

By: Senator(s) Johnson (19th)

To: Education

## SENATE BILL NO. 2871

1 AN ACT TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO  
2 IMPLEMENT A POLICY OF LIMITED OPEN ENROLLMENT WHICH ALLOWS  
3 STUDENTS IN SCHOOL DISTRICTS ACCREDITED AT LEVEL ONE OR TWO,  
4 BEGINNING IN THE 2000-2001 SCHOOL YEAR, TO ATTEND ANY PUBLIC  
5 SCHOOL IN A DISTRICT ACCREDITED AT LEVEL THREE OR HIGHER OR ANY  
6 ACCREDITED PRIVATE OR PAROCHIAL SCHOOL WITHIN THE STATE; TO  
7 SPECIFY CERTAIN PROVISIONS THAT MUST BE INCLUDED IN THE LIMITED  
8 OPEN ENROLLMENT POLICY; TO AMEND SECTIONS 37-15-13 THROUGH  
9 37-15-17, 37-15-21, 37-15-29 THROUGH 37-15-33 AND 37-19-27,  
10 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS  
11 ACT; AND FOR RELATED PURPOSES.

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

13 SECTION 1. (1) The State Department of Education shall  
14 develop and implement a policy of limited open enrollment which  
15 allows the parent, guardian or custodian of any student enrolled  
16 in any school district accredited at Level 1 or 2 to apply for the  
17 student's enrollment at any public school in a district accredited  
18 at Level 3 or higher or at any accredited private or parochial  
19 school within the state. Under the policy, the 2000-2001 school  
20 year will be the first year that a student may attend a school  
21 outside the school district in which the student resides.

22 (2) Before February 1, 2000, the State Department of  
23 Education shall adopt a limited open enrollment policy for  
24 students residing in school districts accredited at Level 1 or 2.

25 The policy must include provisions addressing the following  
26 matters:

27 (a) **Application process.** The State Department of  
28 Education shall prepare a uniform application form for each  
29 student enrolled in a Level 1 or 2 school district seeking  
30 enrollment in a school district accredited at Level 3 or higher.

31 The application forms shall be made available to students in the  
32 principal's office of each school in districts accredited at Level  
33 1 or 2. The limited open enrollment policy must specify the date  
34 on which the application forms will be made available to students  
35 and the deadline by which an application must be submitted by a  
36 parent, guardian or custodian of a student to a school at which  
37 the student is seeking enrollment.

38 (b) **Openings for nonresident students.** Each school in  
39 those districts accredited at Level 3 or higher and each private  
40 and parochial school choosing to participate in the limited open  
41 enrollment policy shall establish the maximum number of students  
42 which may be enrolled under the policy in each particular grade or  
43 program in the school. These numbers shall be reported to the  
44 State Department of Education before the date on which  
45 applications are made available to students. A student who  
46 resides in a particular school's attendance area in a school  
47 district accredited at Level 3 or higher may not be displaced  
48 under any circumstances by a student applying for enrollment in  
49 that school under the limited open enrollment policy.

50 (c) **Selection of students.** Each school shall select  
51 from its applicant pool those students who may be eligible to  
52 enroll in the school under the limited open enrollment policy on a  
53 random basis. Applications may not be opened before their  
54 selection. The school shall select such students until the  
55 maximum number of openings is achieved.

56 (d) **Waiting list.** In addition to the students selected  
57 under paragraph (c) for enrollment in a school under the limited  
58 open enrollment policy, a number of students shall be selected for  
59 the purpose of establishing a waiting list. If those students  
60 originally selected do not choose to enroll in the school or do  
61 not meet the school's admissions requirements, students will be  
62 offered the opportunity to enroll under the policy in the order  
63 that their names appear on the waiting list.

