

By: Senator(s) Johnson (19th)

To: Education;  
Appropriations

## SENATE BILL NO. 2598

1 AN ACT ENTITLED THE "MISSISSIPPI SCHOOL OPPORTUNITY ACT OF  
2 2003"; TO ESTABLISH AN OPPORTUNITY SCHOLARSHIP PROGRAM UNDER WHICH  
3 A PUBLIC SCHOOL STUDENT'S PARENT OR GUARDIAN MAY RECEIVE FROM THE  
4 STATE AN OPPORTUNITY SCHOLARSHIP TO ENROLL IN AND ATTEND A PRIVATE  
5 SCHOOL IF THE STUDENT HAS SPENT THE PRIOR SCHOOL YEAR IN A PUBLIC  
6 SCHOOL THAT HAS FAILED TO MEET MINIMUM ACCREDITATION STANDARDS FOR  
7 TWO YEARS IN A FOUR-YEAR PERIOD; TO PROVIDE ELIGIBILITY STANDARDS  
8 FOR SUCH OPPORTUNITY SCHOLARSHIP; TO PRESCRIBE THE OBLIGATIONS OF  
9 THE SCHOOL DISTRICT IN THESE SITUATIONS AND TO PROVIDE THAT THE  
10 SCHOOL DISTRICT SHALL OFFER TO TRANSFER THE STUDENT TO ANOTHER  
11 SCHOOL WITH A SATISFACTORY ACCREDITATION RATING IN THE SAME OR  
12 ADJOINING DISTRICT; TO PRESCRIBE ELIGIBILITY STANDARDS FOR PRIVATE  
13 SCHOOLS TO PARTICIPATE IN THE OPPORTUNITY SCHOLARSHIP PROGRAM; TO  
14 PROVIDE FOR OPPORTUNITY SCHOLARSHIP FUNDING AND PAYMENT; TO  
15 CLARIFY THE LIABILITY OF THE STATE REGARDING THE PROGRAM; TO  
16 AUTHORIZE THE STATE DEPARTMENT OF EDUCATION TO ISSUE RULES TO  
17 IMPLEMENT THE PROGRAM; TO AMEND SECTIONS 37-15-13, 37-15-15,  
18 37-15-17, 37-15-21, 37-15-29, 37-15-31 AND 37-15-33, MISSISSIPPI  
19 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** This act shall be known as and may be cited as  
22 the "Mississippi School Opportunity Act of 2003."

23 **SECTION 2.** (1) The Legislature finds that a student should  
24 not be compelled, against the wishes of the student's parent or  
25 guardian, to remain in a school found by the state to be failing  
26 to meet minimum accreditation standards for two (2) years in a  
27 four-year period. The Legislature shall make available  
28 opportunity scholarships in order to give parents and guardians  
29 the opportunity for their children to attend a public school that  
30 is performing satisfactorily or to attend an eligible private  
31 school when the parent or guardian chooses to apply the equivalent  
32 of the public education funds generated by his or her child to the  
33 cost of tuition in the eligible private school as provided in  
34 subsection 6(a). Eligibility of a private school shall include  
35 the control and accountability requirements that, coupled with the



36 exercise of parental choice, are reasonably necessary to secure  
37 the educational public purpose, as delineated in subsection 4.

38 (2) OPPORTUNITY SCHOLARSHIP ELIGIBILITY. A public school  
39 student's parent or guardian may request and receive from the  
40 state an opportunity scholarship for the child to enroll in and  
41 attend a private school in accordance with the provisions of this  
42 section if:

43 (a) By assigned school attendance area or by special  
44 assignment, the student has spent the prior school year in  
45 attendance at a public school that has failed to meet minimum  
46 accreditation standards pursuant to Section 37-17-6, Mississippi  
47 Code of 1972, is failing to make adequate progress, and that has  
48 had two (2) school years in a four-year period of such low  
49 performance, and the student's attendance occurred during a school  
50 year in which such designation was in effect; or the parent or  
51 guardian of a student who has been in attendance elsewhere in the  
52 public school district or who is entering kindergarten or first  
53 grade has been notified that the student has been assigned to such  
54 school for the next school year;

55 (b) The parent or guardian has obtained acceptance for  
56 admission of the student to a private school eligible for the  
57 program pursuant to subsection (4), and has notified the  
58 Department of Education and the school district of the request for  
59 an opportunity scholarship no later than July 1 of the first year  
60 in which the student intends to use the scholarship. For purposes  
61 of continuity of educational choice, the opportunity scholarship  
62 shall remain in force until the student returns to a public school  
63 or, if the student chooses to attend a private school the highest  
64 grade of which is Grade 8, until the student matriculates to high  
65 school and the public high school to which the student is assigned  
66 is an accredited school with a performance grade category  
67 designation of Level III or better. However, at any time upon  
68 reasonable notice to the Department of Education and the school



69 district, the student's parent or guardian may remove the student  
70 from the private school and place the student in a public school,  
71 as provided in subparagraph 3(a)(2).

