

By: Representative Cameron

To: Education;
Appropriations

HOUSE BILL NO. 392

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 2004-2005 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 AND 37-15-29 THROUGH 37-15-33, MISSISSIPPI CODE
10 OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR
11 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 2004-2005 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, 2004, 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 must 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 must 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 will 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 will 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 will 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. _____, 2003 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. , 2003 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. , 2003 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
192 the 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. , 2003 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. , 2003 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 will 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 secretary
264 of the school board of a school district in which the pupil has
265 been enrolled or is qualified to be enrolled as a student under
266 Section 37-15-9, or upon the aforesaid petition or the initiative
267 of the school board of a school district as to the transfer of a
268 grade or grades, individual students living in one school district
269 or a grade or grades of a school within the districts may be
270 legally transferred to another school district, by the mutual
271 consent of the school boards of all school districts concerned,
272 which consent must be given in writing and spread upon the minutes
273 of such boards.

274 (b) The school board of the transferring school
275 district to which such petition may be addressed shall act thereon
276 not later than its next regular meeting subsequent to the filing
277 or lodging of the petition, and a failure to act within that time
278 shall constitute a rejection of such request. The school board of
279 the other school district involved (the transferee board) shall
280 act on such request for transfer as soon as possible after the
281 transferor board shall have approved or rejected such transfer and
282 no later than the next regular meeting of the transferee board,
283 and a failure of such transferee board to act within such time
284 shall constitute a rejection of such request. If such a transfer
285 is approved by the transferee board, then such decision shall be
286 final. If such a transfer should be refused by the school board
287 of either school district, then such decision shall be final.

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

291 (2) (a) Upon the petition in writing of any parent or
292 guardian who is a resident of Mississippi and is an instructional
293 or licensed employee of a school district, but not a resident of
294 such district, the school board of the employer school district



295 shall consent to the transfer of such employee's dependent
296 school-age children to its district and shall spread the same upon
297 the minutes of the board. Upon the petition in writing of any
298 parent or guardian who is not a resident of Mississippi and who is
299 an instructional or licensed employee of a school district in
300 Mississippi, the school board of the employer school district
301 shall consent to the transfer of such employee's dependent
302 school-age children to its district and shall spread the same upon
303 the minutes of the board.

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

311 (c) The employer transferee school district shall
312 notify in writing the school district from which the pupil or
313 pupils are transferring, and the school board of the transferor
314 school district shall spread the same upon its minutes.

315 (d) Any such agreement by school boards for the legal
316 transfer of a student shall include a provision providing for the
317 transportation of the student. In the absence of such a
318 provision, the responsibility for transporting the student to the
319 transferee school district shall be that of the parent or
320 guardian.

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

325 (3) Upon the petition in writing of any parent or legal
326 guardian of a school-age child who is a resident of an adjacent
327 school district residing in the geographical situation described



328 in Section 37-15-29(3), the school board of the school district
329 operating the school located in closer proximity to the residence
330 of the child shall consent to the transfer of the child to its
331 district, and shall spread the same upon the minutes of the board.
332 Any such agreement by school boards for the legal transfer of a
333 student under this subsection shall include a provision for the
334 transportation of the student by either the transferor or the
335 transferee school district. In the event that either the school
336 board of the transferee or the transferor school district shall
337 object to the transfer, it shall have the right to appeal to the
338 State Board of Education whose decision shall be final. However,
339 if the school boards agreeing on the legal transfer of any
340 student * * * fail to agree on which district shall provide
341 transportation, the responsibility for transporting the student to
342 the transferee school district shall be that of the parent or
343 guardian.

344 (4) Upon the petition in writing of any parent or legal
345 guardian of a school-age child who was lawfully transferred to
346 another school district prior to July 1, 1992, as described in
347 Section 37-15-29(4), the school board of the transferee school
348 district shall consent to the transfer of such child and the
349 transfer of any school-age brother and sister of such child to its
350 district, and shall spread the same upon the minutes of the board.

351 (5) (a) If the board of trustees of a municipal separate
352 school district with added territory does not have a member who is
353 a resident of the added territory outside the corporate limits,
354 upon the petition in writing of any parent or legal guardian of a
355 school-age child who is a resident of the added territory outside
356 the corporate limits, the board of trustees of the municipal
357 separate school district and the school board of the school
358 district adjacent to the added territory shall consent to the
359 transfer of the child from the municipal separate school district
360 to the adjacent school district. The agreement must be spread



361 upon the minutes of the board of trustees of the municipal
362 separate school district and the school board of the adjacent
363 school district. The agreement must provide for the
364 transportation of the student. In the absence of such a
365 provision, the parent or legal guardian shall be responsible for
366 transporting the student to the adjacent school district. Any
367 school district that accepts a student under this subsection may
368 not assess any tuition fees against the transferring student.

369 (b) Before September 1 of each year, the board of
370 trustees of the municipal separate school district shall certify
371 to the State Department of Education the number of students in the
372 added territory of the municipal separate school district who are
373 transferred to the adjacent school district under this subsection.
374 The municipal separate school district also shall certify the
375 total number of students in the school district residing in the
376 added territory plus the number of those students who are
377 transferred to the adjacent school district. Based upon these
378 figures, the department shall calculate the percentage of the
379 total number of students in the added territory who are
380 transferred to the adjacent school district and shall certify this
381 percentage to the levying authority for the municipal separate
382 school district. The levying authority shall remit to the school
383 board of the adjacent school district, from the proceeds of the ad
384 valorem taxes collected for the support of the municipal separate
385 school district from the added territory of the municipal separate
386 school district, an amount equal to the percentage of the total
387 number of students in the added territory who are transferred to
388 the adjacent school district.

389 (6) Whenever a child has been accepted for enrollment by a
390 school which is outside the school district in which the child
391 resides under the limited open enrollment policy implemented by
392 the State Department of Education pursuant to Section 1, House
393 Bill No. _____, 2003 Regular Session, the school board of the



394 school district in which the school is situated shall consent to
395 the child's enrollment in and attendance at the school.

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

398 37-15-33. All students seeking to transfer from any school,
399 public or private, within or outside of the boundaries of the
400 State of Mississippi, to a public school within the state may be
401 required to take a test to determine the grade and class to which
402 the pupil shall be assigned at the time of pupil transfer.

403 The administrative head of each public school shall
404 administer the test or tests to such pupil or pupils as shall
405 apply for transfer to such public school. Such test or tests
406 shall be administered within thirty (30) days after the filing of
407 each such application for transfer. Notice of the giving of such
408 test shall be given the applicant not less than five (5) days
409 prior to the date of the administration of such test.

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

423 If any student is transferred or reassigned within the school
424 district * * * as authorized by law of the State of
425 Mississippi * * *, the requirement of that pupil's taking the
426 standardized test shall be waived. Likewise, if a pupil shall



427 transfer from one school district to another school district in
428 the manner provided and required by the laws of the State of
429 Mississippi, the requirement of such pupil taking the standardized
430 test shall be waived.

431 **SECTION 9.** This act shall take effect and be in force from
432 and after July 1, 2003.

