

By: Senator(s) Burton, Brown

To: Education

SENATE BILL NO. 2963

1 AN ACT TO REQUIRE ALL PUBLIC SCHOOL DISTRICTS IN MISSISSIPPI
2 TO PARTICIPATE IN THE MISSISSIPPI PUBLIC SCHOOL CHOICE ACT OF
3 2004; TO PROVIDE APPLICATION PROCEDURES FOR STUDENTS TO TRANSFER
4 TO A NONRESIDENT DISTRICT; TO AMEND SECTION 37-15-29 MISSISSIPPI
5 CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** (1) This section may be referred to and cited as
8 the "Mississippi Public School Choice Act of 2004."

9 (2) The Legislature finds that the students in Mississippi's
10 public schools and their parents will become more informed about
11 and involved in the public educational system if students and
12 their parents or guardians are provided greater freedom to
13 determine the most effective school for meeting their individual
14 educational needs. There is no right school for every student,
15 and permitting students to choose from among differing schools
16 with different assets will increase the likelihood that some
17 marginal students will stay in school and that other, more
18 motivated students will find their full academic potential.

19 (3) The Legislature further finds that giving more options
20 to parents and students with respect to where the students attend
21 public school will increase the responsiveness and effectiveness
22 of the state's schools, since teachers, administrators and school
23 board members will have added incentives to satisfy the
24 educational needs of the students who reside in the district.

25 (4) The Legislature therefore finds that these benefits of
26 enhanced quality and effectiveness in our public schools justify
27 permitting a student to apply for admissions to a school in any
28 district beyond the one in which the student resides, provided

29 that the transfer by this student would not adversely affect the
30 desegregation of either district.

31 (5) A public school choice program is hereby established to
32 enable any student to attend a school in a district in which the
33 student does not reside, subject to the restrictions contained in
34 this section.

35 **SECTION 2.** (1) (a) Before a student may attend a school in
36 a nonresident district, the student's parent or guardian shall
37 submit an application on a form approved by the State Department
38 of Education to the nonresident district. This application must
39 be postmarked not later than July 1 of the year in which the
40 student would begin the fall semester at the nonresident district.

41 (b) (i) Within thirty (30) days of the receipt of an
42 application from a nonresident student seeking admission under the
43 terms of this section, the nonresident district shall notify the
44 parent or guardian and the resident district in writing as to
45 whether the student's application has been accepted or rejected.

46 (ii) If the application is rejected, the
47 nonresident district must state in the notification letter the
48 reason for rejection.

49 (iii) If the application is accepted, the
50 nonresident district shall state in the notification letter:

51 1. An absolute deadline for the student to
52 enroll in the district, or the acceptance notification is null;
53 and

54 2. Any instructions for the renewal
55 procedures established by the district.

56 (2) (a) The local school board of every public school
57 district in Mississippi shall adopt by resolution specific
58 standards for acceptance and rejection of applications. Standards
59 may include the capacity of a program, class, grade level or
60 school building. Nothing in this section requires a school
61 district to add teachers, staff or classrooms or in any way to

62 exceed the requirements and standards established by existing law.
63 Standards shall include a statement that priority will be given to
64 applications from siblings residing or stepsiblings residing in
65 the same residence or household of students already attending the
66 district by choice. Standards may not include an applicant's
67 previous academic achievement, athletic or other extracurricular
68 ability, handicapping conditions, English proficiency level or
69 previous disciplinary proceeding, except that an expulsion from
70 another district may be included to disqualify such transfer.

71 (b) (i) Any student who applies for a transfer under
72 this section and is denied a transfer by the nonresident district
73 may request a hearing before the State Board of Education to
74 reconsider the transfer.

75 (ii) A request for a hearing before the State
76 Board of Education shall be in writing and shall be postmarked no
77 later than ten (10) days after notice of rejection of the
78 application is received by the student.

79 (3) Each school district shall participate in public school
80 choice consistent with this section.

81 (4) The responsibility for transportation of a student from
82 the student's resident school district to a nonresident school
83 district shall be borne by the student or the student's parents.
84 The nonresident school district may enter into a written agreement
85 with the student, student's parents or resident school district to
86 provide transportation to or from any place in the resident
87 district to the nonresident district, or both.

88 (5) (a) A nonresident district shall accept credits toward
89 graduation that were awarded by another district.

90 (b) The nonresident district shall award a diploma to a
91 nonresident student if the student meets the nonresident
92 district's graduation requirements.

93 (c) For purposes of determining a school district's
94 state adequate education program allotment, the nonresident

95 student shall be counted as a part of the average daily membership
96 of the district to which the student has transferred.

