

By: Senator(s) Hawks

To: Education

SENATE BILL NO. 2431

1 AN ACT ENTITLED THE "SCHOOL CHOICE ACT OF 1999"; TO AUTHORIZE
2 ANY STUDENT TO ATTEND THE SCHOOL OF HIS CHOICE WITHIN SUCH SCHOOL
3 DISTRICT OR COUNTY, AS THE CASE MAY BE, SUBJECT TO CERTAIN
4 RESTRICTIONS; TO PROVIDE FOR IMPLEMENTATION OF SUCH LOCAL STUDENT
5 SCHOOL CHOICE PROGRAM; TO AMEND SECTIONS 37-15-13, 37-15-15,
6 37-15-17, 37-15-21, 37-15-29, 37-15-31 AND 37-15-33, MISSISSIPPI
7 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 SECTION 1. This act shall be known as and may be cited as
10 the "School Choice Act of 1999."

11 SECTION 2. (1) Any student in Grades 1 through 12 residing
12 in a school district in the State of Mississippi may, at the
13 discretion of their parent(s) or legal guardian(s), enroll and
14 attend any school located within the school district which offers
15 such student's grade level, subject to the restrictions contained
16 in this act.

17 (2) Any student in Grades 1 through 12 residing in a county
18 in the State of Mississippi may, at the discretion of their
19 parent(s) or legal guardian(s), enroll and attend any school
20 located within the county which offers such student's grade level,
21 subject to the restrictions contained in this act. For purposes
22 of this subsection (2), any student residing in a school district
23 located in two (2) or more counties shall be deemed to reside in

the "home county" of such district, as such term is defined for ad
valorem tax purposes under Section 37-57-105(2), Mississippi Code
of 1972.

SECTION 3. In school districts or counties in which student
school choice has been exercised the following provisions shall
apply:

(a) The responsibility for transportation for a
transferring student shall be borne generally by the student. The
resident district may transport the student to the district
boundary or to a point agreeable to the parent or the nonresident
school and count that student in the resident district's
calculation for Minimum Education Program transportation funding.
The nonresident school may provide transportation from the
resident district's boundary or from a point agreeable with the
parent or the resident district within either the resident or
nonresident district to a school in the nonresident district and
count that student in the nonresident district's calculation for
transportation funding.

(b) The school shall accept credits toward graduation
that were awarded by another district. The nonresident school
shall award a diploma to a nonresident pupil if the pupil meets
the nonresident district's graduation requirements.

(c) For purposes of determining a school district's
Minimum Education Program funding, the nonresident student shall
be counted as a part of the average daily attendance of the
district to which the student has transferred.

(d) In any instance where the foregoing provisions
would result in a conflict with a desegregation court order, the
terms of the order shall govern.

(e) A student who transfers to a nonresident school
shall not be eligible for interscholastic athletic competition for

a period of one (1) year from the date of the beginning of the transfer.

(f) The State Board of Education shall be authorized to resolve disputes arising under this Section 4.

SECTION 2. Section 37-15-13, Mississippi Code of 1972, is amended as follows:

37-15-13. The provisions of this section shall not apply to any school, student or parent of a student residing in a school district or county which has exercised student school choice as provided under Senate Bill No. 2431, 1999 Regular Session.

When any child qualified under the requirements of Section 37-15-9 shall apply or present himself for enrollment in or admission to the public schools of any school district of this state, the school board of such school district shall have the power and authority to designate the particular school or attendance center of the district in which such child shall be enrolled and which he shall attend; no enrollment of a child in a school shall be final or permanent until such designation shall be made by said school board. No child shall be entitled to attend any school or attendance center except that to which he has been assigned by the school board; however, the principal of a school or superintendent of the district may, in proper cases, permit a child to attend a school temporarily until a permanent assignment is made by the school board.

