

By: Senator(s) Burton

To: Education

SENATE BILL NO. 2379

1 AN ACT TO ENACT AND REQUIRE ALL PUBLIC SCHOOL DISTRICTS IN
2 MISSISSIPPI TO PARTICIPATE IN THE "MISSISSIPPI PUBLIC SCHOOL
3 CHOICE ACT OF 2005"; TO PROVIDE APPLICATION PROCEDURES FOR
4 STUDENTS TO TRANSFER TO A NONRESIDENT DISTRICT; TO AMEND SECTION
5 37-15-29, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** (1) This section may be referred to and cited as
9 the "Mississippi Public School Choice Act of 2005."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

114 (c) The department shall, by the filing deadline each
115 year, compute the minority percentage in the student's race and
116 majority percentages of each county's public school population
117 from the October Annual School Report and shall then compute the
118 acceptable range of variance from those percentages for school
119 districts within each county. In establishing the acceptable
120 range of variance for school choice, the department is directed to
121 use the remedial guideline of allowing an overrepresentation or
122 underrepresentation of minority or majority students of one-fourth
123 (1/4) or twenty-five percent (25%) of the county's racial balance;

124 (d) A transfer is exempted from the restriction set
125 fourth in subsection (6)(a) of this section if each school
126 district within the county does not have a critical mass of
127 minority percentage in the student's race of more than ten percent
128 (10%) of any single race;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

200 (5) Those children whose request for a transfer to a
201 nonresident school district has been approved pursuant to the
202 school choice program as provided in Sections 1 and 2 of Senate
203 Bill No. 2379, 2005 Regular Session.

204 **SECTION 4.** This act shall take effect and be in force from
205 and after July 1, 2005.