64 (e) **Notification.** The limited open enrollment policy  
65 must establish the date by which each school must notify students  
66 applying to enroll in that school under the policy of their  
67 acceptance or nonacceptance in the selection process. The State

68 Department of Education shall prepare a form for providing the  
69 notice.

70           (f) **Subsequent school years.** A student who is selected  
71 for enrollment in a school under the limited open enrollment  
72 policy may remain enrolled in that school in subsequent school  
73 years without reapplying under the policy. However, if the school  
74 reduces the maximum number of students which may be enrolled under  
75 the policy in a particular grade or program in a subsequent school  
76 year due to an increase in enrollment from within the school's  
77 attendance area, students enrolled in the school under the limited  
78 open enrollment policy will be subject to displacement, with those  
79 students most recently enrolled under the policy being subject to  
80 displacement first. If the Level 1 or 2 school district in which  
81 a student resides who is enrolled in a Level 3 or higher school  
82 district under the limited open enrollment policy achieves an  
83 accreditation of Level 3 or higher, the student shall be required  
84 to enroll in the school district in which he resides beginning  
85 with the next school year following the district's achieving Level  
86 3 or higher accreditation. The student may not apply for  
87 enrollment in another school under the limited open enrollment  
88 policy so long as the school district in which the student resides  
89 is accredited at Level 3 or higher.

90           (g) **Return to original school.** A student attending a  
91 school under the limited open enrollment policy may reenroll in  
92 the school in the attendance area in which the student resides in  
93 between consecutive school years. However, if a student seeks to  
94 change his enrollment during a school year, the principal of both  
95 schools involved must approve of the change.

96           (h) **Transportation.** The parent, guardian or custodian  
97 of a student enrolled in a school under the limited open  
98 enrollment policy shall be responsible for transporting the  
99 student to and from school or a regular bus stop in that school's  
100 attendance area.

101           (i) **Funding.** The State Department of Education shall  
102 establish a process for remitting to those schools participating  
103 in the limited open enrollment policy an amount equal to the  
104 state's per pupil expenditure multiplied by the number of students  
105 enrolled in that school under the limited open enrollment policy.

106 Such students shall be included in the average daily attendance  
107 of the school district in which the students are enrolled.

108           (3) A student attending a public school or private or  
109 parochial school under the limited open enrollment policy shall  
110 have all of the rights and privileges and shall be subject to the  
111 same rules and regulations as students residing in that particular  
112 school's attendance area.

113           SECTION 2. Section 37-15-13, Mississippi Code of 1972, is  
114 amended as follows:

115           37-15-13. When any child qualified under the requirements of  
116 Section 37-15-9 shall apply or present himself for enrollment in  
117 or admission to the public schools of any school district of this  
118 state, the school board of such school district shall have the  
119 power and authority to designate the particular school or  
120 attendance center of the district in which such child shall be  
121 enrolled and which he shall attend; no enrollment of a child in a  
122 school shall be final or permanent until such designation shall be  
123 made by the school board. Except as otherwise provided in Section  
124 1 of Senate Bill No. 2871, 1999 Regular Session, no child shall be  
125 entitled to attend any school or attendance center except that to  
126 which he has been assigned by the school board; however, the  
127 principal of a school or superintendent of the district \* \* \*, in  
128 proper cases, may permit a child to attend a school temporarily  
129 until a permanent assignment is made by the school board.

130           SECTION 3. Section 37-15-15, Mississippi Code of 1972, is  
131 amended as follows:

132           37-15-15. (1) In making assignments of children to schools  
133 or attendance centers, the school board shall take into

134 consideration the educational needs and welfare of the child  
135 involved, the welfare and best interest of all the pupils  
136 attending the school or schools involved, the availability of  
137 school facilities, sanitary conditions and facilities at the  
138 school or schools involved, health and moral factors at the school  
139 or schools, and in the community involved, and all other factors  
140 which the school board may consider pertinent, relevant or  
141 material in their effect on the welfare and best interest of the  
142 school district and the particular school or schools involved.  
143 All such assignments shall be on an individual basis as to the  
144 particular child involved and, in making such assignment, the  
145 school board shall not be limited or circumscribed by the  
146 boundaries of any attendance areas which may have been established  
147 by such board.

