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To: Education

HOUSE BILL NO. 638

1 AN ACT TO BE KNOWN AS THE "RELIGIOUS VIEWPOINTS
 2 ANTIDISCRIMINATION ACT" OR "SCHOOLCHILDREN'S RELIGIOUS LIBERTIES
 3 ACT"; TO PROHIBIT LOCAL SCHOOL DISTRICTS FROM DISCRIMINATING
 4 AGAINST STUDENTS BASED ON THEIR EXPRESSION OF RELIGIOUS VIEWPOINTS
 5 ON OTHERWISE PERMISSIBLE SUBJECTS; TO REQUIRE SCHOOL DISTRICTS TO
 6 ADOPT A POLICY THAT ESTABLISHES A LIMITED PUBLIC FORUM FOR STUDENT
 7 SPEAKERS AT SCHOOL EVENTS AND TO REQUIRE SCHOOL DISTRICTS TO
 8 PUBLISH A DISCLAIMER STATING THAT THE STUDENTS' VIEWS DO NOT
 9 REFLECT THOSE OF THE DISTRICT; TO CLARIFY THAT STUDENTS MAY
 10 EXPRESS THEIR BELIEFS ABOUT RELIGION IN HOMEWORK, ARTWORK AND
 11 OTHER ASSIGNMENTS; TO AUTHORIZE STUDENTS TO ORGANIZE PRAYER
 12 GROUPS, RELIGIOUS CLUBS AND OTHER RELIGIOUS GATHERINGS TO THE SAME
 13 EXTENT THAT STUDENTS ARE PERMITTED TO ORGANIZE OTHER NONCURRICULAR
 14 STUDENT ACTIVITIES AND GROUPS; TO REQUIRE SCHOOL DISTRICTS TO
 15 ADOPT A POLICY REGARDING LIMITED PUBLIC FORUMS AND VOLUNTARY
 16 EXPRESSION OF RELIGIOUS VIEWPOINTS; TO PROVIDE A MODEL POLICY ON
 17 STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS AND STUDENT SPEAKERS
 18 WHICH SCHOOL DISTRICTS MAY ADOPT; TO AMEND SECTION 37-13-4.1,
 19 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
 20 ACT; TO BRING FORWARD SECTION 37-13-4, MISSISSIPPI CODE OF 1972,
 21 WHICH PROVIDES THAT TEACHERS AND SCHOOL ADMINISTRATORS MAY PERMIT
 22 THE VOLUNTARY PARTICIPATION BY STUDENTS IN PRAYER, FOR PURPOSES OF
 23 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 37-13-161,
 24 MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT LOCAL SCHOOL BOARDS
 25 MAY ALLOW REFERENCES TO RELIGION IN THE PUBLIC SCHOOLS WHEN THE
 26 REFERENCES DO NOT CONSTITUTE AID TO ANY RELIGIOUS SECT OR A
 27 SECTARIAN PURPOSE, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR
 28 RELATED PURPOSES.

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

30 **SECTION 1.** Sections 1 through 7 of this act shall be known
 31 and may be cited as the "Religious Viewpoints Antidiscrimination
 32 Act" or the "Schoolchildren's Religious Liberties Act."

33 **SECTION 2.** Each school district shall treat a student's
 34 voluntary expression of a religious viewpoint on an otherwise
 35 permissible subject in the same manner that the district treats a
 36 student's voluntary expression of a secular or other viewpoint on
 37 an otherwise permissible subject. A school district may not



38 discriminate against a student based on a religious viewpoint
39 expressed by the student on an otherwise permissible subject.

