MISSISSIPPI LEGISLATURE

By: Representative Cameron

To: Education; Appropriations

HOUSE BILL NO. 237

AN ACT TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO IMPLEMENT A POLICY OF LIMITED OPEN ENROLLMENT WHICH ALLOWS STUDENTS IN SCHOOL DISTRICTS ACCREDITED AT LEVEL ONE OR TWO, BEGINNING IN THE 2003-2004 SCHOOL YEAR, TO ATTEND ANY PUBLIC SCHOOL IN A DISTRICT ACCREDITED AT LEVEL THREE OR HIGHER OR ANY ACCREDITED PRIVATE OR PAROCHIAL SCHOOL WITHIN THE STATE; TO SPECIFY CERTAIN PROVISIONS THAT MUST BE INCLUDED IN THE LIMITED OPEN ENROLLMENT POLICY; TO AMEND SECTIONS 37-15-13 THROUGH 37-15-17, 37-15-21 AND 37-15-29 THROUGH 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) 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 2003-2004 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, 2003, 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 must be made available to students in the principal's office of each school in districts accredited at Level...
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 must 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 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 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 will 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 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 will 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. , 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 *, 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. , 2002 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. , 2002 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. , 2002 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

(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. , 2002 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 will 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 (6) 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) 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) 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, 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, then such decision shall be final. If such a transfer should be refused by the school board of either school district, then such decision shall be final.

(c) 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 who 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, 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
transferee 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 transferee school district. In the event that either the school board of the transferee 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 transferee 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 transferee school 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) (a) If the board of trustees of a municipal separate school district with added territory does not have a member who is a resident of the added territory outside the corporate limits, upon the petition in writing of any parent or legal guardian of a school-age child who is a resident of the added territory outside the corporate limits, the board of trustees of the municipal separate school district and the school board of the school district adjacent to the added territory shall consent to the transfer of the child from the municipal separate school district to the adjacent school district. The agreement must be spread
upon the minutes of the board of trustees of the municipal separate school district and the school board of the adjacent school district. The agreement must provide for the transportation of the student. In the absence of such a provision, the parent or legal guardian shall be responsible for transporting the student to the adjacent school district. Any school district that accepts a student under this subsection may not assess any tuition fees against the transferring student.

(b) Before September 1 of each year, the board of trustees of the municipal separate school district shall certify to the State Department of Education the number of students in the added territory of the municipal separate school district who are transferred to the adjacent school district under this subsection. The municipal separate school district also shall certify the total number of students in the school district residing in the added territory plus the number of those students who are transferred to the adjacent school district. Based upon these figures, the department shall calculate the percentage of the total number of students in the added territory who are transferred to the adjacent school district and shall certify this percentage to the levying authority for the municipal separate school district. The levying authority shall remit to the school board of the adjacent school district, from the proceeds of the ad valorem taxes collected for the support of the municipal separate school district from the added territory of the municipal separate school district, an amount equal to the percentage of the total number of students in the added territory who are transferred to the adjacent school district.

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