determine which courses may be used for this  
44 program. Students shall be provided with a comprehensive list of  
45 course offerings before high school scheduling begins. The institution  
46 may require students to meet appropriate academic prerequisites for

1 admission into courses.

2 c. A student who successfully completes a post-secondary course  
3 under this program shall be awarded both secondary and  
4 post-secondary credit.

5

6 18. (New section) a. Any school district in the State may establish  
7 a program of school choice within the district pursuant to regulations  
8 to be promulgated by the State Board of Education.

9 b. The State Board of Education shall establish training centers for  
10 intradistrict school choice programs utilizing districts which have  
11 already adopted an intradistrict school choice program. The training  
12 centers shall provide: (1) information to districts as to the possibility  
13 of adopting a school choice program, and (2) technical assistance in  
14 the implementation of a school choice program. School districts  
15 providing training shall receive State aid to compensate them for the  
16 costs of the training program and school districts seeking to implement  
17 a school choice program shall receive a State grant to cover necessary  
18 planning costs in an amount determined on a per pupil basis by the  
19 State Board of Education.

20 c. Any school district which implements an intradistrict school  
21 choice program shall have installed within the schools of the district,  
22 at State expense, educational telecommunication connections including  
23 those for instructional television and cable.

24 d. Any school district which implements or has implemented an  
25 intradistrict school choice program shall also be eligible for a waiver  
26 of any State Board of Education regulations concerning school  
27 governance, operations, facilities or curriculum.

28

29 19. (New section) A board of education which implements or has  
30 implemented a school choice program within the district pursuant to  
31 section 18 of P.L. , c. (C. )(now pending before the Legislature as  
32 this bill) may establish a teacher-parent cooperative school pursuant  
33 to the following requirements:

34 a. A board of education may authorize a group of certified teachers  
35 to form and operate a teacher-parent cooperative school subject to the  
36 approval of the State Board of Education.

37 b. The board of education's authorization for a teacher-parent  
38 cooperative school shall be in the form of a written charter signed by  
39 the board of education and the board of directors of the teacher-parent  
40 cooperative school. The form of the charter shall follow regulations  
41 promulgated by the State Board of Education. The charter shall expire  
42 on a specified date, subject to renewal.

43 c. The board of education shall notify the State Board of Education  
44 of its intent to authorize a teacher-parent cooperative school. The  
45 notice shall state the terms and conditions under which the board of  
46 education will authorize a teacher-parent cooperative school and shall

1 describe the philosophy, program and expected outcomes of the  
2 proposed school. The notice shall indicate any regulations of the State  
3 Board of Education for which the teacher-parent cooperative school  
4 seeks a waiver. The State board shall approve or disapprove the board  
5 of education's proposed authorization within 60 days of receipt of the  
6 notice. The failure to obtain State board approval shall preclude the  
7 board of education from authorizing a teacher-parent cooperative  
8 school.

9 d. A board of education may authorize a maximum of two  
10 teacher-parent cooperative schools. During the first five years  
11 following enactment of the "School Freedom of Choice Act," P.L. ,  
12 c. (C. ) (now pending before the Legislature as this bill), the State  
13 Board of Education shall authorize no more than two school districts  
14 in each county to establish a teacher-parent cooperative school.

15

16 20. (New section) A teacher-parent cooperative school may limit  
17 admission to pupils within an age group or grade level, or to pupils  
18 who have a specific affinity for the school's teaching methods, the  
19 school's learning philosophy, or a subject such as mathematics,  
20 science, fine arts, performing arts, or a language.

21 The school shall enroll any eligible pupil who submits a timely  
22 application, unless the number of applications exceeds the capacity of  
23 a program, class, grade level, or building. In this case, pupils shall be  
24 accepted by lot.

25 A teacher-parent cooperative school shall not limit admission to  
26 pupils on the basis of intellectual ability, measures of achievement or  
27 aptitude, or athletic ability.

28

29 21. (New section) a. The teachers authorized to organize and  
30 operate a teacher-parent cooperative school shall hold an annual  
31 election for members of the school's board of directors. All staff  
32 members employed at the school and all parents of children enrolled  
33 in the school are eligible for membership on the board of directors and  
34 may participate in the election.

35 b. The board of directors of a teacher-parent cooperative school  
36 shall have the sole authority to employ, discharge and contract with  
37 necessary teachers and nonlicensed employees, subject to the school's  
38 charter and regulations which may be promulgated by the State Board  
39 of Education.