40 **SECTION 3.** (1) To ensure that local school districts do not
41 discriminate against a student's publicly stated voluntary
42 expression of a religious viewpoint and to eliminate any actual or
43 perceived affirmative school sponsorship or attribution to a
44 school district of a student's expression of a religious
45 viewpoint, the school board of each school district shall adopt a
46 policy establishing a limited public forum for student speakers at
47 all school events at which a student is to publicly speak. The
48 policy regarding the limited public forum must require the school
49 district to:

50 (a) Provide the forum in a manner that does not
51 discriminate against a student's voluntary expression of a
52 religious viewpoint on an otherwise permissible subject;

53 (b) Provide a method, based on neutral criteria, for
54 the selection of student speakers at school events and graduation
55 ceremonies;

56 (c) Ensure that a student speaker does not engage in
57 obscene, vulgar, offensively lewd or indecent speech; and

58 (d) State orally or in writing, or both, that the
59 student's speech does not reflect the endorsement, sponsorship,
60 position or expression of the school district.

61 (2) The school district disclaimer required by subsection
62 (1)(d) must be provided at all graduation ceremonies. The school
63 district also must provide the disclaimer at any other event in
64 which a student speaks publicly for so long as a need exists to
65 dispel any confusion over the district's nonsponsorship of the
66 student's speech.

67 (3) Student expression on an otherwise permissible subject
68 may not be excluded from a limited public forum because the
69 subject is expressed from a religious viewpoint.



70 **SECTION 4.** Students may express their beliefs about religion
71 in homework, artwork and other written and oral assignments free
72 from discrimination based on the religious content of their
73 submissions. Homework and classroom assignments must be judged by
74 ordinary academic standards of substance and relevance and against
75 other legitimate pedagogical concerns identified by the school
76 district. Students may not be penalized or rewarded on account of
77 the religious content of their work.

78 **SECTION 5.** Students may organize prayer groups, religious
79 clubs, "see you at the pole" gatherings or other religious
80 gatherings before, during and after school to the same extent that
81 students are permitted to organize other noncurricular student
82 activities and groups. School districts must provide religious
83 groups the same access to school facilities for assembling that is
84 given to other noncurricular groups without discrimination based
85 on the religious content of the students' expression. If student
86 groups that meet for nonreligious activities are permitted to
87 advertise or announce meetings of the groups, the school district
88 may not discriminate against any group that meets for prayer or
89 other religious speech. A school district may disclaim school
90 sponsorship of noncurricular groups and events in a manner that
91 neither favors nor disfavors groups that meet to engage in prayer
92 or religious speech.

93 **SECTION 6.** The school board of each school district shall
94 adopt and implement a policy regarding a limited public forum and
95 voluntary student expression of religious viewpoints. If a school
96 district adopts and follows the model policy governing voluntary
97 religious expression in public schools provided by Section 7 of
98 this act, the district shall be presumed to be in compliance with
99 those provisions of this chapter which are addressed by the model
100 policy.



101 **SECTION 7.** For purposes of this section, the term "model
102 policy" means a policy adopted by the school board of a local
103 school district which is substantially identical to the following:

104 ARTICLE I

105 STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS

106 The school district shall treat a student's voluntary
107 expression of a religious viewpoint on an otherwise permissible
108 subject in the same manner that the district treats a student's
109 voluntary expression of a secular or other viewpoint on an
110 otherwise permissible subject. The school district may not
111 discriminate against the student based on a religious viewpoint
112 expressed by the student on an otherwise permissible subject.

113 ARTICLE II

114 STUDENT SPEAKERS AT NONGRADUATION EVENTS

115 There is created a limited public forum for student speakers
116 at all school events at which a student is to publicly speak. For
117 each speaker, the school district shall set a maximum time limit
118 reasonable and appropriate to the occasion. Student speakers
119 shall introduce:

- 120 (a) Football games;
- 121 (b) Any other athletic events designated by the
122 district;
- 123 (c) Opening announcements and greetings for the school
124 day; and
- 125 (d) Any additional events designated by the district,
126 which may include, but is not necessarily limited to, assemblies
127 and pep rallies.