148 (2) This section shall not affect the eligibility of a  
149 student to enroll in a school other than the school serving the  
150 attendance area in which the student resides under the limited  
151 open enrollment policy implemented by the State Department of  
152 Education pursuant to Section 1 of Senate Bill No. 2871, 1999  
153 Regular Session.

154 SECTION 4. Section 37-15-17, Mississippi Code of 1972, is  
155 amended as follows:

156 37-15-17. (1) If the parent, guardian or other person  
157 having custody of any child shall feel aggrieved by the assignment  
158 of such child to a school or attendance center by the school  
159 board, then such parent, guardian or other person \* \* \*, at any  
160 time within thirty (30) days after such assignment, may make  
161 application in writing to the school board for a review or  
162 reconsideration of such assignment. Upon receiving any such  
163 application, the school board shall set a time and place for the  
164 hearing thereof which time shall be not more than fifteen (15)  
165 days after the regular meeting of the board next succeeding the  
166 date of the filing of the application. At the time and place so

167 fixed, the person filing such application shall have the right to  
168 appear and present evidence in support of the application. After  
169 hearing the evidence, the school board shall determine whether the  
170 application is well taken and supported by the evidence and shall  
171 enter an order either affirming its previous action or modifying  
172 or changing same as the school board shall find proper.

173 (2) This section shall not authorize any parent, guardian or  
174 custodian aggrieved by the nonacceptance or displacement of his or  
175 her child at a particular school under the limited open enrollment  
176 policy implemented by the State Department of Education pursuant  
177 to Section 1 of Senate Bill No. 2871, 1999 Regular Session, to  
178 apply to the school board for a review of a school's decision  
179 under the limited open enrollment policy.

180 SECTION 5. Section 37-15-21, Mississippi Code of 1972, is  
181 amended as follows:

182 37-15-21. (1) If any parent, guardian or other person  
183 having custody of any child affected by the assignment of such  
184 child to a school or attendance center by the school board shall  
185 feel aggrieved at the order of the school board provided for in  
186 Section 37-15-17, such person \* \* \*, at any time within thirty  
187 (30) days from the date of such order, may appeal therefrom by  
188 filing a petition for appeal in the circuit court of the county in  
189 which the school district involved is located. Upon the filing of  
190 such petition for an appeal, process shall be issued for and  
191 served upon the president of the school board of the school  
192 district involved. Upon being served with process, it shall be the  
193 duty of the school board to transmit promptly to the court a  
194 certified copy of the entire record of the proceedings as shown by  
195 the file of the school board. From the judgment of the circuit  
196 court, an appeal may be taken to the Supreme Court in the same  
197 manner as other appeals are taken from other judgments of such  
198 court.

199 (2) This section shall not authorize any parent, guardian or

200 custodian aggrieved by the nonacceptance or displacement of his or  
201 her child at a particular school under the limited open enrollment  
202 policy implemented by the State Department of Education pursuant  
203 to Section 1 of Senate Bill No. 2871, 1999 Regular Session, to  
204 appeal the school's decision under the limited open enrollment  
205 policy to the circuit court.

206 SECTION 6. Section 37-15-29, Mississippi Code of 1972, is  
207 amended as follows:

208 37-15-29. (1) Except as provided in subsections (2) through  
209 (5) of this section, no minor child may enroll in or attend any  
210 school except in the school district of his residence, unless such  
211 child is lawfully transferred from the school district of his  
212 residence to a school in another school district in accord with  
213 the statutes of this state \* \* \*.

214 (2) Those children whose parent(s) or legal guardian(s) are  
215 instructional personnel or licensed employees of a school district  
216 may, at such employee's discretion, enroll and attend the school  
217 or schools of their parent's or legal guardian's employment  
218 regardless of the residence of the child.