SECTION 5. Section 37-15-15, Mississippi Code of 1972, is amended as follows:

37-15-15. The provisions of this section shall not apply to any school, student or parent of a student residing in a school

district or county which has exercised student school choice as
provided under Senate Bill No. 2431, 1999 Regular Session.

In making assignments of children to schools or attendance centers, the school board shall take into consideration the educational needs and welfare of the child involved, the welfare and best interest of all the pupils attending the school or schools involved, the availability of school facilities, sanitary conditions and facilities at the school or schools involved, health and moral factors at the school or schools, and in the community involved, and all other factors which the school board may consider pertinent, relevant or material in their effect on the welfare and best interest of the school district and the particular school or schools involved. All such assignments shall be on an individual basis as to the particular child involved and, in making such assignment, the school board shall not be limited or circumscribed by the boundaries of any attendance areas which may have been established by such board.

SECTION 6. Section 37-15-17, Mississippi Code of 1972, is amended as follows:

37-15-17. The provisions of this section shall not apply to
any school, student or parent of a student residing in a school
district or county which has exercised student school choice as
provided under Senate Bill No. 2431, 1999 Regular Session.

If the parent, guardian or other person having custody of any child shall feel aggrieved by the assignment of such child to a school or attendance center by the school board, then such parent, guardian or other person may, at any time within thirty (30) days after such assignment, make application in writing to the school

board for a review or reconsideration of such assignment. Upon receiving any such application, the school board shall set a time and place for the hearing thereof which time shall be not more than fifteen (15) days after the regular meeting of said board next succeeding the date of the filing of said application. At the time and place so fixed, the person filing such application shall have the right to appear and present evidence in support of said application. After hearing said evidence, the school board shall determine whether said application is well taken and supported by the evidence and shall enter an order either affirming its previous action or modifying or changing same as said school board shall find proper.

SECTION 7. Section 37-15-21, Mississippi Code of 1972, is amended as follows:

37-15-21. The provisions of this section shall not apply to any school, student or parent of a student residing in a school district or county which has exercised student school choice as provided under Senate Bill No. 2431, 1999 Regular Session.

If any parent, guardian or other person having custody of any child affected by the assignment of such child to a school or attendance center by the school board shall feel aggrieved at the order of the school board provided for in Section 37-15-17, such person may, at any time within thirty (30) days from the date of such order, appeal therefrom by filing a petition for appeal in the circuit court of the county in which the school district involved is located. Upon the filing of such petition for an appeal, process shall be issued for and served upon the president of the school board of the school district involved. Upon being

served with process, it shall be the duty of the school board to transmit promptly to the court a certified copy of the entire record of the proceedings as shown by the file of the school board. From the judgment of the circuit court, an appeal may be taken to the Supreme Court in the same manner as other appeals are taken from other judgments of such court.

SECTION 8. Section 37-15-29, Mississippi Code of 1972, is amended as follows:

37-15-29. The provisions of this section shall not apply to any school, student or parent of a student residing in a school district or county which has exercised student school choice as provided under Senate Bill No. 2431, 1999 Regular Session.

(1) Except as provided in subsections (2), (3) and (4) of this section, no minor child may enroll in or attend any school except in the school district of his residence, unless such child be lawfully transferred from the school district of his residence to a school in another school district in accord with the statutes of this state now in effect or which may be hereafter enacted.

(2) Those children whose parent(s) or legal guardian(s) are instructional personnel or certificated employees of a school district may at such employee's discretion enroll and attend the school or schools of their parent's or legal guardian's employment regardless of the residence of the child.

(3) No child shall be required to be transported in excess of thirty (30) miles on a school bus from his or her home to school, or in excess of thirty (30) miles from school to his or her home, if there is another school in an adjacent school district located on a shorter school bus transportation route by

the nearest traveled road. Those children residing in such geographical situations may, at the discretion of their parent(s) or legal guardian(s), enroll and attend the nearer school, regardless of the residence of the child. In the event the parent or legal guardian of such child and the school board are unable to agree on the school bus mileage required to transport the child from his or her home to school, an appeal shall lie to the State Board of Education, or its designee, whose decision shall be final.

