

By: Representative Cameron

To: Education;
Appropriations

HOUSE BILL NO. 68

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 2002-2003 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 2002-2003 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, 2002, the State Board of Education
23 shall adopt a limited open enrollment policy for students residing
24 in school districts accredited at Level 1 or 2. The policy must
25 include provisions addressing the following matters:

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



32 1 or 2. The limited open enrollment policy must specify the date
33 on which the application forms will be made available to students
34 and the deadline by which an application must be submitted by a
35 parent, guardian or custodian of a student to a school at which
36 the student is seeking enrollment.

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

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

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

63 (e) **Notification.** The limited open enrollment policy
64 must establish the date by which each school must notify students



65 applying to enroll in that school under the policy of their
66 acceptance or nonacceptance in the selection process. The State
67 Department of Education shall prepare a form for providing the
68 notice.

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

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

95 (h) **Transportation.** The parent, guardian or custodian
96 of a student enrolled in a school under the limited open
97 enrollment policy shall be responsible for transporting the



98 student to and from school or a regular bus stop in that school's
99 attendance area.

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

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

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

114 37-15-13. When any child qualified under the requirements of
115 Section 37-15-9 shall apply or present himself for enrollment in
116 or admission to the public schools of any school district of this
117 state, the school board of such school district shall have the
118 power and authority to designate the particular school or
119 attendance center of the district in which such child shall be
120 enrolled and which he shall attend; no enrollment of a child in a
121 school shall be final or permanent until such designation shall be
122 made by the school board. Except as otherwise provided in Section
123 1 of House Bill No. _____, 2001 Regular Session, no child shall be
124 entitled to attend any school or attendance center except that to
125 which he has been assigned by the school board; however, the
126 principal of a school or superintendent of the district * * *, in
127 proper cases, may permit a child to attend a school temporarily
128 until a permanent assignment is made by the school board.

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



131 37-15-15. (1) In making assignments of children to schools
132 or attendance centers, the school board shall take into
133 consideration the educational needs and welfare of the child
134 involved, the welfare and best interest of all the pupils
135 attending the school or schools involved, the availability of
136 school facilities, sanitary conditions and facilities at the
137 school or schools involved, health and moral factors at the school
138 or schools, and in the community involved, and all other factors
139 which the school board may consider pertinent, relevant or
140 material in their effect on the welfare and best interest of the
141 school district and the particular school or schools involved.
142 All such assignments shall be on an individual basis as to the
143 particular child involved and, in making such assignment, the
144 school board shall not be limited or circumscribed by the
145 boundaries of any attendance areas which may have been established
146 by such board.

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

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

155 37-15-17. (1) If the parent, guardian or other person
156 having custody of any child shall feel aggrieved by the assignment
157 of such child to a school or attendance center by the school
158 board, then such parent, guardian or other person * * *, at any
159 time within thirty (30) days after such assignment, may make
160 application in writing to the school board for a review or
161 reconsideration of such assignment. Upon receiving any such
162 application, the school board shall set a time and place for the
163 hearing thereof which time shall be not more than fifteen (15)



164 days after the regular meeting of the board next succeeding the
165 date of the filing of the application. At the time and place so
166 fixed, the person filing such application shall have the right to
167 appear and present evidence in support of the application. After
168 hearing the evidence, the school board shall determine whether the
169 application is well taken and supported by the evidence and shall
170 enter an order either affirming its previous action or modifying
171 or changing same as the school board shall find proper.

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

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

181 37-15-21. (1) If any parent, guardian or other person
182 having custody of any child affected by the assignment of such
183 child to a school or attendance center by the school board shall
184 feel aggrieved at the order of the school board provided for in
185 Section 37-15-17, such person * * *, at any time within thirty
186 (30) days from the date of such order, may appeal therefrom by
187 filing a petition for appeal in the circuit court of the county in
188 which the school district involved is located. Upon the filing of
189 such petition for an appeal, process shall be issued for and
190 served upon the president of the school board of the school
191 district involved. Upon being served with process, it shall be the
192 duty of the school board to transmit promptly to the court a
193 certified copy of the entire record of the proceedings as shown by
194 the file of the school board. From the judgment of the circuit
195 court, an appeal may be taken to the Supreme Court in the same



196 manner as other appeals are taken from other judgments of such
197 court.

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

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

207 37-15-29. (1) Except as provided in subsections (2) through
208 (5) of this section, no minor child may enroll in or attend any
209 school except in the school district of his residence, unless such
210 child is lawfully transferred from the school district of his
211 residence to a school in another school district in accord with
212 the statutes of this state * * *.