219 (3) No child shall be required to be transported in excess  
220 of thirty (30) miles on a school bus from his or her home to  
221 school, or in excess of thirty (30) miles from school to his or  
222 her home, if there is another school in an adjacent school  
223 district located on a shorter school bus transportation route by  
224 the nearest traveled road. Those children residing in such  
225 geographical situations \* \* \*, at the discretion of their  
226 parent(s) or legal guardian(s), may enroll and attend the nearer  
227 school, regardless of the residence of the child. In the event  
228 the parent or legal guardian of such child and the school board  
229 are unable to agree on the school bus mileage required to  
230 transport the child from his or her home to school, an appeal  
231 shall lie to the State Board of Education, or its designee, whose  
232 decision shall be final.

233 (4) Those children lawfully transferred from the school  
234 district of his residence to a school in another school district  
235 prior to July 1, 1992, \* \* \* at the discretion of their parent(s)  
236 or legal guardian(s), may continue to enroll and attend school in  
237 the transferee school district. \* \* \* The brother(s) and  
238 sister(s) of those children lawfully transferred prior to July 1,  
239 1992, \* \* \* at the discretion of their parent(s) or legal  
240 guardian(s), also may enroll and attend school in the transferee  
241 school district.

242 (5) Any child selected for enrollment in a school outside  
243 the school district in which the child resides under the limited  
244 open enrollment policy implemented by the State Department of  
245 Education pursuant to Section 1 of Senate Bill No. \_\_\_\_\_, 1999  
246 Regular Session, may enroll in and attend school outside the  
247 district of his residence; however, if the child is subject to  
248 displacement in a subsequent school year, the child must enroll in  
249 and attend school in the school district of his residence unless  
250 the child is lawfully transferred to a school in another district  
251 or accepted for enrollment at another school under the limited  
252 open enrollment policy. Further, if the Level 1 or 2 school  
253 district in which a student resides who is enrolled in a Level 3  
254 or higher school district under the limited open enrollment policy  
255 achieves an accreditation of Level 3 or higher, the student shall  
256 be required to enroll in the school district in which he resides  
257 beginning with the next school year following the district's  
258 achieving Level 3 or higher accreditation.

259 SECTION 7. Section 37-15-31, Mississippi Code of 1972, is  
260 amended as follows:

261 37-15-31. (1) (a) Except as provided in subsections (2)  
262 through (5) of this section, upon the petition in writing of a  
263 parent or guardian, resident of the school district of an  
264 individual student, filed or lodged with the president or  
265 secretary of the school board of a school district in which the



266 pupil has been enrolled or is qualified to be enrolled as a  
267 student under Section 37-15-9, or upon the aforesaid petition or  
268 the initiative of the school board of a school district as to the  
269 transfer of a grade or grades, individual students living in one  
270 school district or a grade or grades of a school within the  
271 districts may be legally transferred to another school district,  
272 by the mutual consent of the school boards of all school districts  
273 concerned, which consent must be given in writing and spread upon  
274 the minutes of such boards.

275 (b) \* \* \* If such a transfer is refused by the school  
276 board of either school district, then an appeal may be had to the  
277 county board of education. The county board of education to which  
278 the appeal is taken shall act thereon not later than the date of  
279 its next regular meeting subsequent to the disapproval or failure  
280 to act by the school board of the school district, or not later  
281 than the date of its next regular meeting subsequent to the filing  
282 of such appeal.

283 (c) The school board of the transferring school  
284 district to which such petition may be addressed shall act thereon  
285 not later than its next regular meeting subsequent to the filing  
286 or lodging of the petition, and a failure to act within that time  
287 shall constitute a rejection of such request. The school board of  
288 the other school district involved, the transferee board, and the  
289 county board of education, if applicable under paragraph (b) of  
290 this subsection, shall act on such request for transfer as soon as  
291 possible after the transferor board shall have approved or  
292 rejected such transfer and no later than the next regular meeting  
293 of the transferee board or county board of education, and a  
294 failure of such transferee board to act within such time shall  
295 constitute a rejection of such request. If such a transfer is  
296 approved by the transferee board, and the county board of  
297 education if applicable under paragraph (b) of this subsection,  
298 then such decision shall be final. If such a transfer is refused

299 by the school board of either school district or the county board  
300 of education, then such decision shall be final.