128 The forum must be limited in the manner provided by this
129 article.

130 Except as otherwise provided in this article, eligibility to
131 use the limited public forum is limited to students who hold one
132 (1) of the following positions of honor based on neutral criteria:
133 class officers of the highest grade level in the school; and



134 student council officers, captains of the football team and other
135 students holding positions of honor designated by the school board
136 in the highest two (2) grade levels of the school.

137 Each school shall notify all eligible students of their
138 eligibility to use the limited public forum. A student who wishes
139 to participate as an introducing speaker shall submit the
140 student's name to the student council or other designated body
141 during a specified period, which period may not be less than three
142 (3) days. The specified period may be at the beginning of the
143 school year, at the end of the preceding school year so that
144 student speakers are in place for the new year, or, if the
145 selection process will be repeated each semester, at the beginning
146 of each semester or at the end of the preceding semester so
147 speakers are in place for the next semester. The names of the
148 volunteering student speakers shall be randomly drawn until all
149 names have been selected, and the names shall be listed in the
150 order drawn. Each participating student will be matched
151 chronologically to the event for which the student will be giving
152 the introduction. Student speakers may speak for one (1) week at
153 a time for all introductions of events that week, at a single
154 speaking event or in such other manner as determined by the school
155 district. The list of student speakers shall be repeated
156 chronologically, as needed, in the same order. The district may
157 repeat the selection process each semester rather than once a
158 year.

159 The subject of the student introductions must be related to
160 the purpose of the event and to the purpose of marking the opening
161 of the event, honoring the occasion, participants and those in
162 attendance, bringing the audience to order and focusing the
163 audience on the purpose of the event. The subject must be
164 designated, a student must stay on the subject and the student may
165 not engage in obscene, vulgar, offensively lewd or indecent
166 speech. The school district shall treat a student's voluntary



167 expression of a religious viewpoint on an otherwise permissible
168 subject in the same manner that the district treats a student's
169 voluntary expression of a secular or other viewpoint on an
170 otherwise permissible subject. The school district may not
171 discriminate against the student based on a religious viewpoint
172 expressed by the student on an otherwise permissible subject.

173 For as long as there is a need to dispel confusion over the
174 nonsponsorship of the student's speech, at each event in which a
175 student will deliver an introduction, a disclaimer shall be stated
176 in written or oral form, or both, such as, "The student giving the
177 introduction for this event is a volunteering student selected on
178 neutral criteria to introduce the event. The content of the
179 introduction is the private expression of the student and does not
180 reflect the endorsement, sponsorship, position or expression of
181 the school district."

182 The school district recognizes that certain students who have
183 attained special positions of honor in a school traditionally have
184 addressed school audiences from time to time as a tangential
185 component of their achieved positions of honor, such as the
186 captains of various sports teams, student council officers, class
187 officers, homecoming kings and queens, prom kings and queens, and
188 the like, based on neutral criteria. Nothing in this policy
189 eliminates the continuation of the practice of having these
190 students, irrespective of grade level, address school audiences in
191 the normal course of their respective positions. The school
192 district shall create a limited public forum for the speakers and
193 shall treat a student's voluntary expression of a religious
194 viewpoint on an otherwise permissible subject in the same manner
195 that the district treats a student's voluntary expression of a
196 secular or other viewpoint on an otherwise permissible subject.
197 The school district may not discriminate against the student based
198 on a religious viewpoint expressed by the student on an otherwise
199 permissible subject.



200 ARTICLE III

201 STUDENT SPEAKERS AT GRADUATION CEREMONIES

202 There is created a limited public forum consisting of an
203 opportunity for a student to speak to begin graduation ceremonies
204 and another student to speak to end graduation ceremonies. For
205 each speaker, the district shall set a maximum time limit
206 reasonable and appropriate to the occasion.