97 (6) The provisions of this section and all student choice
98 options created in this section are subject to the following
99 limitations:

100 (a) No student may transfer to a nonresident district
101 where the percentage of enrollment for the student's race exceeds
102 that percentage in the student's resident district except in the
103 circumstances set forth in paragraphs (b) and (d) of this
104 subsection;

105 (b) A transfer to a district is exempt from the
106 restriction set forth in subsection (6)(a) of this section if the
107 transfer is between two (2) districts within a county, and if the
108 minority percentage in the student's race and majority percentages
109 of school enrollment in both the resident and nonresident district
110 remain within an acceptable range of the county's overall minority
111 percentage in the student's race and majority percentages of
112 school population as set forth by the department;

113 (c) The department shall, by the filing deadline each
114 year, compute the minority percentage in the student's race and
115 majority percentages of each county's public school population
116 from the October Annual School Report and shall then compute the
117 acceptable range of variance from those percentages for school
118 districts within each county. In establishing the acceptable
119 range of variance for school choice, the department is directed to
120 use the remedial guideline of allowing an overrepresentation or
121 underrepresentation of minority or majority students of one-fourth
122 (1/4) or twenty-five percent (25%) of the county's racial balance;

123 (d) A transfer is exempted from the restriction set
124 fourth in subsection (6)(a) of this section if each school
125 district within the county does not have a critical mass of
126 minority percentage in the student's race of more than ten percent
127 (10%) of any single race;

128 (e) In any instance where the foregoing provisions
129 would result in a conflict with a desegregation court order or a
130 district's court-approved desegregation plan, the terms of the
131 order or plan shall govern;

132 (f) The department shall adopt appropriate rules and
133 regulations to implement the provisions of this section; and

134 (g) The department shall monitor school districts for
135 compliance with this section.

136 (7) The State Board of Education shall be authorized to
137 resolve disputes arising under subsections (2) through (6) of this
138 section.

139 (8) Local school districts shall cause public announcements
140 to be made over the broadcast media and in the print media at such
141 times and in such manner as to inform parents or guardians of
142 students in adjoining districts of the availability of the
143 program, the application deadline, and the requirements and
144 procedure of nonresident students to participate in the program.

145 (9) (a) All school districts shall report to the State
146 Department of Education on an annual basis the race, gender and
147 other pertinent information needed to properly monitor compliance
148 with the provisions of this section.

149 (b) The reports may be on those forms that are
150 prescribed by the department, or the data may be submitted
151 electronically by the district using a format authorized by the
152 department.

153 (c) The department may withhold state aid from any
154 school district that fails to file its report each year or fails
155 to file any other information with a published deadline requested
156 from school districts by the department so long as thirty (30)
157 calendar days are given between the request for the information
158 and the published deadline.

159 (d) A copy of the report shall be provided to the
160 Education Committees of the Senate and the House of
161 Representatives.

162 **SECTION 3.** Section 37-15-29, Mississippi Code of 1972, is
163 amended as follows:

164 37-15-29. (1) Except as provided in subsections (2), (3),
165 (4) and (5) of this section, no minor child may enroll in or
166 attend any school except in the school district of his residence,
167 unless such child be lawfully transferred from the school district
168 of his residence to a school in another school district in accord
169 with the statutes of this state now in effect or which may be
170 hereafter enacted.

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

176 (3) No child shall be required to be transported in excess
177 of thirty (30) miles on a school bus from his or her home to
178 school, or in excess of thirty (30) miles from school to his or
179 her home, if there is another school in an adjacent school
180 district located on a shorter school bus transportation route by
181 the nearest traveled road. Those children residing in such
182 geographical situations may, at the discretion of their parent(s)
183 or legal guardian(s), enroll and attend the nearer school,
184 regardless of the residence of the child. In the event the parent
185 or legal guardian of such child and the school board are unable to
186 agree on the school bus mileage required to transport the child
187 from his or her home to school, an appeal shall lie to the State
188 Board of Education, or its designee, whose decision shall be
189 final.

190 (4) Those children lawfully transferred from the school
191 district of his residence to a school in another school district

192 prior to July 1, 1992, may, at the discretion of their parent(s)
193 or legal guardian(s), continue to enroll and attend school in the
194 transferee school district. Provided further, that the brother(s)
195 and sister(s) of said children lawfully transferred prior to July
196 1, 1992, may also, at the discretion of their parent(s) or legal
197 guardian(s), enroll and attend school in the transferee school
198 district.

199 (5) Those children whose request for a transfer to a
200 nonresident school district has been approved pursuant to the
201 school choice program as provided in Sections 1 and 2 of Senate
202 Bill No. 2963, 2004 Regular Session.

203 **SECTION 4.** This act shall take effect and be in force from
204 and after July 1, 2004.