72 (3) SCHOOL DISTRICT OBLIGATIONS.

73 (a) A school district shall, for each student enrolled  
74 in or assigned to a school that has failed to meet minimum  
75 accreditation standards for two (2) school years in a four-year  
76 period:

77 (i) Timely notify the parent or guardian of the  
78 student as soon as such designation is made of all options  
79 available pursuant to this section; and

80 (ii) Offer that student's parent or guardian an  
81 opportunity to enroll the student in the public school within the  
82 district that has been designated by the state as a school  
83 performing higher than that in which the student is currently  
84 enrolled or to which the student has been assigned, but not less  
85 than performance grade category Level III. The parent or guardian  
86 is not required to accept this offer in lieu of requesting a state  
87 opportunity scholarship to a private school. The opportunity to  
88 continue attending the higher performing public school shall  
89 remain in force until the student graduates from high school.

90 (b) The parent or guardian of a student enrolled in or  
91 assigned to a school that has failed to meet minimum accreditation  
92 standards for two (2) years in a four-year period may choose as an  
93 alternative to enroll the student in and transport the student to  
94 a higher-performing public school that has available space in an  
95 adjacent school district, and that school district shall accept  
96 the student and report the student for purposes of the district's  
97 minimum program funding, or adequate education program funding.

98 (c) For students in the district who are participating  
99 in the state Opportunity Scholarship Program, the district shall  
100 provide locations and times to take all statewide assessments  
101 required.



102           (d) Students with disabilities who are eligible to  
103 receive services from the school district under federal or state  
104 law, and who participate in this program, remain eligible to  
105 receive services from the school district as provided by federal  
106 or state law.

107           (e) If for any reason a qualified private school is not  
108 available for the student or if the parent or guardian chooses to  
109 request that the student be enrolled in the higher performing  
110 public school, rather than choosing to request the state  
111 opportunity scholarship, transportation costs to the higher  
112 performing public school shall be the responsibility of the school  
113 district. The district may utilize state transportation funds for  
114 this purpose.

115           (4) PRIVATE SCHOOL ELIGIBILITY. To be eligible to  
116 participate in the Opportunity Scholarship Program, a private  
117 school must be a Mississippi private school, may be sectarian or  
118 nonsectarian, and must:

119           (a) Demonstrate fiscal soundness by being in operation  
120 for one (1) school year or provide the Department of Education  
121 with a statement by a certified public accountant confirming that  
122 the private school desiring to participate is insured and the  
123 owner or owners have sufficient capital or credit to operate the  
124 school for the upcoming year serving the number of students  
125 anticipated with expected revenues from tuition and other sources  
126 that may be reasonably expected. In lieu of such a statement, a  
127 surety bond or letter of credit for the amount equal to the  
128 opportunity scholarship funds for any quarter may be filed with  
129 the department.

130           (b) Except for the first year of implementation, notify  
131 the Department of Education and the school district in whose  
132 service area the school is located of its intent to participate in  
133 the program under this section by May 1 of the school year  
134 preceding the school year in which it intends to participate. The



135 notice shall specify the grade levels and services that the  
136 private school has available for the Opportunity Scholarship  
137 Program.

138 (c) Comply with antidiscrimination provisions required  
139 by state or federal law.

140 (d) Meet state and local health and safety laws and  
141 codes.

142 (e) Accept scholarship students on an entirely random  
143 and religious-neutral basis without regard to the student's past  
144 academic history; however, the private school may give preference  
145 in accepting application to siblings of students who have already  
146 been accepted on a random and religious-neutral basis.

147 (f) Be subject to the instruction, curriculum and  
148 attendance criteria adopted by an appropriate nonpublic school  
149 accrediting body and be academically accountable to the parent or  
150 guardian for meeting the educational needs of the student. The  
151 private school must furnish a school profile which includes  
152 student performance.

153 (g) Employ or contract with teachers who hold a  
154 baccalaureate or higher degree, or have at least three (3) years  
155 of teaching experience in public or private schools, or have  
156 special skills, knowledge or expertise that qualifies them to  
157 provide instruction in subjects taught.