(4) Those children lawfully transferred from the school district of his residence to a school in another school district prior to July 1, 1992, may, at the discretion of their parent(s) or legal guardian(s), continue to enroll and attend school in the transferee school district. Provided further, that the brother(s) and sister(s) of said children lawfully transferred prior to July 1, 1992, may also, at the discretion of their parent(s) or legal guardian(s), enroll and attend school in the transferee school district.

SECTION 9. Section 37-15-31, Mississippi Code of 1972, is amended as follows:

37-15-31. The provisions of this section shall not apply to any school, student or parent of a student residing in a school district or county which has exercised student school choice as provided under Senate Bill No. 2431, 1999 Regular Session.

(1) (a) Except as provided in subsections (2), (3) and (4) of this section, upon the petition in writing of a parent or guardian resident of the school district of an individual student filed or lodged with the president or secretary of the school

board of a school district in which the pupil has been enrolled or is qualified to be enrolled as a student under Section 37-15-9, or upon the aforesaid petition or the initiative of the school board of a school district as to the transfer of a grade or grades, individual students living in one school district or a grade or grades of a school within the districts may be legally transferred to another school district, by the mutual consent of the school boards of all school districts concerned, said consent to be given in writing and spread upon the minutes of such boards.

(b) In the event such student transfer involves a school district in a county having an administrative superintendent as defined in Section 37-6-3, the transfer shall also require the approval in writing of the county board of education of such county. If such a transfer should be refused by the school board of either school district, then an appeal may be had to such county board of education. The county board of education to which the appeal is taken shall act thereon not later than the date of its next regular meeting subsequent to the disapproval or failure to act by the school board of said school district, or not later than the date of its next regular meeting subsequent to the filing of such appeal.

(c) The school board of the transferring school district to which such petition may be addressed shall act thereon not later than its next regular meeting subsequent to the filing or lodging of the petition, and a failure to act within said time shall constitute a rejection of such request. The school board of the other school district involved, the transferee board, and the county board of education, if applicable under paragraph (b) of

this subsection, shall act on such request for transfer as soon as possible after the transferor board shall have approved or rejected such transfer and no later than the next regular meeting of the transferee board or county board of education, and a failure of such transferee board to act within such time shall constitute a rejection of such request. If such a transfer is approved by the transferee board, and the county board of education if applicable under paragraph (b) of this subsection, then such decision shall be final. If such a transfer should be refused by the school board of either school district or the county board of education, then such decision shall be final.

(d) Any legal guardianship formed for the purpose of establishing residency for school district attendance purposes shall not be recognized by the affected school board.

(2) (a) Upon the petition in writing of any parent or guardian who is a resident of Mississippi and is an instructional or certificated employee of a school district, but not a resident of such district, the school board of the employer school district shall consent to the transfer of such employee's dependent school-age children to its district and shall spread the same upon the minutes of the board. Upon the petition in writing of any parent or guardian who is not a resident of Mississippi and on January 1, 1993, is an instructional or certificated employee of a school district in Mississippi, the school board of the employer school district shall consent to the transfer of such employee's dependent school-age children to its district and shall spread the same upon the minutes of the board.

(b) The school board of any school district may, in its

discretion, adopt a uniform policy to allow the enrollment and attendance of the dependent children of noninstructional and noncertificated employees, who are residents of Mississippi but are not residents of their district. Such policy shall be based upon the employment needs of the district, implemented according to job classification groups and renewed each school year.

(c) The employer transferee school district shall notify in writing the school district from which the pupil or pupils are transferring, and the school board of the transferor school district shall spread the same upon its minutes.

(d) Any such agreement by school boards for the legal transfer of a student shall include a provision providing for the transportation of the student. In the absence of such a provision the responsibility for transporting the student to the transferee school district shall be that of the parent or guardian.