301 (d) Any legal guardianship formed for the purpose of  
302 establishing residency for school district attendance purposes  
303 shall not be recognized by the affected school board.

304 (2) (a) Upon the petition in writing of any parent or  
305 guardian who is a resident of Mississippi and is an instructional  
306 or licensed employee of a school district, but not a resident of  
307 such district, the school board of the employer school district  
308 shall consent to the transfer of such employee's dependent  
309 school-age children to its district and shall spread the same upon  
310 the minutes of the board. Upon the petition in writing of any  
311 parent or guardian who is not a resident of Mississippi and on  
312 January 1, 1993, is an instructional or licensed employee of a  
313 school district in Mississippi, the school board of the employer  
314 school district shall consent to the transfer of such employee's  
315 dependent school-age children to its district and shall spread the  
316 same upon the minutes of the board.

317 (b) The school board of any school district may, in its  
318 discretion, may adopt a uniform policy to allow the enrollment and  
319 attendance of the dependent children of noninstructional and  
320 nonlicensed employees, who are residents of Mississippi but are  
321 not residents of their district. Such policy shall be based upon  
322 the employment needs of the district, implemented according to job  
323 classification groups and renewed each school year.

324 (c) The employer transferee school district shall  
325 notify in writing the school district from which the pupil or  
326 pupils are transferring, and the school board of the transferor  
327 school district shall spread the same upon its minutes.

328 (d) Any such agreement by school boards for the legal  
329 transfer of a student shall include a provision providing for the  
330 transportation of the student. In the absence of such a  
331 provision, the responsibility for transporting the student to the

332 transferee school district shall be that of the parent or  
333 guardian.

334 (e) Any school district which accepts a student under  
335 the provisions of this subsection shall not assess any tuition  
336 fees upon such transferring student in accordance with the  
337 provisions of Section 37-19-27.

338 (3) Upon the petition in writing of any parent or legal  
339 guardian of a school-age child who is a resident of an adjacent  
340 school district residing in the geographical situation described  
341 in Section 37-15-29(3), the school board of the school district  
342 operating the school located in closer proximity to the residence  
343 of the child shall consent to the transfer of the child to its  
344 district, and shall spread the same upon the minutes of the board.

345 Any such agreement by school boards for the legal transfer of a  
346 student under this subsection shall include a provision for the  
347 transportation of the student by either the transferor or the  
348 transferee school district. In the event that either the school  
349 board of the transferee or the transferor school district shall  
350 object to the transfer, it shall have the right to appeal to the  
351 State Board of Education whose decision shall be final. However,  
352 if the school boards agreeing on the legal transfer of any  
353 student \* \* \* fail to agree on which district shall provide  
354 transportation, the responsibility for transporting the student to  
355 the transferee school district shall be that of the parent or  
356 guardian.

357 (4) Upon the petition in writing of any parent or legal  
358 guardian of a school-age child who was lawfully transferred to  
359 another school district prior to July 1, 1992, as described in  
360 Section 37-15-29(4), the school board of the transferee school  
361 district shall consent to the transfer of such child and the  
362 transfer of any school-age brother and sister of such child to its  
363 district, and shall spread the same upon the minutes of the board.

364 (5) Whenever a child has been accepted for enrollment by a

365 school which is outside the school district in which the child  
366 resides under the limited open enrollment policy implemented by  
367 the State Department of Education pursuant to Section 1 of Senate  
368 Bill No. \_\_\_\_\_, 1999 Regular Session, the school board of the  
369 school district in which the school is situated shall consent to  
370 the child's enrollment in and attendance at the school.

371 SECTION 8. Section 37-15-33, Mississippi Code of 1972, is  
372 amended as follows:

373 37-15-33. All students seeking to transfer from any school,  
374 public or private, within or outside of the boundaries of the  
375 State of Mississippi, to a public school within the state may be  
376 required to take a test to determine the grade and class to which  
377 the pupil shall be assigned at the time of pupil transfer.