207 The forum shall be limited in the manner provided by this
208 article.

209 Only students who are graduating and who hold one (1) of the
210 following neutral criteria positions of honor are eligible to use
211 the limited public forum: student council officers; class
212 officers of the graduating class; the top three (3) academically
213 ranked graduates; or a shorter or longer list of student leaders
214 as the school district may designate. A student who has a
215 speaking role in the graduation ceremonies is ineligible to give
216 the opening and closing remarks. The names of the eligible
217 volunteering students will be drawn randomly. The student whose
218 name is drawn first will give the opening remarks, and the student
219 whose name is drawn second will give the closing remarks.

220 The topic of the opening and closing remarks must be related
221 to the purpose of the graduation ceremony and to the purpose of
222 marking the opening and closing of the event, honoring the
223 occasion, the participants, and those in attendance, bringing the
224 audience to order, and focusing the audience on the purpose of the
225 event.

226 In addition to the students giving the opening and closing
227 remarks, certain other students who have attained special
228 positions of honor based on neutral criteria, including, but not
229 necessarily limited to, the valedictorian, will have speaking
230 roles at graduation ceremonies. For each speaker, the school
231 district shall set a maximum time limit reasonable and appropriate
232 to the occasion and to the position held by the speaker. For this



233 purpose, the district creates a limited public forum for these
234 students to deliver the addresses. The subject of the addresses
235 must be related to the purpose of the graduation ceremony, marking
236 and honoring the occasion, honoring the participants and those in
237 attendance, and the student's perspective on purpose, achievement,
238 life, school, graduation and looking forward to the future.

239 The subject must be designated for each student speaker, the
240 student must stay on the subject and the student may not engage in
241 obscene, vulgar, offensively lewd or indecent speech. The school
242 district shall treat a student's voluntary expression of a
243 religious viewpoint on an otherwise permissible subject in the
244 same manner that the district treats a student's voluntary
245 expression of a secular or other viewpoint on an otherwise
246 permissible subject. The school district may not discriminate
247 against the student based on a religious viewpoint expressed by
248 the student on an otherwise permissible subject.

249 A written disclaimer shall be printed in the graduation
250 program that states, "The students speaking at the graduation
251 ceremony were selected based on neutral criteria to deliver
252 messages of each student's own choice. The content of each
253 student speaker's message is the private expression of the
254 individual student and does not reflect any position or expression
255 of the school district, the school board, the district's
256 administration or employees of the district or the views of any
257 other graduate. The contents of these messages were prepared by
258 the student volunteers, and the district refrained from any
259 interaction with student speakers regarding the student speakers'
260 viewpoints on permissible subjects."

261 ARTICLE IV

262 RELIGIOUS EXPRESSION IN CLASS ASSIGNMENTS

263 A student may express the student's beliefs about religion in
264 homework, artwork and other written and oral assignments free from
265 discrimination based on the religious content of the student's



266 submission. Homework and classroom work must be judged by
267 ordinary academic standards of substance and relevance and against
268 other legitimate pedagogical concerns identified by the school
269 district. Students may not be penalized or rewarded on account of
270 religious content. If a teacher's assignment involves writing a
271 poem, the work of a student who submits a poem in the form of a
272 prayer (for example, a psalm) must be judged on the basis of
273 academic standards, including literary quality, and the student
274 may not be penalized or rewarded on account of the poem's
275 religious content.

276 ARTICLE V

277 FREEDOM TO ORGANIZE RELIGIOUS GROUPS AND ACTIVITIES

278 Students may organize prayer groups, religious clubs, "see
279 you at the pole" gatherings and other religious gatherings before,
280 during and after school to the same extent that students are
281 permitted to organize other noncurricular student activities and
282 groups. Religious groups must be given the same access to school
283 facilities for assembling as other noncurricular groups, without
284 discrimination based on the religious content of the group's
285 expression. If student groups that meet for nonreligious
286 activities are permitted to advertise or announce the groups'
287 meetings by advertising in a student newspaper, putting up
288 posters, making announcements on a student activities bulletin
289 board or public address system, or handing out leaflets, the
290 school district may not prohibit any group that meets for prayer
291 or other religious speech from announcing or advertising its
292 meetings in similar manners. The school district may disclaim
293 sponsorship of noncurricular groups and events if the disclaimer
294 is administered in a manner that does not favor or disfavor groups
295 that meet to engage in prayer or other religious speech.

