

By: Representative Smith (39th)

To: Education

HOUSE BILL NO. 441

1 AN ACT TO AMEND SECTIONS 37-15-29 AND 37-15-31, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE FOR THE AUTOMATIC TRANSFER OF SCHOOL-AGE
3 CHILDREN WHOSE PARENTS ARE MEMBERS OF THE UNITED STATES ARMED
4 FORCES STATIONED IN THE STATE OF MISSISSIPPI TO ANOTHER SCHOOL
5 DISTRICT WITHIN THE COUNTY; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 37-15-29, Mississippi Code of 1972, is
8 amended as follows:

9 37-15-29. (1) Except as provided in subsections (2), (3)
10 and (4) of this section, no minor child may enroll in or attend
11 any school except in the school district of his residence, unless
12 such child be lawfully transferred from the school district of his
13 residence to a school in another school district in accord with
14 the statutes of this state now in effect or which may be hereafter
15 enacted.

16 (2) Those children whose parent(s) or legal guardian(s) are
17 instructional personnel or certificated employees of a school
18 district may at such employee's discretion enroll and attend the
19 school or schools of their parent's or legal guardian's employment
20 regardless of the residence of the child.

21 (3) No child shall be required to be transported in excess
22 of thirty (30) miles on a school bus from his or her home to
23 school, or in excess of thirty (30) miles from school to his or
24 her home, if there is another school in an adjacent school
25 district located on a shorter school bus transportation route by
26 the nearest traveled road. Those children residing in such
27 geographical situations may, at the discretion of their parent(s)
28 or legal guardian(s), enroll and attend the nearer school,

29 regardless of the residence of the child. In the event the parent
30 or legal guardian of such child and the school board are unable to
31 agree on the school bus mileage required to transport the child
32 from his or her home to school, an appeal shall lie to the State
33 Board of Education, or its designee, whose decision shall be
34 final.

35 (4) Those children lawfully transferred from the school
36 district of his residence to a school in another school district
37 prior to July 1, 1992, may, at the discretion of their parent(s)
38 or legal guardian(s), continue to enroll and attend school in the
39 transferee school district. Provided further, that the brother(s)
40 and sister(s) of said children lawfully transferred prior to July
41 1, 1992, may also, at the discretion of their parent(s) or legal
42 guardian(s), enroll and attend school in the transferee school
43 district.

44 (5) Those children whose parent(s) or legal guardian(s) are
45 members of the United States Armed Forces or Mississippi National
46 Guard on extended active duty and stationed within the State of
47 Mississippi may, at the discretion of such parent or guardian,
48 enroll and attend the school or schools of another school district
49 located in the county in which such parent or guardian is
50 stationed.

51 **SECTION 2.** Section 37-15-31, Mississippi Code of 1972, is
52 amended as follows:

53 37-15-31. (1) (a) Except as provided in subsections (2)
54 through (5) of this section, upon the petition in writing of a
55 parent or guardian resident of the school district of an
56 individual student filed or lodged with the president or secretary
57 of the school board of a school district in which the pupil has
58 been enrolled or is qualified to be enrolled as a student under
59 Section 37-15-9, or upon the aforesaid petition or the initiative
60 of the school board of a school district as to the transfer of a
61 grade or grades, individual students living in one school district

62 or a grade or grades of a school within the districts may be
63 legally transferred to another school district, by the mutual
64 consent of the school boards of all school districts concerned,
65 which consent must be given in writing and spread upon the minutes
66 of such boards.

67 (b) The school board of the transferring school
68 district to which such petition may be addressed shall act thereon
69 not later than its next regular meeting subsequent to the filing
70 or lodging of the petition, and a failure to act within that time
71 shall constitute a rejection of such request. The school board of
72 the other school district involved (the transferee board) shall
73 act on such request for transfer as soon as possible after the
74 transferor board shall have approved or rejected such transfer and
75 no later than the next regular meeting of the transferee board,
76 and a failure of such transferee board to act within such time
77 shall constitute a rejection of such request. If such a transfer
78 is approved by the transferee board, then such decision shall be
79 final. If such a transfer should be refused by the school board
80 of either school district, then such decision shall be final.

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

84 (2) (a) Upon the petition in writing of any parent or
85 guardian who is a resident of Mississippi and is an instructional
86 or licensed employee of a school district, but not a resident of
87 such district, the school board of the employer school district
88 shall consent to the transfer of such employee's dependent
89 school-age children to its district and shall spread the same upon
90 the minutes of the board. Upon the petition in writing of any
91 parent or guardian who is not a resident of Mississippi and who is
92 an instructional or licensed employee of a school district in
93 Mississippi, the school board of the employer school district
94 shall consent to the transfer of such employee's dependent

95 school-age children to its district and shall spread the same upon
96 the minutes of the board.

97 (b) The school board of any school district, in its
98 discretion, may adopt a uniform policy to allow the enrollment and
99 attendance of the dependent children of noninstructional and
100 nonlicensed employees, who are residents of Mississippi but are
101 not residents of their district. Such policy shall be based upon
102 the employment needs of the district, implemented according to job
103 classification groups and renewed each school year.

