

By: Senator(s) Lee (35th), Brown, Flowers,
Wilemon, Jackson (15th), King, Hewes, White

To: Education;
Appropriations

SENATE BILL NO. 2696

1 AN ACT TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO
2 IMPLEMENT A POLICY OF OPEN ENROLLMENT WHICH ALLOWS STUDENTS IN
3 SCHOOL DISTRICTS ACCREDITED AT LEVEL ONE OR TWO, BEGINNING IN THE
4 2005-2006 SCHOOL YEAR, TO ATTEND ANY PUBLIC SCHOOL IN A DISTRICT
5 ACCREDITED AT LEVEL THREE OR HIGHER OR ANY ACCREDITED PRIVATE OR
6 PAROCHIAL SCHOOL WITHIN THE STATE; TO SPECIFY CERTAIN PROVISIONS
7 THAT MUST BE INCLUDED IN THE OPEN ENROLLMENT POLICY; TO PROVIDE
8 THAT A PUBLIC SCHOOL STUDENT'S PARENT OR GUARDIAN MAY REQUEST AND
9 RECEIVE FROM THE STATE DEPARTMENT OF EDUCATION AN OPPORTUNITY
10 SCHOLARSHIP PAYMENT FOR THE STUDENTS TO ATTEND AN ACCREDITED
11 PRIVATE OR PAROCHIAL SCHOOL; TO SPECIFY SCHOOL DISTRICT
12 OBLIGATIONS AND PRIVATE SCHOOL ELIGIBILITY FOR THE SCHOLARSHIP
13 PROGRAM; TO PROVIDE FOR SCHOLARSHIP FUNDING AND PAYMENT; TO
14 PROVIDE FOR REGULATIONS; TO AMEND SECTIONS 37-15-13 THROUGH
15 37-15-17, 37-15-21 AND 37-15-29 THROUGH 37-15-33, MISSISSIPPI CODE
16 OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR
17 RELATED PURPOSES.

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

19 **SECTION 1.** (1) **Findings and intent.** The Legislature finds
20 that a student should not be compelled, against the wishes of the
21 student's parent or guardian, to remain in a school found by the
22 state to be failing for two (2) years in a four-year period. The
23 Legislature shall make available opportunity scholarships in order
24 to give parents and guardians the opportunity for their children
25 to attend a public school that is performing satisfactorily or to
26 attend an eligible private or parochial school when the parent or
27 guardian chooses to apply the equivalent of the public education
28 funds generated by his or her child to the cost of tuition in the
29 eligible private or parochial school as provided in this section.
30 Eligibility of a private or parochial school shall include the
31 control and accountability requirements that, coupled with the
32 exercise of parental choice, are reasonably necessary to secure
33 the educational public purpose.

34 (2) **Open enrollment policy.** The State Department of
35 Education shall develop and implement a policy of open enrollment
36 which allows the parent, guardian or custodian of any student
37 enrolled in any school district accredited at Level 1 or 2 to
38 apply for the student's enrollment at any public school in a
39 district accredited at Level 3 or higher or at any accredited
40 private or parochial school within the state. Under the policy,
41 the 2005-2006 school year will be the first year that a student
42 may attend a school outside the school district in which the
43 student resides. Before July 1, 2005, the State Department of
44 Education shall adopt an open enrollment policy for students
45 residing in school districts accredited at Level 1 or 2. The
46 policy must include provisions addressing the following matters:

47 (a) **Opportunity scholarship eligibility.** A public
48 school student's parent or guardian may request and receive from
49 the state an opportunity scholarship for the child to enroll in
50 and attend a private or parochial school in accordance with the
51 provisions of this section if:

52 (i) By assigned school attendance area or by
53 special assignment, the student has spent the prior school year in
54 attendance at a public school that has been designated as
55 performance Level 1 or 2 failing to make adequate progress, and
56 that has had two (2) school years in a four-year period of such
57 low performance, and the student's attendance occurred during a
58 school year in which such designation was in effect; or the parent
59 or guardian of a student who has been in attendance elsewhere in
60 the public school system or who is entering kindergarten or first
61 grade has been notified that the student has been assigned to such
62 school for the next school year;

63 (ii) The parent or guardian has obtained
64 acceptance for admission of the student to a private or parochial
65 school eligible for the program, and has notified the Department
66 of Education and the school district of the request for an