158 (h) Comply with all state statutes relating to private  
159 schools.

160 (i) Accept as full tuition and fees the amount provided  
161 by the state for each student.

162 (j) Agree not to compel any student attending the  
163 private school on an opportunity scholarship to profess a specific  
164 ideological belief, to pray or to worship.

165 (k) Adhere to the tenets of its published disciplinary  
166 procedures prior to the expulsion of any opportunity scholarship  
167 student.



168 (5) OBLIGATION OF PROGRAM PARTICIPATION.

169 (a) Any student participating in the Opportunity  
170 Scholarship Program must remain in attendance throughout the  
171 school year, unless excused by the school for illness or other  
172 good cause, and must comply fully with the school's code of  
173 conduct.

174 (b) The parent or guardian of each student  
175 participating in the Opportunity Scholarship Program must comply  
176 fully with the private school's parental involvement requirements,  
177 unless excused by the school for illness or other good cause.

178 (c) The parent or guardian shall ensure that the  
179 student participating in the Opportunity Scholarship Program takes  
180 all statewide assessments required pursuant to state law or  
181 department regulation.

182 (d) A participant who fails to comply with this  
183 subsection shall forfeit the opportunity scholarship.

184 (6) OPPORTUNITY SCHOLARSHIP FUNDING AND PAYMENT.

185 (a) (i) The maximum opportunity scholarship granted  
186 for an eligible student shall be a calculated amount equivalent to  
187 the current base student cost adequate to provide the cost  
188 components of educating a pupil in an average school district  
189 meeting Level III accreditation standards, as used for determining  
190 allocations under the adequate education program in Section  
191 37-151-7(1)(b). The amount of the opportunity scholarship shall  
192 be the calculated amount or the amount of the private school's  
193 tuition and fees, whichever is less. Fees eligible shall include  
194 textbooks fees, lab fees and other fees related to instruction,  
195 including transportation. The district shall report all students  
196 who are attending a private school under this program. The  
197 students attending private schools on opportunity scholarships  
198 shall be reported separately from those students reported for  
199 purposes of the minimum education or adequate education program.  
200 The public or private school that provides services to students



201 with disabilities shall receive the weighted funding for such  
202 services at the appropriate funding level consistent with the  
203 provisions of Section 37-23-133 et seq.

204 (ii) Following annual notification on July 1 of  
205 the number of participants, the Department of Education shall  
206 transfer from each school district's appropriated funds the  
207 calculated amount from the minimum or adequate education program  
208 and authorized categorical accounts to a separate account for the  
209 Opportunity Scholarship Program for quarterly disbursement to the  
210 parents or guardians of participating students.

211 (b) Upon proper documentation reviewed and approved by  
212 the Department of Education, the Department of Finance and  
213 Administration shall make opportunity scholarship payments in four  
214 (4) equal amounts no later than September 1, November 1, February  
215 1 and April 1 of each academic year in which the opportunity  
216 scholarship is in force. The initial payment shall be made after  
217 Department of Education verification of admission acceptance and  
218 subsequent payments shall be made upon verification of continued  
219 enrollment and attendance at the private school. Payment must be  
220 by individual warrant made payable to the student's parent or  
221 guardian and mailed by the Department of Education to the private  
222 school of the parent's or guardian's choice and the parent or  
223 guardian shall restrictively endorse the warrant to the private  
224 school.

225 (7) LIABILITY. No liability shall arise on the part of the  
226 state based on any grant or use of an opportunity scholarship.

227 (8) RULES. The State Board of Education may adopt rules to  
228 implement the provisions of this section. Rules shall include  
229 penalties for noncompliance with subsections (3) and (5).

230 However, the inclusion of eligible private schools within options  
231 available to Mississippi public school students does not expand  
232 the regulatory authority of the state, its officers, or any school



233 district to impose any additional regulation of private schools  
234 beyond those reasonably necessary to enforce this act.

235 **SECTION 3.** Section 37-15-13, Mississippi Code of 1972, is  
236 amended as follows:

237 37-15-13. The provisions of this section shall not apply to  
238 any school, student or parent of a student residing in a school  
239 district or county which has exercised student school choice as  
240 provided under Senate Bill No. \_\_\_\_\_, 2003 Regular Session.

