

By: Senator(s) Hewes, Gollott

To: Education

SENATE BILL NO. 2979

1 AN ACT TO AMEND SECTIONS 37-15-29 AND 37-15-31, MISSISSIPPI
 2 CODE OF 1972, TO PROVIDE FOR THE AUTOMATIC TRANSFER OF STUDENTS
 3 RESIDING IN THE ANNEXED TERRITORY OF A MUNICIPALITY TO THE
 4 MUNICIPAL SEPARATE SCHOOL DISTRICT LOCATED IN THE MUNICIPALITY
 5 WHEN THE ANNEXED AREA HAS NOT BEEN ADDED TO THE TERRITORY OF SUCH
 6 DISTRICT; TO AMEND SECTION 37-7-109, MISSISSIPPI CODE OF 1972, TO
 7 PROVIDE FOR AN ALTERNATIVE METHOD TO PETITION FOR A REFERENDUM ON
 8 THE QUESTION OF INCLUSION OF SUCH ANNEXED TERRITORY INTO THE
 9 MUNICIPAL SEPARATE SCHOOL DISTRICT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 37-15-29, Mississippi Code of 1972, is
 12 amended as follows:

13 37-15-29. (1) Except as provided in subsections (2), (3)
 14 and (4) of this section, no minor child may enroll in or attend
 15 any school except in the school district of his residence, unless
 16 such child be lawfully transferred from the school district of his
 17 residence to a school in another school district in accord with
 18 the statutes of this state now in effect or which may be hereafter
 19 enacted.

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

25 (3) No child shall be required to be transported in excess
 26 of thirty (30) miles on a school bus from his or her home to
 27 school, or in excess of thirty (30) miles from school to his or
 28 her home, if there is another school in an adjacent school
 29 district located on a shorter school bus transportation route by
 30 the nearest traveled road. Those children residing in such

31 geographical situations may, at the discretion of their parent(s)
32 or legal guardian(s), enroll and attend the nearer school,
33 regardless of the residence of the child. In the event the parent
34 or legal guardian of such child and the school board are unable to
35 agree on the school bus mileage required to transport the child
36 from his or her home to school, an appeal shall lie to the State
37 Board of Education, or its designee, whose decision shall be
38 final.

39 (4) Those children lawfully transferred from the school
40 district of his residence to a school in another school district
41 prior to July 1, 1992, may, at the discretion of their parent(s)
42 or legal guardian(s), continue to enroll and attend school in the
43 transferee school district. Provided further, that the brother(s)
44 and sister(s) of said children lawfully transferred prior to July
45 1, 1992, may also, at the discretion of their parent(s) or legal
46 guardian(s), enroll and attend school in the transferee school
47 district.

48 (5) Those children residing in territory annexed by a
49 municipality in which the boundaries of the municipal separate
50 school district have not been extended, may, at the discretion of
51 their parent(s) or legal guardian(s), enroll and attend the school
52 or schools in the municipal separate school district, pursuant to
53 the provisions of Section 37-15-31(6).

54 **SECTION 2.** Section 37-15-31, Mississippi Code of 1972, is
55 amended as follows:

56 37-15-31. (1) (a) Except as provided in subsections (2)
57 through (5) of this section, upon the petition in writing of a
58 parent or guardian resident of the school district of an
59 individual student filed or lodged with the president or secretary
60 of the school board of a school district in which the pupil has
61 been enrolled or is qualified to be enrolled as a student under
62 Section 37-15-9, or upon the aforesaid petition or the initiative
63 of the school board of a school district as to the transfer of a

64 grade or grades, individual students living in one school district
65 or a grade or grades of a school within the districts may be
66 legally transferred to another school district, by the mutual
67 consent of the school boards of all school districts concerned,
68 which consent must be given in writing and spread upon the minutes
69 of such boards.

70 (b) The school board of the transferring school
71 district to which such petition may be addressed shall act thereon
72 not later than its next regular meeting subsequent to the filing
73 or lodging of the petition, and a failure to act within that time
74 shall constitute a rejection of such request. The school board of
75 the other school district involved (the transferee board) shall
76 act on such request for transfer as soon as possible after the
77 transferor board shall have approved or rejected such transfer and
78 no later than the next regular meeting of the transferee board,
79 and a failure of such transferee board to act within such time
80 shall constitute a rejection of such request. If such a transfer
81 is approved by the transferee board, then such decision shall be
82 final. If such a transfer should be refused by the school board
83 of either school district, then such decision shall be final.

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

87 (2) (a) Upon the petition in writing of any parent or
88 guardian who is a resident of Mississippi and is an instructional
89 or licensed employee of a school district, but not a resident of
90 such district, the school board of the employer school district
91 shall consent to the transfer of such employee's dependent
92 school-age children to its district and shall spread the same upon
93 the minutes of the board. Upon the petition in writing of any
94 parent or guardian who is not a resident of Mississippi and who is
95 an instructional or licensed employee of a school district in
96 Mississippi, the school board of the employer school district

97 shall consent to the transfer of such employee's dependent
98 school-age children to its district and shall spread the same upon
99 the minutes of the board.