(e) Any school district which accepts a student under the provisions of this subsection shall not assess any tuition fees upon such transferring student in accordance with the provisions of Section 37-19-27.

(3) Upon the petition in writing of any parent or legal guardian of a school-age child who is a resident of an adjacent school district residing in the geographical situation described in Section 37-15-29(3), the school board of the school district operating the school located in closer proximity to the residence of the child shall consent to the transfer of the child to its district, and shall spread the same upon the minutes of the board.

Any such agreement by school boards for the legal transfer of a student under this subsection shall include a provision for the

279 transportation of the student by either the transferor or the
280 transferee school district. In the event that either the school
281 board of the transferee or the transferor school district shall
282 object to said transfer, it shall have the right to appeal to the
283 State Board of Education whose decision shall be final. However,
284 if the school boards agreeing on the legal transfer of any student
285 shall fail to agree on which district shall provide
286 transportation, the responsibility for transporting the student to
287 the transferee school district shall be that of the parent or
288 guardian.

289 (4) Upon the petition in writing of any parent or legal
290 guardian of a school-age child who was lawfully transferred to
291 another school district prior to July 1, 1992, as described in
292 Section 37-15-29(4), the school board of the transferee school
293 district shall consent to the transfer of such child and the
294 transfer of any school-age brother and sister of such child to its
295 district, and shall spread the same upon the minutes of the board.

296 SECTION 10. Section 37-15-33, Mississippi Code of 1972, is
297 amended as follows:

298 37-15-33. The provisions of this section shall not apply to
299 any school, student or parent of a student residing in a school
300 district or county which has exercised student school choice as
301 provided under Senate Bill No. 2431, 1999 Regular Session.

302 All students seeking to transfer from any school, public or
303 private, within or outside of the boundaries of the State of
304 Mississippi, to a public school within the state may be required
305 to take a test to determine the grade and class to which the pupil
306 shall be assigned at the time of pupil transfer.

307 The administrative head of each public school shall
308 administer the test or tests to such pupil or pupils as shall
309 apply for transfer to such public school. Such test or tests
310 shall be administered within thirty (30) days after the filing of
311 each such application for transfer. Notice of the giving of such
312 test shall be given the applicant not less than five (5) days
313 prior to the date of the administration of such test.

314 No transfer of a pupil shall be effected until the test has
315 been given and the pupil is assigned according to the grade and
316 class for which the test shows he is best suited. No pupil shall
317 be assigned to a grade and class more than three (3) grades above
318 or below the grade or class that the pupil would have been
319 assigned to had the pupil remained in the school from which the
320 transfer is being made. Pending the administration of the test
321 herein provided for and its grading and an assignment based
322 thereon the superintendent of the school district or the
323 attendance center principal to which the pupil seeks admission may
324 assign the pupil temporarily to a grade and class comparable to
325 that in which the pupil would have been had the pupil continued in
326 the school from which the transfer was being made.

327 If any student is transferred or reassigned within the school
328 district by order of the board of trustees of that school district
329 as designated by law of the State of Mississippi and not at his
330 own request, the requirement of that pupil's taking the
331 standardized test shall be waived. Likewise, if a pupil shall
332 transfer from one school district to another school district in
333 the manner provided and required by the laws of the State of
334 Mississippi, the requirement of such pupil taking the standardized

335 test shall be waived.

336 SECTION 11. The Attorney General of the State of Mississippi
337 is hereby directed to submit this act, immediately upon approval
338 by the Governor, or upon approval by the Legislature subsequent to
339 a veto, to the Attorney General of the United States or to the
340 United States District Court for the District of Columbia in
341 accordance with the provisions of the Voting Rights Act of 1965,
342 as amended and extended.

343 SECTION 12. This act shall take effect and be in force from
344 and after the date it is effectuated under Section 5 of the Voting
345 Rights Act of 1965, as amended and extended.