241 When any child qualified under the requirements of Section  
242 37-15-9 shall apply or present himself for enrollment in or  
243 admission to the public schools of any school district of this  
244 state, the school board of such school district shall have the  
245 power and authority to designate the particular school or  
246 attendance center of the district in which such child shall be  
247 enrolled and which he shall attend; no enrollment of a child in a  
248 school shall be final or permanent until such designation shall be  
249 made by said school board. No child shall be entitled to attend  
250 any school or attendance center except that to which he has been  
251 assigned by the school board; however, the principal of a school  
252 or superintendent of the district may, in proper cases, permit a  
253 child to attend a school temporarily until a permanent assignment  
254 is made by the school board.

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

257 37-15-15. The provisions of this section shall not apply to  
258 any school, student or parent of a student residing in a school  
259 district or county which has exercised student school choice as  
260 provided under Senate Bill No. \_\_\_\_\_, 2003 Regular Session.

261 In making assignments of children to schools or attendance  
262 centers, the school board shall take into consideration the  
263 educational needs and welfare of the child involved, the welfare  
264 and best interest of all the pupils attending the school or  
265 schools involved, the availability of school facilities, sanitary





266 conditions and facilities at the school or schools involved,  
267 health and moral factors at the school or schools, and in the  
268 community involved, and all other factors which the school board  
269 may consider pertinent, relevant or material in their effect on  
270 the welfare and best interest of the school district and the  
271 particular school or schools involved. All such assignments shall  
272 be on an individual basis as to the particular child involved and,  
273 in making such assignment, the school board shall not be limited  
274 or circumscribed by the boundaries of any attendance areas which  
275 may have been established by such board.

276 **SECTION 5.** Section 37-15-17, Mississippi Code of 1972, is  
277 amended as follows:

278 37-15-17. The provisions of this section shall not apply to  
279 any school, student or parent of a student residing in a school  
280 district or county which has exercised student school choice as  
281 provided under Senate Bill No. \_\_\_\_\_, 2003 Regular Session.

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



299           **SECTION 6.** Section 37-15-21, Mississippi Code of 1972, is  
300 amended as follows:

301           37-15-21. The provisions of this section shall not apply to  
302 any school, student or parent of a student residing in a school  
303 district or county which has exercised student school choice as  
304 provided under Senate Bill No. \_\_\_\_\_, 2003 Regular Session.

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

321           **SECTION 7.** Section 37-15-29, Mississippi Code of 1972, is  
322 amended as follows:

323           37-15-29. The provisions of this section shall not apply to  
324 any school, student or parent of a student residing in a school  
325 district or county which has exercised student school choice as  
326 provided under Senate Bill No. \_\_\_\_\_, 2003 Regular Session.

327           (1) Except as provided in subsections (2), (3) and (4) of  
328 this section, no minor child may enroll in or attend any school  
329 except in the school district of his residence, unless such child  
330 be lawfully transferred from the school district of his residence



331 to a school in another school district in accord with the statutes  
332 of this state now in effect or which may be hereafter enacted.

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

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

352 (4) Those children lawfully transferred from the school  
353 district of his residence to a school in another school district  
354 prior to July 1, 1992, may, at the discretion of their parent(s)  
355 or legal guardian(s), continue to enroll and attend school in the  
356 transferee school district. Provided further, that the brother(s)  
357 and sister(s) of said children lawfully transferred prior to July  
358 1, 1992, may also, at the discretion of their parent(s) or legal  
359 guardian(s), enroll and attend school in the transferee school  
360 district.

361 **SECTION 8.** Section 37-15-31, Mississippi Code of 1972, is  
362 amended as follows:



363           37-15-31. The provisions of this section shall not apply to  
364 any school, student or parent of a student residing in a school  
365 district or county which has exercised student school choice as  
366 provided under Senate Bill No. \_\_\_\_\_, 2003 Regular Session.

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

380           (b) The school board of the transferring school  
381 district to which such petition may be addressed shall act thereon  
382 not later than its next regular meeting subsequent to the filing  
383 or lodging of the petition, and a failure to act within that time  
384 shall constitute a rejection of such request. The school board of  
385 the other school district involved (the transferee board) shall  
386 act on such request for transfer as soon as possible after the  
387 transferor board shall have approved or rejected such transfer and  
388 no later than the next regular meeting of the transferee board,  
389 and a failure of such transferee board to act within such time  
390 shall constitute a rejection of such request. If such a transfer  
391 is approved by the transferee board, then such decision shall be  
392 final. If such a transfer should be refused by the school board  
393 of either school district, then such decision shall be final.



