HOUSE BILL NO. 68


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

SECTION 1. (1) The State Department of Education shall develop and implement a policy of limited open enrollment which allows the parent, guardian or custodian of any student enrolled in any school district accredited at Level 1 or 2 to apply for the student's enrollment at any public school in a district accredited at Level 3 or higher or at any accredited private or parochial school within the state. Under the policy, the 2002-2003 school year will be the first year that a student may attend a school outside the school district in which the student resides.

(2) Before February 1, 2002, the State Board of Education shall adopt a limited open enrollment policy for students residing in school districts accredited at Level 1 or 2. The policy must include provisions addressing the following matters:

(a) Application process. The State Department of Education shall prepare a uniform application form for each student enrolled in a Level 1 or 2 school district seeking enrollment in a school district accredited at Level 3 or higher. The application forms shall be made available to students in the principal's office of each school in districts accredited at Level

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1 or 2. The limited open enrollment policy must specify the date on which the application forms will be made available to students and the deadline by which an application must be submitted by a parent, guardian or custodian of a student to a school at which the student is seeking enrollment.

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

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

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

(e) Notification. The limited open enrollment policy must establish the date by which each school must notify students...
applying to enroll in that school under the policy of their acceptance or nonacceptance in the selection process. The State Department of Education shall prepare a form for providing the notice.

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

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

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

(i) **Funding.** The State Department of Education shall establish a process for remitting to those schools participating in the limited open enrollment policy an amount equal to the state's per pupil expenditure multiplied by the number of students enrolled in that school under the limited open enrollment policy. Such students shall be included in the average daily attendance of the school district in which the students are enrolled.

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

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

37-15-13. When any child qualified under the requirements of Section 37-15-9 shall apply or present himself for enrollment in or admission to the public schools of any school district of this state, the school board of such school district shall have the power and authority to designate the particular school or attendance center of the district in which such child shall be enrolled and which he shall attend; no enrollment of a child in a school shall be final or permanent until such designation shall be made by the school board. Except as otherwise provided in Section 1 of House Bill No. , 2001 Regular Session, no child shall be entitled to attend any school or attendance center except that to which he has been assigned by the school board; however, the principal of a school or superintendent of the district ***, in proper cases, may permit a child to attend a school temporarily until a permanent assignment is made by the school board.

SECTION 3. Section 37-15-15, Mississippi Code of 1972, is amended as follows:
37-15-15. (1) In making assignments of children to schools or attendance centers, the school board shall take into consideration the educational needs and welfare of the child involved, the welfare and best interest of all the pupils attending the school or schools involved, the availability of school facilities, sanitary conditions and facilities at the school or schools involved, health and moral factors at the school or schools, and in the community involved, and all other factors which the school board may consider pertinent, relevant or material in their effect on the welfare and best interest of the school district and the particular school or schools involved. All such assignments shall be on an individual basis as to the particular child involved and, in making such assignment, the school board shall not be limited or circumscribed by the boundaries of any attendance areas which may have been established by such board.

(2) This section shall not affect the eligibility of a student to enroll in a school other than the school serving the attendance area in which the student resides under the limited open enrollment policy implemented by the State Department of Education pursuant to Section 1, House Bill No. , 2001 Regular Session.

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

37-15-17. (1) If the parent, guardian or other person having custody of any child shall feel aggrieved by the assignment of such child to a school or attendance center by the school board, then such parent, guardian or other person * * *, at any time within thirty (30) days after such assignment, may make application in writing to the school board for a review or reconsideration of such assignment. Upon receiving any such application, the school board shall set a time and place for the hearing thereof which time shall be not more than fifteen (15)
days after the regular meeting of the board next succeeding the date of the filing of the application. At the time and place so fixed, the person filing such application shall have the right to appear and present evidence in support of the application. After hearing the evidence, the school board shall determine whether the application is well taken and supported by the evidence and shall enter an order either affirming its previous action or modifying or changing same as the school board shall find proper.

(2) This section shall not authorize any parent, guardian or custodian aggrieved by the nonacceptance or displacement of his or her child at a particular school under the limited open enrollment policy implemented by the State Department of Education pursuant to Section 1, House Bill No. , 2001 Regular Session, to apply to the school board for a review of a school's decision under the limited open enrollment policy.

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

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

(2) This section shall not authorize any parent, guardian or custodian aggrieved by the nonacceptance or displacement of his or her child at a particular school under the limited open enrollment policy implemented by the State Department of Education pursuant to Section 1, House Bill No. _____, 2001 Regular Session, to appeal the school’s decision under the limited open enrollment policy to the circuit court.

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

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

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

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

(4) Those children lawfully transferred from the school
district of his residence to a school in another school district
prior to July 1, 1992, at the discretion of their parent(s)
or legal guardian(s), may continue to enroll and attend school in
the transferee school district. The brother(s) and
sister(s) of those children lawfully transferred prior to July 1,
1992, at the discretion of their parent(s) or legal
guardian(s), also may enroll and attend school in the transferee
school district.

(5) Any child selected for enrollment in a school outside
the school district in which the child resides under the limited
open enrollment policy implemented by the State Department of
Education pursuant to Section 1, House Bill No. , 2001 Regular
Session, may enroll in and attend school outside the district of
his residence; however, if the child is subject to displacement in
a subsequent school year, the child must enroll in and attend
school in the school district of his residence unless the child is
lawfully transferred to a school in another district or accepted
for enrollment at another school under the limited open enrollment
policy. Further, if the Level 1 or 2 school district in which a
student resides who is enrolled in a Level 3 or higher school
district under the limited open enrollment policy achieves an
accreditation of Level 3 or higher, the student shall be required
to enroll in the school district in which he resides beginning
with the next school year following the district's achieving Level
3 or higher accreditation.