40 c. The board of directors shall also have the sole authority to  
41 decide matters related to the operation of the school, including  
42 budgeting, curriculum, and operating procedures, subject to the  
43 school's charter and regulations which may be promulgated by the  
44 State Board of Education.

45

46 22. (New section) If a teacher employed by a school district makes

1 a written request for a transfer to teach at a teacher-parent cooperative  
2 school, the school district shall grant the transfer, subject to the  
3 availability of positions at the teacher-parent cooperative school as  
4 indicated in the school charter, and the teacher shall retain all tenure  
5 and seniority rights. The school district may require that the request  
6 for transfer be made no later than 90 days before the teacher would  
7 otherwise have to report for duty.

8  
9 23. (New section) Each teacher-parent cooperative school shall  
10 report annually to the board of education and the State Board of  
11 Education. The reports shall be made on a form prescribed by the  
12 State board and shall be made available to the public.

13  
14 24. (New section) A teacher-parent cooperative school shall be  
15 funded in the same manner as are the other schools of the district,  
16 pursuant to regulations established by the State Board of Education.

17  
18 25. (New section) The State Board of Education shall promulgate  
19 rules and regulations pursuant to the "Administrative Procedure Act,"  
20 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to implement the  
21 provisions of this act.

22  
23 26. This act shall take effect immediately and shall first be  
24 applicable to State school aid for the 1993-94 school year.

## 25 26 27 STATEMENT

28  
29 This bill establishes the "School Freedom of Choice Act" to give  
30 pupils expanded educational opportunities and to increase the role of  
31 parents in the educational process. The program of school choice  
32 provided by the bill recognizes that no one school or program can  
33 satisfy the needs of all children. By allowing parents to choose the  
34 best school or program for their child, choice will lead to improved  
35 educational performance for all children. Choice will also motivate all  
36 schools, both public and nonpublic, to improve their programs and to  
37 become more responsive and productive.

38 The bill establishes a public school freedom of choice program  
39 which permits any pupil to attend a school or program in a district  
40 outside the pupil's district of residence. However, no district would  
41 be required to accept nonresident pupils into its schools or programs.  
42 The parent or guardian of the pupil would receive tuition  
43 reimbursement in the amount of \$1,250 for an elementary school pupil,  
44 \$1,400 for a middle school pupil and \$1,750 for a high school pupil.  
45 The nonresident district will receive State aid, to be credited toward  
46 the pupil's tuition, equal to the pupil's foundation aid minus the school

1 choice grant amount. The district of residence may supplement this  
2 amount with local revenues. The nonresident district will also receive  
3 any special education, bilingual or at-risk aid for which the pupil  
4 qualifies.

5 The resident district must provide the pupil with transportation to  
6 the school of attendance or, if the costs of the transportation exceeds  
7 \$675, the parent or guardian of the pupil will be eligible to receive  
8 \$675 to defray the costs of transportation.

9 The bill provides that any pupil may attend an eligible nonpublic  
10 school within the State and have the tuition reimbursed by the State up  
11 to \$1,250 for an elementary school pupil, \$1,400 for a middle school  
12 pupil and \$1,750 for a high school pupil. The district of residence may  
13 supplement this amount with local revenues. The tuition  
14 reimbursement will be paid directly to the parent or guardian of the  
15 pupil and may not exceed the tuition rate established by the nonpublic  
16 school. Where the tuition exceeds the aid entitlement, the pupil's  
17 parents may be required to pay the difference.

18 Under the bill, pupils in eleventh and twelfth grade may also enroll  
19 in up to the equivalent of two year-long courses offered by an  
20 institution of higher education and have the tuition and fees paid by the  
21 State.

22 The bill also encourages the establishment of intradistrict choice  
23 programs through the creation of training centers, grants for program  
24 planning, waivers of State board regulations, and incentives involving  
25 educational telecommunication connections.

26 Finally, the bill authorizes the establishment of teacher-parent  
27 cooperative schools in any district which implements an intradistrict  
28 school choice program. The school's board of directors, elected by the  
29 staff and parents of pupils, will have authority over the governance,  
30 operations, personnel and curriculum of the school. The school,  
31 however, will be funded in the same manner as are the other schools  
32 in the district. The teacher-parent cooperative schools are intended to  
33 involve teachers in all aspects of the educational process and give them  
34 the maximum amount of freedom possible to set educational goals and  
35 devise ways to achieve them.

36 Schools involved in an intradistrict choice program and  
37 teacher-parent cooperative schools are given the option of seeking  
38 waivers of State board regulations in order to provide a stimulus to  
39 meet educational objectives in novel and creative ways.

40

41

42

43

44 The "School Freedom of Choice Act."