100 (b) The school board of any school district, in its
101 discretion, may adopt a uniform policy to allow the enrollment and
102 attendance of the dependent children of noninstructional and
103 nonlicensed employees, who are residents of Mississippi but are
104 not residents of their district. Such policy shall be based upon
105 the employment needs of the district, implemented according to job
106 classification groups and renewed each school year.

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

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

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

120 (3) Upon the petition in writing of any parent or legal
121 guardian of a school-age child who is a resident of an adjacent
122 school district residing in the geographical situation described
123 in Section 37-15-29(3), the school board of the school district
124 operating the school located in closer proximity to the residence
125 of the child shall consent to the transfer of the child to its
126 district, and shall spread the same upon the minutes of the board.
127 Any such agreement by school boards for the legal transfer of a
128 student under this subsection shall include a provision for the
129 transportation of the student by either the transferor or the

130 transferee school district. In the event that either the school
131 board of the transferee or the transferor school district shall
132 object to the transfer, it shall have the right to appeal to the
133 State Board of Education whose decision shall be final. However,
134 if the school boards agreeing on the legal transfer of any student
135 shall fail to agree on which district shall provide
136 transportation, the responsibility for transporting the student to
137 the transferee school district shall be that of the parent or
138 guardian.

139 (4) Upon the petition in writing of any parent or legal
140 guardian of a school-age child who was lawfully transferred to
141 another school district prior to July 1, 1992, as described in
142 Section 37-15-29(4), the school board of the transferee school
143 district shall consent to the transfer of such child and the
144 transfer of any school-age brother and sister of such child to its
145 district, and shall spread the same upon the minutes of the board.

146 (5) (a) If the board of trustees of a municipal separate
147 school district with added territory does not have a member who is
148 a resident of the added territory outside the corporate limits,
149 upon the petition in writing of any parent or legal guardian of a
150 school-age child who is a resident of the added territory outside
151 the corporate limits, the board of trustees of the municipal
152 separate school district and the school board of the school
153 district adjacent to the added territory shall consent to the
154 transfer of the child from the municipal separate school district
155 to the adjacent school district. The agreement must be spread
156 upon the minutes of the board of trustees of the municipal
157 separate school district and the school board of the adjacent
158 school district. The agreement must provide for the
159 transportation of the student. In the absence of such a
160 provision, the parent or legal guardian shall be responsible for
161 transporting the student to the adjacent school district. Any

162 school district that accepts a student under this subsection may
163 not assess any tuition fees against the transferring student.

164 (b) Before September 1 of each year, the board of
165 trustees of the municipal separate school district shall certify
166 to the State Department of Education the number of students in the
167 added territory of the municipal separate school district who are
168 transferred to the adjacent school district under this subsection.
169 The municipal separate school district also shall certify the
170 total number of students in the school district residing in the
171 added territory plus the number of those students who are
172 transferred to the adjacent school district. Based upon these
173 figures, the department shall calculate the percentage of the
174 total number of students in the added territory who are
175 transferred to the adjacent school district and shall certify this
176 percentage to the levying authority for the municipal separate
177 school district. The levying authority shall remit to the school
178 board of the adjacent school district, from the proceeds of the ad
179 valorem taxes collected for the support of the municipal separate
180 school district from the added territory of the municipal separate
181 school district, an amount equal to the percentage of the total
182 number of students in the added territory who are transferred to
183 the adjacent school district.

184 (6) (a) Upon the petition in writing of any parent or legal
185 guardian of a school-age child who is a resident of the territory
186 of a municipality which was annexed after July 1, 1990, and which
187 has not been added to the territory of the municipal separate
188 school district embraced by such municipality, the board of
189 trustees of the municipal separate school district and the school
190 board of the school district adjacent to the municipality shall
191 consent to the transfer of the child from the adjacent school
192 district to the municipal separate school district. The agreement
193 shall be spread upon the minutes of the board of trustees of the
194 municipal school district and the school board of the adjacent

195 school district. Any such agreement by school boards for the
196 legal transfer of a student shall include a provision for the
197 transportation of the student. In the absence of such a
198 provision, the parent or legal guardian shall be responsible for
199 transporting the student to the municipal separate school
200 district. Any school district that accepts a student under this
201 subsection may not assess any tuition fees against the
202 transferring student.

