HOUSE BILL NO. 101

AN ACT TO REQUIRE ALL SCHOOL DISTRICTS TO IMPLEMENT A POLICY OF OPEN ENROLLMENT WHICH ALLOWS STUDENTS, BEGINNING IN THE 2003-2004 SCHOOL YEAR, TO ATTEND ANY SCHOOL WITHIN A SCHOOL DISTRICT; TO SPECIFY CERTAIN PROVISIONS THAT MUST BE INCLUDED IN EACH SCHOOL DISTRICT'S OPEN ENROLLMENT POLICY; TO AMEND SECTIONS 37-15-13 THROUGH 37-15-21 AND 37-15-33, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) Each school district shall implement a policy of open enrollment which allows the parent, guardian or custodian of a student to apply for the student's enrollment at any public school within the school district in which they reside. Under the policy, the 2003-2004 school year is the first year that a student may attend a school other than the school serving the attendance area in which the student resides.

(2) Before February 1, 2003, the school board of each school district shall adopt an open enrollment policy that includes provisions addressing the following matters:

(a) **Application process.** Each school district shall prepare a uniform application form for each student seeking enrollment in a school other than the school serving the attendance area in which the student resides. The application forms shall be made available to students in the principal's office of each school. The 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 the school at which the student is seeking enrollment.
(b) **Openings for nonresident students.** Each school shall establish the maximum number of students from outside the attendance area served by that school which may be enrolled in each particular grade or program in the school. These numbers must be reported to the school district's administrative offices before the date on which applications are made available to students. A student who resides in a school's attendance area may not be displaced under any circumstances by a student applying for enrollment in that school from outside the school's attendance area.

(c) **Selection of students.** Each school shall select from the applicant pool those students who may be eligible to enroll in the school from outside the school's attendance area 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 from outside the school's attendance area, a number of students will be selected for the purpose of establishing a waiting list. If those students originally selected do not choose to enroll in the school or are determined to be ineligible for enrollment, students from outside the school's attendance area will be offered the opportunity to enroll in the order that their names appear on the waiting list.

(e) **Notification.** The open enrollment policy must establish the date by which each school in the district must notify students applying to enroll in that school from outside the school's attendance area of their acceptance or nonacceptance in the selection process. The school district shall prepare a form for providing the notice.

(f) **Subsequent school years.** A student who is selected for enrollment in a school from outside the school's attendance area may remain enrolled in that school in subsequent school years.
without reapplying under the open enrollment policy. However, if the school reduces the maximum number of students which may be enrolled in a particular grade or program from outside the school's attendance area 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 open enrollment policy will be subject to displacement, with those students most recently enrolled being subject to displacement first.

(g) Return to original school. A student attending a school under the open enrollment policy may enroll in the school serving 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 other than the school serving the attendance area in which the student resides shall be responsible for transporting the student to and from school or a regular bus stop in that school's attendance area.

(3) A student attending a public school other than the school serving the attendance area in which the student resides shall have all of the rights and privileges and shall be subject to the same rules and regulations as students residing in that 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., 2002 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 does 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 a school district's open enrollment policy implemented pursuant to Section 1, House Bill No., 2002 Regular Session.

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

This section does not authorize any parent, guardian or custodian aggrieved by the nonacceptance or displacement of his or her child at a particular school under the school district's open enrollment policy implemented pursuant to Section 1, House Bill No. , 2002 Regular Session, to apply to the school board for a review of a school's decision under the open enrollment policy.

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

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 does not authorize any parent, guardian or
custodian aggrieved by the nonacceptance or displacement of his or
her child at a particular school under the school district's open
enrollment policy implemented pursuant to Section 1, House Bill
No. , 2002 Regular Session, to appeal the school's decision
under the open enrollment policy to the circuit court.

SECTION 6. 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, 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 7. This act shall take effect and be in force from
and after July 1, 2002.