378 The administrative head of each public school shall  
379 administer the test or tests to such pupil or pupils as shall  
380 apply for transfer to such public school. Such test or tests  
381 shall be administered within thirty (30) days after the filing of  
382 each such application for transfer. Notice of the giving of such  
383 test shall be given the applicant not less than five (5) days  
384 prior to the date of the administration of such test.

385 No transfer of a pupil shall be effected until the test has  
386 been given and the pupil is assigned according to the grade and  
387 class for which the test shows he is best suited. No pupil shall  
388 be assigned to a grade and class more than three (3) grades above  
389 or below the grade or class that the pupil would have been  
390 assigned to had the pupil remained in the school from which the  
391 transfer is being made. Pending the administration of the test  
392 herein provided for and its grading and an assignment based  
393 thereon the superintendent of the school district or the  
394 attendance center principal to which the pupil seeks admission may  
395 assign the pupil temporarily to a grade and class comparable to  
396 that in which the pupil would have been had the pupil continued in  
397 the school from which the transfer was being made.

398           If any student is transferred or reassigned within the school  
399 district \* \* \* as authorized by law of the State of  
400 Mississippi \* \* \*, the requirement of that pupil's taking the  
401 standardized test shall be waived. Likewise, if a pupil shall  
402 transfer from one school district to another school district in  
403 the manner provided and required by the laws of the State of  
404 Mississippi, the requirement of such pupil taking the standardized  
405 test shall be waived.

406           SECTION 9. Section 37-19-27, Mississippi Code of 1972, is  
407 amended as follows:

408           37-19-27. (1) Legally transferred students going from one  
409 school district to another shall be counted for teacher allotment  
410 and allotments for supportive services by the school district  
411 wherein the pupils attend school, including cost allotments  
412 prescribed in Sections 37-19-19 and 37-19-31 for school district  
413 administrative and clerical salaries and other expenses, but shall  
414 be counted for transportation allotment purposes in the school  
415 district which furnishes or provides the transportation. The  
416 school boards of the school districts which approve the transfer  
417 of a student under the provisions of Section 37-15-31 shall enter  
418 into an agreement and contract for the payment or nonpayment of  
419 any portion of their local maintenance funds which they deem fair  
420 and equitable in support of any transferred student. Except as  
421 provided in subsection (2) of this section, local maintenance  
422 funds shall be transferred only to the extent specified in the  
423 agreement and contract entered into by the affected school  
424 districts. The terms of any local maintenance fund payment  
425 transfer contract shall be spread upon the minutes of both of the  
426 affected school district school boards. The school district  
427 accepting any transfer students shall be authorized to accept  
428 tuition from such students under the provisions of Section  
429 37-15-31(1) and such agreement may remain in effect for any length  
430 of time designated in the contract. The terms of such student

431 transfer contracts and the amounts of any tuition charged any  
432 transfer student shall be spread upon the minutes of both of the  
433 affected school boards. No school district or private or  
434 parochial school accepting any transfer students under the  
435 provisions of Section 37-15-31(2), which provides for the transfer  
436 of certain school district employee dependents, or under the  
437 limited open enrollment policy implemented by the State Department  
438 of Education pursuant to Section 1 of Senate Bill No. \_\_\_\_\_, 1999  
439 Regular Session, shall be authorized to charge such transfer  
440 students any tuition fees.

441 (2) Local maintenance funds shall be paid by the home school  
442 district to the transferee school district or private or parochial  
443 school for students granted transfers under the provisions of  
444 Sections 37-15-29(3), 37-15-31(3) and 37-15-31(5), not to exceed  
445 the "individual student entitlement" as defined in Section  
446 37-22-1(2)(d), multiplied by the number of such legally  
447 transferred students.

448 SECTION 10. This act shall take effect and be in force from  
449 and after July 1, 1999.