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

397 (2) (a) Upon the petition in writing of any parent or  
398 guardian who is a resident of Mississippi and is an instructional  
399 or licensed employee of a school district, but not a resident of  
400 such district, the school board of the employer school district  
401 shall consent to the transfer of such employee's dependent  
402 school-age children to its district and shall spread the same upon  
403 the minutes of the board. Upon the petition in writing of any  
404 parent or guardian who is not a resident of Mississippi and who is  
405 an instructional or licensed employee of a school district in  
406 Mississippi, the school board of the employer school district  
407 shall consent to the transfer of such employee's dependent  
408 school-age children to its district and shall spread the same upon  
409 the minutes of the board.

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

417 (c) The employer transferee school district shall  
418 notify in writing the school district from which the pupil or  
419 pupils are transferring, and the school board of the transferor  
420 school district shall spread the same upon its minutes.

421 (d) Any such agreement by school boards for the legal  
422 transfer of a student shall include a provision providing for the  
423 transportation of the student. In the absence of such a provision  
424 the responsibility for transporting the student to the transferee  
425 school district shall be that of the parent or guardian.



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

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

449           (4) Upon the petition in writing of any parent or legal  
450 guardian of a school-age child who was lawfully transferred to  
451 another school district prior to July 1, 1992, as described in  
452 Section 37-15-29(4), the school board of the transferee school  
453 district shall consent to the transfer of such child and the  
454 transfer of any school-age brother and sister of such child to its  
455 district, and shall spread the same upon the minutes of the board.

456           (5) (a) If the board of trustees of a municipal separate  
457 school district with added territory does not have a member who is  
458 a resident of the added territory outside the corporate limits,



459 upon the petition in writing of any parent or legal guardian of a  
460 school-age child who is a resident of the added territory outside  
461 the corporate limits, the board of trustees of the municipal  
462 separate school district and the school board of the school  
463 district adjacent to the added territory shall consent to the  
464 transfer of the child from the municipal separate school district  
465 to the adjacent school district. The agreement must be spread  
466 upon the minutes of the board of trustees of the municipal  
467 separate school district and the school board of the adjacent  
468 school district. The agreement must provide for the  
469 transportation of the student. In the absence of such a  
470 provision, the parent or legal guardian shall be responsible for  
471 transporting the student to the adjacent school district. Any  
472 school district that accepts a student under this subsection may  
473 not assess any tuition fees against the transferring student.

474 (b) Before September 1 of each year, the board of  
475 trustees of the municipal separate school district shall certify  
476 to the State Department of Education the number of students in the  
477 added territory of the municipal separate school district who are  
478 transferred to the adjacent school district under this subsection.  
479 The municipal separate school district also shall certify the  
480 total number of students in the school district residing in the  
481 added territory plus the number of those students who are  
482 transferred to the adjacent school district. Based upon these  
483 figures, the department shall calculate the percentage of the  
484 total number of students in the added territory who are  
485 transferred to the adjacent school district and shall certify this  
486 percentage to the levying authority for the municipal separate  
487 school district. The levying authority shall remit to the school  
488 board of the adjacent school district, from the proceeds of the ad  
489 valorem taxes collected for the support of the municipal separate  
490 school district from the added territory of the municipal separate  
491 school district, an amount equal to the percentage of the total



492 number of students in the added territory who are transferred to  
493 the adjacent school district.

494 **SECTION 9.** Section 37-15-33, Mississippi Code of 1972, is  
495 amended as follows:

496 37-15-33. The provisions of this section shall not apply to  
497 any school, student or parent of a student residing in a school  
498 district or county which has exercised student school choice as  
499 provided under Senate Bill No. \_\_\_\_\_, 2003 Regular Session.

500 All students seeking to transfer from any school, public or  
501 private, within or outside of the boundaries of the State of  
502 Mississippi, to a public school within the state may be required  
503 to take a test to determine the grade and class to which the pupil  
504 shall be assigned at the time of pupil transfer.

505 The administrative head of each public school shall  
506 administer the test or tests to such pupil or pupils as shall  
507 apply for transfer to such public school. Such test or tests  
508 shall be administered within thirty (30) days after the filing of  
509 each such application for transfer. Notice of the giving of such  
510 test shall be given the applicant not less than five (5) days  
511 prior to the date of the administration of such test.

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





525           If any student is transferred or reassigned within the school  
526 district by order of the board of trustees of that school district  
527 as designated by law of the State of Mississippi and not at his  
528 own request, the requirement of that pupil's taking the  
529 standardized test shall be waived. Likewise, if a pupil shall  
530 transfer from one school district to another school district in  
531 the manner provided and required by the laws of the State of  
532 Mississippi, the requirement of such pupil taking the standardized  
533 test shall be waived.

534           **SECTION 10.** This act shall take effect and be in force from  
535 and after July 1, 2003.

