

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: S1/31/13 S2/14/13*

2 89th General Assembly

# A Bill

3 Regular Session, 2013

SENATE BILL 65

4

5 By: Senators J. Key, Holland, *Bledsoe, A. Clark, J. Hendren, Irvin, Rapert*

6 By: Representatives Biviano, *D. Altes, Barnett, Carnine, Cozart, Dale, D. Douglas, Hutchison, Lowery,*

7 *Scott, Slinkard*

8

9

## For An Act To Be Entitled

10 AN ACT TO *ESTABLISH THE PUBLIC SCHOOL CHOICE ACT OF*  
11 *2013; TO REPEAL THE PUBLIC SCHOOL CHOICE ACT OF 1989;*  
12 *TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.*

13

14

15

## Subtitle

16 *TO ESTABLISH THE PUBLIC SCHOOL CHOICE ACT*  
17 *OF 2013; AND TO DECLARE AN EMERGENCY.*

18

19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21

22 SECTION 1. Arkansas Code § 6-18-206(b)(2)(B)(iv), concerning a student  
23 who accepts a school choice transfer, is amended to add a new subdivision to  
24 read as follows:

25 (c) A student shall only be allowed one (1)  
26 school choice transfer per school year.

27

28 *SECTION 2. Arkansas Code § 6-18-206 is repealed.*

29 ~~*6-18-206. Public school choice.*~~

30 ~~*(a)(1) This section may be referred to and cited as the "Arkansas*~~  
31 ~~*Public School Choice Act of 1989".*~~

32

33 ~~*(2) The General Assembly finds that the students in Arkansas's*~~  
34 ~~*public schools and their parents will become more informed about and involved*~~  
35 ~~*in the public educational system if students and their parents or guardians*~~  
36 ~~*are provided greater freedom to determine the most effective school for*~~  
~~*meeting their individual educational needs. There is no right school for*~~



1 ~~every student, and permitting students to choose from among different schools~~  
2 ~~with differing assets will increase the likelihood that some marginal~~  
3 ~~students will stay in school and that other, more motivated students will~~  
4 ~~find their full academic potential.~~

5 ~~(3) The General Assembly further finds that giving more options~~  
6 ~~to parents and students with respect to where the students attend public~~  
7 ~~school will increase the responsiveness and effectiveness of the state's~~  
8 ~~schools since teachers, administrators, and school board members will have~~  
9 ~~added incentive to satisfy the educational needs of the students who reside~~  
10 ~~in the district.~~

11 ~~(4) The General Assembly therefore finds that these benefits of~~  
12 ~~enhanced quality and effectiveness in our public schools justify permitting a~~  
13 ~~student to apply for admission to a school in any district beyond the one in~~  
14 ~~which the student resides, provided that the transfer by this student would~~  
15 ~~not adversely affect the desegregation of either district.~~

16 ~~(5) A public school choice program is hereby established to~~  
17 ~~enable any student to attend a school in a district in which the student does~~  
18 ~~not reside, subject to the restrictions contained in this section.~~

19 ~~(b)(1)(A) Before a student may attend a school in a nonresident~~  
20 ~~district, the student's parent or guardian must submit an application on a~~  
21 ~~form approved by the Department of Education to the nonresident district by~~  
22 ~~submitting the application to the superintendent of the school district.~~  
23 ~~This application must be postmarked not later than July 1 of the year in~~  
24 ~~which the student would begin the fall semester at the nonresident district.~~

25 ~~(B)(i) Within thirty (30) days of the receipt of an~~  
26 ~~application from a nonresident student seeking admission under the terms of~~  
27 ~~this section, the superintendent of the nonresident district shall notify the~~  
28 ~~parent or guardian and the resident district in writing as to whether the~~  
29 ~~student's application has been accepted or rejected.~~

30 ~~(ii) If the application is rejected, the~~  
31 ~~superintendent of the nonresident district must state in the notification~~  
32 ~~letter the reason for rejection.~~

33 ~~(iii) If the application is accepted, the~~  
34 ~~superintendent of the nonresident district shall state in the notification~~  
35 ~~letter.~~

36 ~~(a) An absolute deadline for the student to~~

1 ~~enroll in the district, or the acceptance notification is null; and~~

2 ~~(b) Any instructions for the renewal~~  
3 ~~procedures established by the district.~~

4 ~~(iv)(a) Any student who accepts a school choice~~  
5 ~~transfer may return to his or her resident district during the course of the~~  
6 ~~school year.~~

