

By: Chisum

H.B. No. 990

Substitute the following for H.B. No. 990:

By: Eissler

C.S.H.B. No. 990

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the applicability of restrictions on student transfers  
3 to certain school districts.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter B, Chapter 25, Education Code, is  
6 amended by adding Section 25.043 to read as follows:

7 Sec. 25.043. APPLICABILITY OF FEDERAL COURT DESEGREGATION  
8 ORDER. (a) In this section, "modified order" means the modified  
9 order entered July 13, 1971, and amended August 9, 1973, in United  
10 States of America v. State of Texas, Civil Action No. 5281, United  
11 States District Court for the Eastern District of Texas.

12 (b) To the extent permissible under federal law, the agency  
13 shall interpret and apply the requirements of Section A (student  
14 transfers) of the modified order in the manner provided by this  
15 section.

16 (c) The agency may not deny a student transfer between  
17 school districts on the basis of the modified order unless the  
18 agency investigates and determines that:

19 (1) the actual cumulative effect of the particular  
20 transfer, in either the sending or receiving school or school  
21 district, would be to reduce or impede desegregation, or to  
22 reinforce, renew, or encourage the continuation of acts and  
23 practices resulting in discriminatory treatment of students on the  
24 ground of race, color, or national origin, as provided by Section

1 A(1) of the modified order; and

2 (2) the cumulative effect described by Subdivision (1)  
3 of the particular transfer is a vestige, or flows from a vestige, of  
4 the former de jure segregated school system of this state.

5 (d) If the agency determines that a particular student  
6 transfer would have the cumulative effect described by Subsection  
7 (c), the agency shall determine if one of the three classes of  
8 exceptions described by Section A(2) of the modified order apply to  
9 the transfer. If the agency determines that one of the three  
10 classes of exceptions is applicable, the agency shall apply the  
11 exception to the transfer. Except as provided by Subsection (e),  
12 the agency may not apply, in either the sending or receiving school  
13 district, the percentage limitation described by Section A(3) of  
14 the modified order to a transfer approved under one of the three  
15 classes of exceptions.

16 (e) If the agency investigates and determines that a  
17 particular student transfer between school districts would have the  
18 cumulative effect described by Subsection (c) and involves ethnic  
19 consideration concerning the race, color, or national origin of  
20 students in the sending or receiving district that is a vestige, or  
21 flows from a vestige, of the former de jure segregated school system  
22 of this state, the agency shall apply the percentage limitation  
23 described by Section A(3) of the modified order in accordance with  
24 the modified order.

25 (f) In imposing a sanction for a violation of an agency  
26 decision made pursuant to Section A of the modified order, the  
27 agency shall strictly follow the procedures under Sections A(5),

1 (6), and (7) of the modified order.

2 (g) The agency may not:

3 (1) apply the percentage limitation described by  
4 Section A(3) of the modified order to every student transfer  
5 between school districts;

6 (2) use the computerized student transfer system (STS)  
7 for the approval or disapproval of student transfers;

8 (3) account for transfer violations by day rather than  
9 by year; or

10 (4) retroactively withhold state funds from a  
11 receiving district's budget in a later fiscal year if the agency  
12 finds a violation of an agency decision made pursuant to Section A  
13 of the modified order.

14 (h) On the effective date of this section, the agency shall  
15 immediately:

16 (1) discontinue taking the actions prohibited under  
17 Subsection (g); and

18 (2) transfer to each affected school district any  
19 state funds previously withheld from the district as a result of the  
20 agency's use of the computerized student transfer system (STS).

21 (i) Subsection (h) and this subsection expire January 1,  
22 2006.

23 SECTION 2. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2005.