296 **SECTION 8.** The provisions of Sections 1 through 7 of this
297 act are severable. If any part of Sections 1 through 7 of this



298 act is declared invalid or unconstitutional, that declaration
299 shall not affect the part or parts that remain.

300 **SECTION 9.** Section 37-13-4.1, Mississippi Code of 1972, is
301 amended as follows:

302 37-13-4.1. (1) The legislative intent and purpose for this
303 section is to protect the freedom of speech guaranteed by the
304 First Amendment to the United States Constitution, to define for
305 the citizens of Mississippi the rights and privileges that are
306 accorded them on public school property, other public property or
307 other property at school-related events; and to provide guidance
308 to public school officials on the rights and requirements of law
309 that they must apply. The intent and purpose of the Legislature
310 is to accommodate the free exercise of religious rights of its
311 student citizens in the public schools and at public school events
312 as provided to them by the First Amendment to the United States
313 Constitution and the judicial interpretations thereof as given by
314 the United States Supreme Court.

315 (2) On public school property, other public property or
316 other property, invocations, benedictions or nonsectarian,
317 nonproselytizing student-initiated voluntary prayer shall be
318 permitted during compulsory or noncompulsory school-related
319 student assemblies, student sporting events, graduation or
320 commencement ceremonies and other school-related student events in
321 the manner provided under the Schoolchildren's Religious Liberties
322 Act.

323 (3) This section shall not diminish the right of any student
324 or person to exercise his rights of free speech and religion,
325 including prayer, as permitted by the United States Constitution,
326 on public school property, other public property or other
327 property, at times or events other than those stated in subsection
328 (2) of this section.

329 (4) The exercise of the rights guaranteed under subsection
330 (2) of this section shall not be construed to indicate any



331 support, approval or sanction of the contents of any such prayer,
332 invocation, benediction or other activity, or be construed as an
333 unconstitutional use of any public property or other property by
334 the State of Mississippi or any agency, department, board,
335 commission, institution or other instrumentality thereof or any
336 political subdivision of the state, including any county or
337 municipality and any instrumentality thereof. The exercise of
338 these rights on public school property, other public property or
339 on other property for school-related activities, by students or
340 others, shall not be construed as the promotion or establishment
341 of any religion or religious belief.

342 (5) The provisions of this section are severable. If any
343 part of this section is declared invalid or unconstitutional, that
344 declaration shall not affect the part or parts that remain.

345 **SECTION 10.** Section 37-13-4, Mississippi Code of 1972, is
346 brought forward as follows:

347 37-13-4. It shall be lawful for any teacher or school
348 administrator in any of the schools of the state which are
349 supported, in whole or in part, by the public funds of the state,
350 to permit the voluntary participation by students or others in
351 prayer. Nothing contained in this section shall authorize any
352 teacher or other school authority to prescribe the form or content
353 of any prayer. The provisions of this section shall not be
354 construed to amend or repeal the provisions of Section 37-13-4.1
355 but shall be considered as supplemental and in addition to the
356 provisions of Section 37-13-4.1.

357 **SECTION 11.** Section 37-13-161, Mississippi Code of 1972, is
358 brought forward as follows:

359 37-13-161. Nothing in this code shall be construed to
360 prevent any local school board, in its discretion, from allowing
361 references to religion or references to or the use of religious
362 literature, history, art, music or other things having a religious
363 significance in the public schools of such school district, when



364 such references or uses do not constitute aid to any religious
365 sect or sectarian purpose and when such references or uses are
366 incidental to or illustrative of matters properly included in the
367 course of study.

368 **SECTION 12.** This act shall take effect and be in force from
369 and after July 1, 2012.