7 ~~(b) If a transferred student returns to his or~~  
8 ~~her resident district during the school year, the student's transfer is~~  
9 ~~voided, and the student shall reapply for any future transfer.~~

10 ~~(2)(A) The school board of directors of every public school~~  
11 ~~district must adopt by resolution specific standards for acceptance and~~  
12 ~~rejection of applications. Standards may include the capacity of a program,~~  
13 ~~class, grade level, or school building. Nothing in this section requires a~~  
14 ~~school district to add teachers, staff, or classrooms or in any way to exceed~~  
15 ~~the requirements and standards established by existing law. Standards shall~~  
16 ~~include a statement that priority will be given to applications from siblings~~  
17 ~~or stepsiblings residing in the same residence or household of students~~  
18 ~~already attending the district by choice. Standards may not include an~~  
19 ~~applicant's previous academic achievement, athletic or other extracurricular~~  
20 ~~ability, handicapping conditions, English proficiency level, or previous~~  
21 ~~disciplinary proceedings except that an expulsion from another district may~~  
22 ~~be included pursuant to § 6-18-510.~~

23 ~~(B)(i) Any student who applies for a transfer under this~~  
24 ~~section and is denied a transfer by the nonresident district may request a~~  
25 ~~hearing before the State Board of Education to reconsider the transfer.~~

26 ~~(ii) A request for a hearing before the state board~~  
27 ~~shall be in writing and shall be postmarked no later than ten (10) days after~~  
28 ~~notice of rejection of the application under subdivision (b)(1)(B) of this~~  
29 ~~section is received by the student.~~

30 ~~(3) Each school district shall participate in public school~~  
31 ~~choice consistent with this section.~~

32 ~~(c) The responsibility for transportation of a student from the~~  
33 ~~student's resident school district to a nonresident school district shall be~~  
34 ~~borne by the student or the student's parents. The nonresident school~~  
35 ~~district may enter into a written agreement with the student, the student's~~  
36 ~~parents, or the resident school district to provide transportation to or from~~

1 ~~any place in the resident district to the nonresident district, or both,~~

2 ~~(d)(1) A nonresident district shall accept credits toward graduation~~  
3 ~~that were awarded by another district.~~

4 ~~(2) The nonresident district shall award a diploma to a~~  
5 ~~nonresident student if the student meets the nonresident district's~~  
6 ~~graduation requirements.~~

7 ~~(e) For purposes of determining a school district's state equalization~~  
8 ~~aid, the nonresident student shall be counted as a part of the average daily~~  
9 ~~membership of the district to which the student has transferred.~~

10 ~~(f) The provisions of this section and all student choice options~~  
11 ~~created in this section are subject to the following limitations:~~

12 ~~(1) No student may transfer to a nonresident district where the~~  
13 ~~percentage of enrollment for the student's race exceeds that percentage in~~  
14 ~~the student's resident district except in the circumstances set forth in~~  
15 ~~subdivisions (f)(2) and (3) of this section;~~

16 ~~(2)(A) A transfer to a district is exempt from the restriction~~  
17 ~~set forth in subdivision (f)(1) of this section if the transfer is between~~  
18 ~~two (2) districts within a county and if the minority percentage in the~~  
19 ~~student's race and majority percentages of school enrollment in both the~~  
20 ~~resident and nonresident district remain within an acceptable range of the~~  
21 ~~county's overall minority percentage in the student's race and majority~~  
22 ~~percentages of school population as set forth by the department.~~

23 ~~(B)(i) By the filing deadline each year, the department~~  
24 ~~shall compute the minority percentage in the student's race and majority~~  
25 ~~percentages of each county's public school population from the October Annual~~  
26 ~~School Report and shall then compute the acceptable range of variance from~~  
27 ~~those percentages for school districts within each county.~~

28 ~~(ii)(a) In establishing the acceptable range of~~  
29 ~~variance, the department is directed to use the remedial guideline~~  
30 ~~established in Little Rock School District v. Pulaski County Special School~~  
31 ~~District of allowing an overrepresentation or underrepresentation of black or~~  
32 ~~white students of one fourth ( $\frac{1}{4}$ ) or twenty five percent (25%) of the county's~~  
33 ~~racial balance.~~

34 ~~(b) In establishing the acceptable range of~~  
35 ~~variance for school choice, the department is directed to use the remedial~~  
36 ~~guideline of allowing an overrepresentation or underrepresentation of~~

1 ~~minority or majority students of one fourth ( $\frac{1}{4}$ ) or twenty five percent (25%)~~  
2 ~~of the county's racial balance;~~

