

# HOUSE . . . . . No. 3643

By Mr. Melia of Boston, petition of Thomas S. Eisenstadt for legislation to define further the term "racial imbalance" in the public schools. Education.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Nine.

### AN ACT FURTHER DEFINING "RACIAL IMBALANCE".

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 71 of the General Laws is hereby  
2 amended by striking out section 37D, inserted by section 1 of  
3 chapter 641 of the acts of 1965, and inserting in place thereof  
4 the following section:—

5 *Section 37D.* The school committee of each city, town and  
6 district shall, annually, at such time and in such form as the  
7 commissioner shall determine, submit statistics sufficient to  
8 enable a determination to be made of the per cent of negro  
9 pupils in all public schools and in each school under the  
10 jurisdiction of each such committee. Whenever the state  
11 board of education finds that racial imbalance exists in a  
12 public school it shall notify in writing the school committee  
13 or regional school district committee having jurisdiction over  
14 such school that such finding has been made. The school  
15 committee shall thereupon prepare a plan to eliminate such  
16 racial imbalance and file a copy of such plan with the board.  
17 The term "racial imbalance" refers to a ratio between negro  
18 and other students in public schools which is so sharply out of  
19 balance with the racial composition of society as to be, except  
20 as hereinafter provided, in the discretion of the commissioner,  
21 detrimental to any opportunity to derive the educational  
22 benefits equal to those afforded other students at public  
23 schools which are in balance within the meaning of this

24 section. For the purpose of this section, a school with fifty per  
25 cent or less negro students shall be conclusively presumed to  
26 be in balance, and a school with seventy-five per cent or more  
27 negro students shall be conclusively presumed to be im-  
28 balanced.

29 Said plan shall detail the changes in existing school atten-  
30 dance districts, the location of proposed school sites, the  
31 proposed additions to existing school buildings, and other  
32 methods for the elimination of racial imbalance. Said plan  
33 shall also include projections of the expected ratio composi-  
34 tion of all public schools. Any plan to detail changes in  
35 existing school attendance districts, the locations of proposed  
36 new school sites and proposed additions to existing school  
37 sites and proposed additions to existing school buildings with  
38 the intention of reducing or eliminating racial imbalance,  
39 must take into consideration on an equal basis with the  
40 above-mentioned intention, the safety of the children in-  
41 volved in travelling from home to school and school to home.  
42 Said plan may provide for voluntary co-operation by other  
43 cities and towns in rendering assistance and in making  
44 available facilities to effectuate said plan.

45 The commissioner may, in his discretion, provide for addi-  
46 tional state aid to co-operating cities and towns to assist in  
47 defraying the cost of relieving imbalance; provided, however,  
48 that such state aid does not exceed more than an additional  
49 per capita payment for each student, and provided, further,  
50 that such additional state aid shall cease when said imbalance  
51 has been relieved.

52 No school committee or regional school district committee  
53 shall as part of its plan, transport any pupil to any school  
54 outside its jurisdiction or to any school outside the school  
55 district established for his neighborhood, if the parent or  
56 guardian of such pupil files written objection thereto with  
57 such school committee.

58 Said board may, from time to time, require each school  
59 committee to submit to said board a report on the progress of  
60 the plan and its implementation.

61 The supreme judicial and the superior court shall have  
62 jurisdiction in equity upon petition of the board of education  
63 to enforce the provisions of this section.

1 SECTION 2. Chapter 15 of the General Laws is hereby  
2 amended by striking out section 11, inserted by section 2 of  
3 said chapter 641, and inserting in place thereof the following  
4 section:—

5 *Section 11.* The board of education shall provide technical  
6 and other assistance in the formulation and execution of  
7 plans to eliminate racial imbalance, made pursuant to section  
8 thirty-seven D of chapter seventy-one. Whenever the board  
9 determines that a school committee or regional school district  
10 committee has failed to file a plan in compliance with the  
11 provisions of said section, it shall consult with and make  
12 specific recommendations for a plan by such school com-  
13 mittee or regional school district committee.

14 If the school committee fails to file a plan with said board  
15 pursuant to its recommendations, then it shall be deemed that  
16 such recommendations of the board shall constitute the plan  
17 for the elimination of racial imbalance pursuant to said  
18 section thirty-seven D in said city, town or district, and any  
19 funds withheld by the commissioner shall thereupon be  
20 released.

21 If, following the receipt of notification, from the board of  
22 education that racial imbalance, as defined in section thirty-  
23 seven D of chapter seventy-one, exists, a school committee or  
24 regional school district committee does not show progress  
25 within a reasonable time toward the elimination of racial  
26 imbalance in its schools the commissioner of education shall  
27 not certify the amount of state aid for such city or town or  
28 for such towns which are members of such regional school  
29 districts, as required by section nine of chapter seventy, and  
30 the school building assistance commission upon receipt of  
31 notice from said board that racial imbalance exists shall not  
32 approve any project for school construction for such city,  
33 town or regional school district under chapter six hundred  
34 and forty-five of the acts of nineteen hundred and forty-eight,  
35 as amended, and the commissioner of education may notify  
36 the commissioner of corporations and taxation and the comp-  
37 troller to hold such funds as have been so certified under said  
38 section nine but have not been disbursed. The commissioner  
39 of education may thereafter upon receipt of a plan acceptable  
40 to the board of education notify the commissioner of corpora-

41 tions and taxation and the comptroller to pay any such  
42 withheld funds to such city or town in such amounts and at  
43 such times as he may designate, and the school building  
44 assistance commission upon receipt of notice from said board  
45 that a plan acceptable to it has been received may approve  
46 such projects.

47 The school building assistance commission shall, notwith-  
48 standing any contrary provision of chapter six hundred and  
49 forty-five of the acts of nineteen hundred and forty-eight, as  
50 amended, increase the amount of grants for schoolhouse  
51 construction to sixty-five per cent of the approved cost,  
52 whenever the board of education is satisfied that the con-  
53 struction or enlargement of a schoolhouse is for the purpose  
54 of reducing or eliminating racial imbalance in the school  
55 system and so notifies the school building assistance commis-  
56 sion.

1 SECTION 3. Section 1J of said chapter 15 is hereby amended  
2 by striking out, in line 1, the word "thirty", and inserting in  
3 place thereof the word:—ten.