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

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



229 transport the child from his or her home to school, an appeal
230 shall lie to the State Board of Education, or its designee, whose
231 decision shall be final.

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

241 (5) Any child selected for enrollment in a school outside
242 the school district in which the child resides under the limited
243 open enrollment policy implemented by the State Department of
244 Education pursuant to Section 1, House Bill No. , 2001 Regular
245 Session, may enroll in and attend school outside the district of
246 his residence; however, if the child is subject to displacement in
247 a subsequent school year, the child must enroll in and attend
248 school in the school district of his residence unless the child is
249 lawfully transferred to a school in another district or accepted
250 for enrollment at another school under the limited open enrollment
251 policy. Further, if the Level 1 or 2 school district in which a
252 student resides who is enrolled in a Level 3 or higher school
253 district under the limited open enrollment policy achieves an
254 accreditation of Level 3 or higher, the student shall be required
255 to enroll in the school district in which he resides beginning
256 with the next school year following the district's achieving Level
257 3 or higher accreditation.

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

260 37-15-31. (1) (a) Except as provided in subsections (2)
261 through (5) of this section, upon the petition in writing of a



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

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

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



295 approved by the transferee board, and the county board of
296 education if applicable under paragraph (b) of this subsection,
297 then such decision shall be final. If such a transfer is refused
298 by the school board of either school district or the county board
299 of education, then such decision shall be final.

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

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

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

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



327 (d) Any such agreement by school boards for the legal
328 transfer of a student shall include a provision providing for the
329 transportation of the student. In the absence of such a
330 provision, the responsibility for transporting the student to the
331 transferee school district shall be that of the parent or
332 guardian.

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

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

356 (4) Upon the petition in writing of any parent or legal
357 guardian of a school-age child who was lawfully transferred to
358 another school district prior to July 1, 1992, as described in
359 Section 37-15-29(4), the school board of the transferee school



360 district shall consent to the transfer of such child and the
361 transfer of any school-age brother and sister of such child to its
362 district, and shall spread the same upon the minutes of the board.

363 (5) Whenever a child has been accepted for enrollment by a
364 school which is outside the school district in which the child
365 resides under the limited open enrollment policy implemented by
366 the State Department of Education pursuant to Section 1, House
367 Bill No. , 2001 Regular Session, the school board of the school
368 district in which the school is situated shall consent to the
369 child's enrollment in and attendance at the school.

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

372 37-15-33. All students seeking to transfer from any school,
373 public or private, within or outside of the boundaries of the
374 State of Mississippi, to a public school within the state may be
375 required to take a test to determine the grade and class to which
376 the pupil shall be assigned at the time of pupil transfer.

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

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



393 attendance center principal to which the pupil seeks admission may
394 assign the pupil temporarily to a grade and class comparable to
395 that in which the pupil would have been had the pupil continued in
396 the school from which the transfer was being made.

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

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

407 37-19-27. (1) Legally transferred students going from one
408 school district to another shall be counted for teacher allotment
409 and allotments for supportive services by the school district
410 wherein the pupils attend school, including cost allotments
411 prescribed in Sections 37-19-19 and 37-19-31 for school district
412 administrative and clerical salaries and other expenses, but shall
413 be counted for transportation allotment purposes in the school
414 district which furnishes or provides the transportation. The
415 school boards of the school districts which approve the transfer
416 of a student under the provisions of Section 37-15-31 shall enter
417 into an agreement and contract for the payment or nonpayment of
418 any portion of their local maintenance funds which they deem fair
419 and equitable in support of any transferred student. Except as
420 provided in subsection (2) of this section, local maintenance
421 funds shall be transferred only to the extent specified in the
422 agreement and contract entered into by the affected school
423 districts. The terms of any local maintenance fund payment
424 transfer contract shall be spread upon the minutes of both of the
425 affected school district school boards. The school district



426 accepting any transfer students shall be authorized to accept
427 tuition from such students under the provisions of Section
428 37-15-31(1) and such agreement may remain in effect for any length
429 of time designated in the contract. The terms of such student
430 transfer contracts and the amounts of any tuition charged any
431 transfer student shall be spread upon the minutes of both of the
432 affected school boards. No school district or private or
433 parochial school accepting any transfer students under the
434 provisions of Section 37-15-31(2), which provides for the transfer
435 of certain school district employee dependents, or under the
436 limited open enrollment policy implemented by the State Department
437 of Education pursuant to Section 1, House Bill No. , 2001
438 Regular Session, shall be authorized to charge such transfer
439 students any tuition fees.

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

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