67 opportunity scholarship no later than July 1 of the first year in
68 which the student intends to use the scholarship. For purposes of
69 continuity of educational choice, the opportunity scholarship
70 shall remain in force until the student returns to a public school
71 or, if the student chooses to attend a private or parochial school
72 the highest grade of which is Grade 8, until the student
73 matriculates to high school and the public high school to which
74 the student is assigned is an accredited school with a performance
75 category designation of Level 3 or better. However, at any time
76 upon reasonable notice to the State Department of Education and
77 the school district, the student's parent or guardian may remove
78 the student from the private school and place the student in a
79 public school;

80 (iii) A school district shall, for each student
81 enrolled in or assigned to a school that has been designated as
82 performance category Level 1 or 2 for two (2) school years in a
83 four-year period:

84 1. Timely notify the parent or guardian of
85 the student as soon as such designation is made of all options
86 available pursuant to this section; and

87 2. Offer that student's parent or guardian an
88 opportunity to enroll the student in the public school within the
89 district that has been designated by the State Department of
90 Education as a school performing higher than that in which the
91 student is currently enrolled or to which the student has been
92 assigned, but not less than performance category Level 3. For
93 purposes of identifying higher performing public schools eligible
94 for parental choice for the 2005-2006 school year, school
95 performance category designations for the 2005-2006 school year
96 shall be the equivalent of the corresponding performance Level I-V
97 specified in Mississippi Commission on School Accreditation rule
98 at the time this act becomes a law. The parent or guardian is not
99 required to accept this offer in lieu of requesting a state

100 opportunity scholarship to a private or parochial school. The
101 opportunity to continue attending the higher performing public
102 school shall remain in force until the student graduates from high
103 school;

104 (iv) The parent or guardian of a student enrolled
105 in or assigned to a school that has been designated performance
106 category Level 1 or 2 for two (2) school years in a four-year
107 period may choose as an alternative to enroll the student in and
108 transport the student to a higher-performing public school that
109 has available space in an adjacent school district, and that
110 school district shall accept the student and report the student
111 for purposes of the district's funding pursuant to the Mississippi
112 Adequate Education Program;

113 (v) For students in the district who are
114 participating in the Opportunity Scholarship Program, the district
115 shall provide locations and times to take all statewide
116 assessments required;

117 (vi) Students with disabilities who are eligible
118 to receive services from the school district under federal or
119 state law, and who participate in this program, remain eligible to
120 receive services from the school district as provided by federal
121 or state law;

122 (vii) If for any reason a qualified private or
123 parochial school is not available for the student or if the parent
124 or guardian chooses to request that the student be enrolled in the
125 higher performing public school, rather than choosing to request
126 the state opportunity scholarship, transportation costs to the
127 higher performing public school shall be the responsibility of the
128 school district. The district may utilize state categorical
129 transportation funds or other available funds for this purpose.

130 (b) **Private or parochial school eligibility.** To be
131 eligible to participate in the opportunity scholarship program, a

132 private or parochial school must be a Mississippi private or
133 parochial school, may be sectarian or nonsectarian, and must:

134 (i) Demonstrate fiscal soundness by being in
135 operation for one (1) school year or provide the Department of
136 Education with a statement by a certified public accountant
137 confirming that the private or parochial school desiring to
138 participate is insured and the owner or owners have sufficient
139 capital or credit to operate the school for the upcoming year
140 serving the number of students anticipated with expected revenues
141 from tuition and other sources that may be reasonably expected.
142 In lieu of such a statement, a surety bond or letter of credit for
143 the amount equal to the opportunity scholarship funds for any
144 quarter may be filed with the department;

145 (ii) Except for the first year of implementation,
146 notify the Department of Education and the school district in
147 whose service area the school is located of its intent to
148 participate in the program under this section by May 1 of the
149 school year preceding the school year in which it intends to
150 participate. The notice shall specify the grade levels and
151 services that the private or parochial school has available for
152 the opportunity scholarship program;

153 (iii) Comply with the antidiscrimination
154 provisions of 42 USC 2000d;

155 (iv) Meet state and local health and safety laws
156 and codes;

157 (v) Accept scholarship students on an entirely
158 random and religious-neutral basis without regard to the student's
159 past academic history; however, the private or parochial school
160 may give preference in accepting applications to siblings of
161 students who have already been accepted on a random and
162 religious-neutral basis;