104 (c) The employer transferee school district shall
105 notify in writing the school district from which the pupil or
106 pupils are transferring, and the school board of the transferor
107 school district shall spread the same upon its minutes.

108 (d) Any such agreement by school boards for the legal
109 transfer of a student shall include a provision providing for the
110 transportation of the student. In the absence of such a provision
111 the responsibility for transporting the student to the transferee
112 school district shall be that of the parent or guardian.

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

117 (3) Upon the petition in writing of any parent or legal
118 guardian of a school-age child who is a resident of an adjacent
119 school district residing in the geographical situation described
120 in Section 37-15-29(3), the school board of the school district
121 operating the school located in closer proximity to the residence
122 of the child shall consent to the transfer of the child to its
123 district, and shall spread the same upon the minutes of the board.
124 Any such agreement by school boards for the legal transfer of a
125 student under this subsection shall include a provision for the
126 transportation of the student by either the transferor or the
127 transferee school district. In the event that either the school

128 board of the transferee or the transferor school district shall
129 object to the transfer, it shall have the right to appeal to the
130 State Board of Education whose decision shall be final. However,
131 if the school boards agreeing on the legal transfer of any student
132 shall fail to agree on which district shall provide
133 transportation, the responsibility for transporting the student to
134 the transferee school district shall be that of the parent or
135 guardian.

136 (4) Upon the petition in writing of any parent or legal
137 guardian of a school-age child who was lawfully transferred to
138 another school district prior to July 1, 1992, as described in
139 Section 37-15-29(4), the school board of the transferee school
140 district shall consent to the transfer of such child and the
141 transfer of any school-age brother and sister of such child to its
142 district, and shall spread the same upon the minutes of the board.

143 (5) (a) If the board of trustees of a municipal separate
144 school district with added territory does not have a member who is
145 a resident of the added territory outside the corporate limits,
146 upon the petition in writing of any parent or legal guardian of a
147 school-age child who is a resident of the added territory outside
148 the corporate limits, the board of trustees of the municipal
149 separate school district and the school board of the school
150 district adjacent to the added territory shall consent to the
151 transfer of the child from the municipal separate school district
152 to the adjacent school district. The agreement must be spread
153 upon the minutes of the board of trustees of the municipal
154 separate school district and the school board of the adjacent
155 school district. The agreement must provide for the
156 transportation of the student. In the absence of such a
157 provision, the parent or legal guardian shall be responsible for
158 transporting the student to the adjacent school district. Any
159 school district that accepts a student under this subsection may
160 not assess any tuition fees against the transferring student.

161 (b) Before September 1 of each year, the board of
162 trustees of the municipal separate school district shall certify
163 to the State Department of Education the number of students in the
164 added territory of the municipal separate school district who are
165 transferred to the adjacent school district under this subsection.
166 The municipal separate school district also shall certify the
167 total number of students in the school district residing in the
168 added territory plus the number of those students who are
169 transferred to the adjacent school district. Based upon these
170 figures, the department shall calculate the percentage of the
171 total number of students in the added territory who are
172 transferred to the adjacent school district and shall certify this
173 percentage to the levying authority for the municipal separate
174 school district. The levying authority shall remit to the school
175 board of the adjacent school district, from the proceeds of the ad
176 valorem taxes collected for the support of the municipal separate
177 school district from the added territory of the municipal separate
178 school district, an amount equal to the percentage of the total
179 number of students in the added territory who are transferred to
180 the adjacent school district.

181 (6) Upon the petition in writing of any parent or guardian
182 who is a member of the United States Armed Forces or Mississippi
183 National Guard on extended active duty and stationed within the
184 State of Mississippi, the school board of any other school
185 district located within the county in which the parent or guardian
186 is stationed shall consent to the transfer of such parent or
187 guardian's dependent school-age child(ren) to its district and
188 shall spread the same upon the minutes of the board. The school
189 board of the transferee school district shall notify in writing
190 the school district from which the student(s) is(are)
191 transferring, and the school board of the transferor school
192 district shall consent to the transfer and spread the same upon
193 its minutes. Any such agreement by such school boards for the

194 legal transfer of a student under this subsection (6) shall
195 include a provision providing for the transportation of the
196 student. In the absence of such a provision the responsibility
197 for transporting the student to the transferee school district
198 shall be that of the parent or guardian. Any school district
199 which accepts a student under the provisions of this subsection
200 (6) shall not assess any tuition fees upon such transferring
201 student. The school board of any school district may, in its
202 discretion, adopt a uniform policy to allow the enrollment and
203 attendance of the dependent children of military personnel who are
204 residents of Mississippi but are not residents of their district,
205 based upon the employment needs of the district.

206 **SECTION 3.** The Attorney General of the State of Mississippi
207 shall submit this act to the Civil Rights Division of the United
208 States Department of Justice.

209 **SECTION 4.** This act shall take effect and be in force from
210 and after July 1, 2005.