3 ~~(3) A transfer is exempt from the restriction set forth in~~  
4 ~~subdivision (f)(1) of this section if each school district affected by the~~  
5 ~~transfer does not have a critical mass of minority percentage in the~~  
6 ~~student's race of more than ten percent (10%) of any single race;~~

7 ~~(4) In any instance in which the provisions of this subsection~~  
8 ~~would result in a conflict with a desegregation court order or a district's~~  
9 ~~court approved desegregation plan, the terms of the order or plan shall~~  
10 ~~govern;~~

11 ~~(5) The department shall adopt appropriate rules and regulations~~  
12 ~~to implement the provisions of this section; and~~

13 ~~(6) The department shall monitor school districts for compliance~~  
14 ~~with this section.~~

15 ~~(g) The state board shall be authorized to resolve disputes arising~~  
16 ~~under subsections (b)-(f) of this section.~~

17 ~~(h) The superintendent of the district shall cause public~~  
18 ~~announcements to be made over the broadcast media and in the print media at~~  
19 ~~such times and in such a manner as to inform parents or guardians of students~~  
20 ~~in adjoining districts of the availability of the program, the application~~  
21 ~~deadline, and the requirements and procedure for nonresident students to~~  
22 ~~participate in the program.~~

23 ~~(i)(1) All superintendents of school districts shall report to the~~  
24 ~~Equity Assistance Center on an annual basis the race, gender, and other~~  
25 ~~pertinent information needed to properly monitor compliance with the~~  
26 ~~provisions of this section.~~

27 ~~(2) The reports may be on those forms that are prescribed by the~~  
28 ~~department, or the data may be submitted electronically by the district using~~  
29 ~~a format authorized by the department.~~

30 ~~(3) The department may withhold state aid from any school~~  
31 ~~district that fails to file its report each year or fails to file any other~~  
32 ~~information with a published deadline requested from school districts by the~~  
33 ~~Equity Assistance Center so long as thirty (30) calendar days are given~~  
34 ~~between the request for the information and the published deadline except~~  
35 ~~when the request comes from a member or committee of the General Assembly.~~

36 ~~(4) A copy of the report shall be provided to the Joint Interim~~

1 ~~Oversight Committee on Educational Reform.~~

2 ~~(j)(1) The department shall develop a proposed set of rules as it~~  
3 ~~determines is necessary or desirable to amend the provisions of this section.~~

4 ~~(2) The department shall present the proposed rules in written~~  
5 ~~form to the House Interim Committee on Education and the Senate Interim~~  
6 ~~Committee on Education by October 1, 2006, for review and consideration by~~  
7 ~~the committees for possible amendments to this section and to the Arkansas~~  
8 ~~Public School Choice Program by the Eighty-sixth General Assembly.~~

9  
10 SECTION 3. Arkansas Code Title 6, Chapter 18, Subchapter 2, is amended  
11 to add an additional section to read as follows:

12 6-18-231. Public school choice.

13 (a) This section shall be known and may be cited as the "Public School  
14 Choice Act of 2013".

15 (b) The General Assembly finds that:

16 (1) The students in Arkansas's public schools and their parents  
17 will become more informed about and involved in the public educational system  
18 if students and their parents or guardians are provided greater freedom to  
19 determine the most effective school for meeting their individual educational  
20 needs. There is no right school for every student, and permitting students  
21 to choose from among different schools with differing assets will increase  
22 the likelihood that some at-risk students will stay in school and that other,  
23 more motivated students will find their full academic potential;

24 (2) Giving more options to parents and students with respect to  
25 where the students attend public school will increase the responsiveness and  
26 effectiveness of the state's schools because teachers, administrators, and  
27 school board members will have added incentive to satisfy the educational  
28 needs of the students who reside in the district; and

29 (3) These benefits of enhanced quality and effectiveness in our  
30 public schools justify permitting a student to apply for admission to a  
31 school in any school district beyond the one in which the student resides,  
32 provided that the transfer by the student does not conflict with an  
33 enforceable judicial decree or court order remedying the effects of past  
34 racial segregation in the school district.

35 (c) A public school choice program is hereby established to enable any  
36 student to attend a school in a district in which the student does not

1 reside, subject to the restrictions contained in this section.

2 (d)(1)(A) If a student seeks to attend a school in a nonresident  
3 district, the student's parent or guardian shall submit an application on a  
4 form approved by the Department of Education to the superintendent of the  
5 nonresident school district not later than July 1 of the year in which the  
6 student seeks to begin the fall semester at the nonresident district.