163 (vi) Be subject to the instruction, curriculum and
164 attendance criteria adopted by an appropriate nonpublic school

165 accrediting body and be academically accountable to the parent or
166 guardian for meeting the educational needs of the student. The
167 private or parochial school must furnish a school profile which
168 includes student performance;

169 (vii) Employ or contract with teachers who hold a
170 baccalaureate or higher degree, or have at least three (3) years
171 of teaching experience in public, private or parochial schools, or
172 have special skills, knowledge or expertise that qualifies them to
173 provide instruction in subjects taught;

174 (viii) Comply with all state compulsory attendance
175 statutes relating to private schools;

176 (ix) Accept as full tuition and fees the amount
177 provided by the state for each student;

178 (x) Agree not to compel any student attending the
179 private or parochial school on an opportunity scholarship to
180 profess a specific ideological belief, to pray or to worship;

181 (xi) Adhere to the tenets of its published
182 disciplinary procedures prior to the expulsion of any opportunity
183 scholarship student.

184 (c) **Obligation of program participant.**

185 (i) Any student participating in the opportunity
186 scholarship program must remain in attendance throughout the
187 school year, unless excused by the school for illness or other
188 good cause, and must comply fully with the school's code of
189 conduct.

190 (ii) The parent or guardian of each student
191 participating in the opportunity scholarship program must comply
192 fully with the private or parochial school's parental involvement
193 requirements, unless excused by the school for illness or other
194 good cause.

195 (iii) The parent or guardian shall ensure that the
196 student participating in the opportunity scholarship program takes
197 all statewide assessments required.

198 (iv) A participant who fails to comply with this
199 paragraph (c) shall forfeit the opportunity scholarship.

200 (d) **Opportunity scholarship funding and payment.**

201 (i) The maximum opportunity scholarship granted
202 for an eligible student shall be a calculated amount equivalent to
203 the base student cost under the Mississippi Adequate Education
204 Program. In addition, the calculated amount shall include the
205 per-student share of transportation funds, instructional materials
206 funding, technology funding, and other add-on categorical funds as
207 provided for this purpose from state funds. The amount of the
208 opportunity scholarship shall be the calculated amount or the
209 amount of the private or parochial school's tuition and fees,
210 whichever is less. Fees eligible shall include textbook fees, lab
211 fees and other fees related to instruction, including
212 transportation. The district shall report all students who are
213 attending a private or parochial school under this program. The
214 students attending private or parochial schools on opportunity
215 scholarships shall be reported separately from those students
216 reported for purposes of the Mississippi Adequate Education
217 Program. The public, private or parochial school that provides
218 services to students with disabilities shall receive the funding
219 for such services at the appropriate funding level consistent with
220 the provisions of state law.

221 (ii) Following annual notification on July 1 of
222 the number of participants, the Department of Education shall
223 transfer from each school district's appropriated funds the
224 calculated amount from the Mississippi Adequate Education Program
225 and authorized categorical accounts to a separate account for the
226 Opportunity Scholarship Program for quarterly disbursement to the
227 parents or guardians of participating students.

228 (iii) Upon proper documentation reviewed and
229 approved by the Department of Education, the State Fiscal Officer
230 shall make opportunity scholarship payments in four (4) equal

231 amounts no later than September 1, November 1, February 1 and
232 April 1 of each academic year in which the opportunity scholarship
233 is in force. The initial payment shall be made after Department
234 of Education verification of admission acceptance and subsequent
235 payments shall be made upon verification of continued enrollment
236 and attendance at the private or parochial school. Payment must
237 be by individual warrant made payable to the student's parent or
238 guardian and mailed by the Department of Education to the private
239 or parochial school of the parent's or guardian's choice and the
240 parent or guardian shall restrictively endorse the warrant to the
241 private or parochial school.

242 (e) **Liability.** No liability shall arise on the part of
243 the state based on any grant or use of an opportunity scholarship.

244 (f) **Rules.** The State Board of Education may adopt
245 rules to implement the provisions of this section. Rules shall
246 include penalties for noncompliance. However, the inclusion of
247 eligible private or parochial schools within options available to
248 Mississippi public school students does not expand the regulatory
249 authority of the state, its officers, or any school district to
250 impose any additional regulation of private or parochial schools
251 beyond those reasonably necessary to enforce requirements set
252 forth in this section.