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

37-15-31. (1) (a) Except as provided in subsections (2)
through (5) of this section, upon the petition in writing of a
parent or guardian, resident of the school district of an
individual student, filed or lodged with the president or
secretary of the school board of a school district in which the
pupil has been enrolled or is qualified to be enrolled as a
student under Section 37-15-9, or upon the aforesaid petition or
the initiative of the school board of a school district as to the
transfer of a grade or grades, individual students living in one
school district or a grade or grades of a school within the
districts may be legally transferred to another school district,
by the mutual consent of the school boards of all school districts
concerned, which consent must be given in writing and spread upon
the minutes of such boards.

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

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

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

(2) (a) Upon the petition in writing of any parent or 
guardian who is a resident of Mississippi and is an instructional 
or licensed employee of a school district, but not a resident of 
such district, the school board of the employer school district 
shall consent to the transfer of such employee's dependent 
school-age children to its district and shall spread the same upon 
the minutes of the board. Upon the petition in writing of any 
parent or guardian who is not a resident of Mississippi and on 
January 1, 1993, is an instructional or licensed employee of a 
school district in Mississippi, the school board of the employer 
school district shall consent to the transfer of such employee's 
dependent school-age children to its district and shall spread the 
same upon the minutes of the board.

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

(c) The employer transferee school district shall 
notify in writing the school district from which the pupil or 
pupils are transferring, and the school board of the transferor 
school district shall spread the same upon its minutes.
(d) Any such agreement by school boards for the legal transfer of a student shall include a provision providing for the transportation of the student. In the absence of such a provision, the responsibility for transporting the student to the transeree school district shall be that of the parent or guardian.

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

(3) Upon the petition in writing of any parent or legal guardian of a school-age child who is a resident of an adjacent school district residing in the geographical situation described in Section 37-15-29(3), the school board of the school district operating the school located in closer proximity to the residence of the child shall consent to the transfer of the child to its district, and shall spread the same upon the minutes of the board. Any such agreement by school boards for the legal transfer of a student under this subsection shall include a provision for the transportation of the student by either the transferor or the transeree school district. In the event that either the school board of the transeree or the transferor school district shall object to the transfer, it shall have the right to appeal to the State Board of Education whose decision shall be final. However, if the school boards agreeing on the legal transfer of any student fail to agree on which district shall provide transportation, the responsibility for transporting the student to the transeree school district shall be that of the parent or guardian.

(4) Upon the petition in writing of any parent or legal guardian of a school-age child who was lawfully transferred to another school district prior to July 1, 1992, as described in Section 37-15-29(4), the school board of the transeree school
The district shall consent to the transfer of such child and the transfer of any school-age brother and sister of such child to its district, and shall spread the same upon the minutes of the board. (5) Whenever a child has been accepted for enrollment by a school which is outside the school district in which the child resides under the limited open enrollment policy implemented by the State Department of Education pursuant to Section 1, House Bill No., 2001 Regular Session, the school board of the school district in which the school is situated shall consent to the child's enrollment in and attendance at the school.

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

37-15-33. All students seeking to transfer from any school, public or private, within or outside of the boundaries of the State of Mississippi, to a public school within the state may be required to take a test to determine the grade and class to which the pupil shall be assigned at the time of pupil transfer. The administrative head of each public school shall administer the test or tests to such pupil or pupils as shall apply for transfer to such public school. Such test or tests shall be administered within thirty (30) days after the filing of each such application for transfer. Notice of the giving of such test shall be given the applicant not less than five (5) days prior to the date of the administration of such test.

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

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

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

37-19-27. (1) Legally transferred students going from one
school district to another shall be counted for teacher allotment
and allotments for supportive services by the school district
wherein the pupils attend school, including cost allotments
prescribed in Sections 37-19-19 and 37-19-31 for school district
administrative and clerical salaries and other expenses, but shall
be counted for transportation allotment purposes in the school
district which furnishes or provides the transportation. The
school boards of the school districts which approve the transfer
of a student under the provisions of Section 37-15-31 shall enter
into an agreement and contract for the payment or nonpayment of
any portion of their local maintenance funds which they deem fair
and equitable in support of any transferred student. Except as
provided in subsection (2) of this section, local maintenance
funds shall be transferred only to the extent specified in the
agreement and contract entered into by the affected school
districts. The terms of any local maintenance fund payment
transfer contract shall be spread upon the minutes of both of the
affected school district school boards. The school district
accepting any transfer students shall be authorized to accept tuition from such students under the provisions of Section 37-15-31(1) and such agreement may remain in effect for any length of time designated in the contract. The terms of such student transfer contracts and the amounts of any tuition charged any transfer student shall be spread upon the minutes of both of the affected school boards. No school district or private or parochial school accepting any transfer students under the provisions of Section 37-15-31(2), which provides for the transfer of certain school district employee dependents, or under the limited open enrollment policy implemented by the State Department of Education pursuant to Section 1, House Bill No. ___ , 2001 Regular Session, shall be authorized to charge such transfer students any tuition fees.

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

SECTION 10. This act shall take effect and be in force from and after July 1, 2001.