203 (b) Before September 1 of each year, the board of
204 trustees of the municipal separate school district shall certify
205 to the school board of the adjacent school district the number of
206 students in the annexed territory of the municipality who are
207 transferred from the adjacent school district to the municipal
208 separate school district under this subsection, plus the total
209 number of students residing in the annexed territory. Based upon
210 these figures, the school board of the transferring school
211 district shall calculate the percentage of the total number of
212 students in the annexed territory who are transferred to the
213 municipal separate school district and shall certify this
214 percentage to the levying authority for the adjacent school
215 district. The levying authority of the adjacent school district
216 shall remit to the levying authority of the municipal separate
217 school district, from the proceeds of the ad valorem taxes
218 collected for the support of the adjacent school district in such
219 annexed territory and for the retirement of the bonded
220 indebtedness of the adjacent school district in such annexed
221 territory, an amount equal to the percentage of the total number
222 of students in the added territory who are transferred to the
223 municipal separate school district.

224 (c) The provisions of this subsection (6) shall be
225 applicable and enforceable only to the extent possible within the
226 scope of any federal court consent judgment or any federal court
227 order imposed upon any school district within the state.

228 **SECTION 3.** Section 37-7-109, Mississippi Code of 1972, is
229 amended as follows:

230 37-7-109. (1) If a petition signed by a majority of the
231 qualified electors of specifically described territory of an
232 existing school district shall be filed with the school board
233 requesting that said described territory be taken from such
234 existing district and annexed to an adjacent district, or
235 reorganized into a new school district, the said school board,
236 after consideration thereof, and with the consent and approval of
237 the school board of the district to which such territory is to be
238 annexed, if such be the case, shall have the power and authority,
239 in its discretion, to take such territory from the existing
240 district and annex same to the adjacent district, or to create a
241 new school district of such specifically described territory.
242 However, before doing so, the school board must find and determine
243 that the taking of the territory from the existing school district
244 will not seriously interfere with or impair the efficiency of such
245 school district, and all orders adopted under the provisions of
246 this section shall be invalid unless such finding and
247 determination be made. Any order adopted under the provisions of
248 this section shall become final without publication thereof upon
249 such date as may be fixed by the school board but not later than
250 the first day of July next succeeding the date of such order. The
251 taking of territory from existing school districts under the
252 provisions of this section shall not release the property in such
253 territory from assessment and liability for the payment of the
254 outstanding bonds or other indebtedness of the district from which
255 the territory is taken and it shall be the duty of the board of
256 supervisors to continue to levy taxes on such territory in an
257 amount sufficient to pay such territory's pro rata part of all
258 outstanding bonds or other indebtedness existing at the time the
259 territory is taken from such district. In addition thereto, the
260 territory involved shall become liable for its pro rata part of

261 the outstanding bonds or other indebtedness of the district to
262 which it is annexed and taxes shall be levied thereon for the
263 payment thereof to the same extent as taxes are levied upon the
264 other territory of such district.

265 (2) In the event that twenty percent (20%) of the registered
266 voters residing within the territory of a municipality which was
267 annexed after July 1, 1990, and which has not been added to the
268 territory of the municipal school district embraced by such
269 municipality petition the governing body of such municipality for
270 a referendum on the question of inclusion in the municipal school
271 district, the governing body of the municipality which includes
272 the annexed territory presently outside of the municipal school
273 district boundaries shall hold a referendum of all registered
274 voters residing within the territory annexed by such municipality
275 but not included within the boundaries of the municipal school
276 district on the question of inclusion in the municipal school
277 district. Such right of referendum shall be limited to such
278 territories lying within counties which have two (2) judicial
279 districts and which have municipal school districts which have a
280 reduction in student enrollment as a result of Hurricane Katrina
281 at least equal to ten percent (10%) when compared to the 2004-2005
282 school year. Approval of the inclusion of the territory into the
283 municipal school district shall be made by a majority vote of the
284 qualified electors voting in favor of such inclusion in said
285 referendum to be held within ninety (90) days from the date of
286 filing and certification of the petition provided for herein on
287 the question of such inclusion. The referendum shall be held in
288 the same manner as are other municipal elections. When any school
289 district is altered under the provisions of this section, the
290 alteration thereof shall not impair or release the property of
291 such school district from liability for the payment of the bonds
292 or other indebtedness of such district, outstanding at the time of
293 the alteration, and it shall be the duty of the board of

294 supervisors of said county to levy taxes on the property of said
295 district so altered from year to year according to the terms of
296 such indebtedness until same shall be fully paid.

297 **SECTION 4.** The Attorney General of the State of Mississippi
298 shall submit this act, immediately upon approval by the Governor,
299 or upon approval by the Legislature subsequent to a veto, to the
300 Attorney General of the United States or to the United States
301 District Court for the District of Columbia in accordance with the
302 provisions of the Voting Rights Act of 1965, as amended and
303 extended.

304 **SECTION 5.** This act shall take effect and be in force from
305 and after the date it is effectuated under Section 5 of the Voting
306 Rights Act of 1965, as amended and extended.