253 (g) **Openings for nonresident students.** Each school in
254 those districts accredited at Level 3 or higher and each private
255 and parochial school choosing to participate in the open
256 enrollment policy shall establish the maximum number of students
257 which may be enrolled under the policy in each particular grade or
258 program in the school. These numbers shall be reported to the
259 State Department of Education before the date on which
260 applications are made available to students. A student who
261 resides in a particular school's attendance area in a school
262 district accredited at Level 3 or higher may not be displaced

263 under any circumstances by a student applying for enrollment in
264 that school under the open enrollment policy.

265 (h) **Selection of students.** Each school shall select
266 from its applicant pool those students who may be eligible to
267 enroll in the school under the open enrollment policy on a random
268 basis. Applications may not be opened before their selection.
269 The school shall select such students until the maximum number of
270 openings is achieved. In addition to the students selected for
271 enrollment in a school under the open enrollment policy, a number
272 of students shall be selected for the purpose of establishing a
273 waiting list. If those students originally selected do not choose
274 to enroll in the school or do not meet the school's admissions
275 requirements, students will be offered the opportunity to enroll
276 under the policy in the order that their names appear on the
277 waiting list. The open enrollment policy must establish the date
278 by which each school must notify students applying to enroll in
279 that school under the policy of their acceptance or nonacceptance
280 in the selection process. The State Department of Education shall
281 prepare a form for providing the notice.

282 (i) **Subsequent school years.** A student who is selected
283 for enrollment in a public school under the open enrollment policy
284 may remain enrolled in that school in subsequent school years
285 without reapplying under the policy. However, if the school
286 reduces the maximum number of students which may be enrolled under
287 the policy in a particular grade or program in a subsequent school
288 year due to an increase in enrollment from within the school's
289 attendance area, students enrolled in the public school under the
290 open enrollment policy will be subject to displacement, with those
291 students most recently enrolled under the policy being subject to
292 displacement first. If the Level 1 or 2 school district in which
293 a student resides who is enrolled in a Level 3 or higher public
294 school district under the open enrollment policy achieves an
295 accreditation of Level 3 or higher, the student shall be required

296 to enroll in the school district in which he resides beginning
297 with the next school year following the district's achieving Level
298 3 or higher accreditation. The student may not apply for
299 enrollment in another school under the open enrollment policy so
300 long as the school district in which the student resides is
301 accredited at Level 3 or higher. A student attending a school
302 under the open enrollment policy may reenroll in the school in the
303 attendance area in which the student resides between consecutive
304 school years. However, if a student seeks to change his
305 enrollment during a school year, the principal of both schools
306 involved must approve of the change.

307 (j) **Transportation.** The parent, guardian or custodian
308 of a student enrolled in a school under the open enrollment policy
309 shall be responsible for transporting the student to and from
310 school or a regular bus stop in that school's attendance area.

311 (k) **Funding.** The State Department of Education shall
312 establish a process for remitting to those public schools
313 participating in the open enrollment policy an amount equal to the
314 state's per pupil expenditure multiplied by the number of students
315 enrolled in that school under the open enrollment policy. Such
316 students shall be included in the average daily attendance of the
317 school district in which the students are enrolled.

318 (l) **Student privileges.** A student attending a public
319 school, private or parochial school under the open enrollment
320 policy shall have all of the privileges and shall be subject to
321 the same rules and regulations as students residing in that
322 particular school's attendance area.

323 **SECTION 2.** Section 37-15-13, Mississippi Code of 1972, is
324 amended as follows:

325 37-15-13. When any child qualified under the requirements of
326 Section 37-15-9 shall apply or present himself for enrollment in
327 or admission to the public schools of any school district of this
328 state, the school board of such school district shall have the

329 power and authority to designate the particular school or
330 attendance center of the district in which such child shall be
331 enrolled and which he shall attend; no enrollment of a child in a
332 school shall be final or permanent until such designation shall be
333 made by said school board. Except as otherwise provided in
334 Section 1 of Senate Bill No. 2696, 2005 Regular Session, no child
335 shall be entitled to attend any school or attendance center except
336 that to which he has been assigned by the school board; however,
337 the principal of a school or superintendent of the district may,
338 in proper cases, permit a child to attend a school temporarily
339 until a permanent assignment is made by the school board.