7 (B)(i) Within thirty (30) days of the receipt of an  
8 application from a nonresident student seeking admission under this section,  
9 the superintendent of the nonresident district shall notify the parent or  
10 guardian and the resident district in writing as to whether the student's  
11 application has been accepted or rejected.

12 (ii) If the application is rejected, the  
13 superintendent of the nonresident district shall state in the notification  
14 letter the reason for rejection.

15 (iii) If the application is accepted, the  
16 superintendent of the nonresident district shall state in the notification  
17 letter:

18 (a) A deadline for the student to enroll in  
19 the district, after which the acceptance notification is null; and

20 (b) Instructions for the renewal procedures  
21 established by the district.

22 (iv)(a) A student who accepts a school choice  
23 transfer may return to his or her resident district during the school year.

24 (b) If a transferred student returns to his or  
25 her resident district during the school year, the student's transfer is  
26 voided, and the student shall reapply if seeking a future transfer.

27 (2)(A)(i) The board of directors of a public school district  
28 shall adopt by resolution specific standards for acceptance and rejection of  
29 applications. Standards may include the capacity of a program, class, grade  
30 level, or school building.

31 (ii) This section does not require a school district  
32 to add teachers, staff, or classrooms or to exceed the requirements and  
33 standards established by existing law.

34 (iii) Standards shall include a statement that  
35 priority will be given to applications from siblings or stepsiblings residing  
36 in the same household of students already attending the district by choice.

1 (iv) Standards may not include an applicant's  
2 previous academic achievement, athletic or other extracurricular ability,  
3 disability, English proficiency level, or previous disciplinary proceedings  
4 except that an expulsion from another district may be included under § 6-18-  
5 510.

6 (B)(i) A student who is denied a transfer under this  
7 section by the nonresident district may request a hearing before the State  
8 Board of Education to reconsider the transfer.

9 (ii) A request for a hearing before the state board  
10 shall be in writing and shall be postmarked no later than ten (10) days after  
11 the student receives a notice of rejection under subdivision (d)(1)(B) of  
12 this section is received by the student.

13 (3) A school district shall participate in public school choice  
14 under this section.

15 (e)(1) Transportation of a student from the student's resident school  
16 district to a nonresident school district is the responsibility of the  
17 student.

18 (2) The nonresident school district may enter into a written  
19 agreement with the student, the student's parents, or the resident school  
20 district to provide transportation to or from any place in the resident  
21 district to the nonresident district.

22 (f)(1) A nonresident district shall accept credits toward graduation  
23 that were awarded by the resident district or another district.

24 (2) The nonresident district shall award a diploma to a  
25 nonresident student if the student meets the nonresident district's  
26 graduation requirements.

27 (g) For purposes of determining a school district's state foundation  
28 funding aid, the nonresident student shall be counted as a part of the  
29 average daily membership of the district to which the student has  
30 transferred.

31 (h) The state board may resolve disputes arising under subsections (d)  
32 and (e) of this section.

33 (i) A school district shall make public announcements over the  
34 broadcast media and in the print media to inform parents or guardians of  
35 students in adjoining districts of the availability of the program, the  
36 application deadline, and the requirements and procedure for nonresident



1 students to participate in the program.

2 (j) If this section results in a conflict with an enforceable judicial  
3 decree or court order remedying the effects of past racial segregation, the  
4 enforceable judicial decree or court order shall govern.

5 (k) The transfer of a student under the Arkansas Public School Choice  
6 Act of 1989, § 6-18-206 [repealed], is not voided by this section and shall  
7 be treated as a transfer under this section.

8  
9 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
10 General Assembly of the State of Arkansas that certain provisions of the  
11 Arkansas Public School Choice Act of 1989, § 6-18-206, have been found to be  
12 unconstitutional by a federal court; that thousands of public school students  
13 are currently attending public schools in nonresident school districts under  
14 that law; that there is now uncertainty about the viability of those  
15 transfers and future transfers; that this act repeals the disputed provisions  
16 of that law while preserving the opportunity for public school choice; and  
17 that this act is immediately necessary to resolve the uncertainty in the law  
18 before the 2013-2014 school year and preserve existing student transfers.  
19 Therefore, an emergency is declared to exist, and this act being immediately  
20 necessary for the preservation of the public peace, health, and safety shall  
21 become effective on:

22 (1) The date of its approval by the Governor;

23 (2) If the bill is neither approved nor vetoed by the Governor,  
24 the expiration of the period of time during which the Governor may veto the  
25 bill; or

26 (3) If the bill is vetoed by the Governor and the veto is  
27 overridden, the date the last house overrides the veto.

28  
29 /s/J. Key  
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