340 **SECTION 3.** Section 37-15-15, Mississippi Code of 1972, is
341 amended as follows:

342 37-15-15. (1) In making assignments of children to schools
343 or attendance centers, the school board shall take into
344 consideration the educational needs and welfare of the child
345 involved, the welfare and best interest of all the pupils
346 attending the school or schools involved, the availability of
347 school facilities, sanitary conditions and facilities at the
348 school or schools involved, health and moral factors at the school
349 or schools, and in the community involved, and all other factors
350 which the school board may consider pertinent, relevant or
351 material in their effect on the welfare and best interest of the
352 school district and the particular school or schools involved.
353 All such assignments shall be on an individual basis as to the
354 particular child involved and, in making such assignment, the
355 school board shall not be limited or circumscribed by the
356 boundaries of any attendance areas which may have been established
357 by such board.

358 (2) This section shall not affect the eligibility of a
359 student to enroll in a school other than the school serving the
360 attendance area in which the student resides under the open
361 enrollment policy implemented by the State Department of Education

362 pursuant to Section 1 of Senate Bill No. 2696, 2005 Regular
363 Session.

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

366 37-15-17. (1) If the parent, guardian or other person
367 having custody of any child shall feel aggrieved by the assignment
368 of such child to a school or attendance center by the school
369 board, then such parent, guardian or other person may, at any time
370 within thirty (30) days after such assignment, make application in
371 writing to the school board for a review or reconsideration of
372 such assignment. Upon receiving any such application, the school
373 board shall set a time and place for the hearing thereof which
374 time shall be not more than fifteen (15) days after the regular
375 meeting of said board next succeeding the date of the filing of
376 said application. At the time and place so fixed, the person
377 filing such application shall have the right to appear and present
378 evidence in support of said application. After hearing said
379 evidence, the school board shall determine whether said
380 application is well taken and supported by the evidence and shall
381 enter an order either affirming its previous action or modifying
382 or changing same as said school board shall find proper.

383 (2) This section shall not authorize any parent, guardian or
384 custodian aggrieved by the nonacceptance or displacement of his or
385 her child at a particular school under the open enrollment policy
386 implemented by the State Department of Education pursuant to
387 Section 1 of Senate Bill No. 2696, 2005 Regular Session, to apply
388 to the school board for a review of a school's decision under the
389 open enrollment policy.

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

392 37-15-21. (1) If any parent, guardian or other person
393 having custody of any child affected by the assignment of such
394 child to a school or attendance center by the school board shall

395 feel aggrieved at the order of the school board provided for in
396 Section 37-15-17, such person may, at any time within thirty (30)
397 days from the date of such order, appeal therefrom by filing a
398 petition for appeal in the circuit court of the county in which
399 the school district involved is located. Upon the filing of such
400 petition for an appeal, process shall be issued for and served
401 upon the president of the school board of the school district
402 involved. Upon being served with process, it shall be the duty of
403 the school board to transmit promptly to the court a certified
404 copy of the entire record of the proceedings as shown by the file
405 of the school board. From the judgment of the circuit court, an
406 appeal may be taken to the Supreme Court in the same manner as
407 other appeals are taken from other judgments of such court.

408 (2) This section shall not authorize any parent, guardian or
409 custodian aggrieved by the nonacceptance or displacement of his or
410 her child at a particular school under the open enrollment policy
411 implemented by the State Department of Education pursuant to
412 Section 1 of Senate Bill No. 2696, 2005 Regular Session, to appeal
413 the school's decision under the open enrollment policy to the
414 circuit court.

415 **SECTION 6.** Section 37-15-29, Mississippi Code of 1972, is
416 amended as follows:

417 37-15-29. (1) Except as provided in subsections (2) through
418 (5) of this section, no minor child may enroll in or attend any
419 school except in the school district of his residence, unless such
420 child be lawfully transferred from the school district of his
421 residence to a school in another school district in accord with
422 the statutes of this state now in effect or which may be hereafter
423 enacted.

424 (2) Those children whose parent(s) or legal guardian(s) are
425 instructional personnel or certificated employees of a school
426 district may, at such employee's discretion, enroll and attend the

427 school or schools of their parent's or legal guardian's employment
428 regardless of the residence of the child.

429 (3) No child shall be required to be transported in excess
430 of thirty (30) miles on a school bus from his or her home to
431 school, or in excess of thirty (30) miles from school to his or
432 her home, if there is another school in an adjacent school
433 district located on a shorter school bus transportation route by
434 the nearest traveled road. Those children residing in such
435 geographical situations may, at the discretion of their parent(s)
436 or legal guardian(s), enroll and attend the nearer school,
437 regardless of the residence of the child. In the event the parent
438 or legal guardian of such child and the school board are unable to
439 agree on the school bus mileage required to transport the child
440 from his or her home to school, an appeal shall lie to the State
441 Board of Education, or its designee, whose decision shall be
442 final.

443 (4) Those children lawfully transferred from the school
444 district of his residence to a school in another school district
445 prior to July 1, 1992, may, at the discretion of their parent(s)
446 or legal guardian(s), continue to enroll and attend school in the
447 transferee school district. Provided further, that the brother(s)
448 and sister(s) of said children lawfully transferred prior to July
449 1, 1992, may also, at the discretion of their parent(s) or legal
450 guardian(s), enroll and attend school in the transferee school
451 district.

452 (5) Any child selected for enrollment in a school outside
453 the school district in which the child resides under the open
454 enrollment policy implemented by the State Department of Education
455 pursuant to Section 1 of Senate Bill No. 2696, 2005 Regular
456 Session, may enroll in and attend school outside the district of
457 his residence; however, if the child is subject to displacement in
458 a subsequent school year, the child must enroll in and attend
459 school in the school district of his residence unless the child is

460 lawfully transferred to a school in another district or accepted
461 for enrollment at another school under the open enrollment policy.
462 Further, if the Level 1 or 2 school district in which a student
463 resides who is enrolled in a Level 3 or higher school district
464 under the open enrollment policy achieves an accreditation of
465 Level 3 or higher, the student shall be required to enroll in the
466 school district in which he resides beginning with the next school
467 year following the district's achieving Level 3 or higher
468 accreditation.

469 **SECTION 7.** Section 37-15-31, Mississippi Code of 1972, is
470 amended as follows:

471 37-15-31. (1) (a) Except as provided in subsections (2)
472 through (5) of this section, upon the petition in writing of a
473 parent or guardian resident of the school district of an
474 individual student filed or lodged with the president or secretary
475 of the school board of a school district in which the pupil has
476 been enrolled or is qualified to be enrolled as a student under
477 Section 37-15-9, or upon the aforesaid petition or the initiative
478 of the school board of a school district as to the transfer of a
479 grade or grades, individual students living in one school district
480 or a grade or grades of a school within the districts may be
481 legally transferred to another school district, by the mutual
482 consent of the school boards of all school districts concerned,
483 which consent must be given in writing and spread upon the minutes
484 of such boards.

485 (b) The school board of the transferring school
486 district to which such petition may be addressed shall act thereon
487 not later than its next regular meeting subsequent to the filing
488 or lodging of the petition, and a failure to act within that time
489 shall constitute a rejection of such request. The school board of
490 the other school district involved (the transferee board) shall
491 act on such request for transfer as soon as possible after the
492 transferor board shall have approved or rejected such transfer and

493 no later than the next regular meeting of the transferee board,
494 and a failure of such transferee board to act within such time
495 shall constitute a rejection of such request. If such a transfer
496 is approved by the transferee board, then such decision shall be
497 final. If such a transfer should be refused by the school board
498 of either school district, then such decision shall be final.

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

502 (2) (a) Upon the petition in writing of any parent or
503 guardian who is a resident of Mississippi and is an instructional
504 or licensed employee of a school district, but not a resident of
505 such district, the school board of the employer school district
506 shall consent to the transfer of such employee's dependent
507 school-age children to its district and shall spread the same upon
508 the minutes of the board. Upon the petition in writing of any
509 parent or guardian who is not a resident of Mississippi and who is
510 an instructional or licensed employee of a school district in
511 Mississippi, the school board of the employer school district
512 shall consent to the transfer of such employee's dependent
513 school-age children to its district and shall spread the same upon
514 the minutes of the board.

515 (b) The school board of any school district, in its
516 discretion, may adopt a uniform policy to allow the enrollment and
517 attendance of the dependent children of noninstructional and
518 nonlicensed employees, who are residents of Mississippi but are
519 not residents of their district. Such policy shall be based upon
520 the employment needs of the district, implemented according to job
521 classification groups and renewed each school year.

522 (c) The employer transferee school district shall
523 notify in writing the school district from which the pupil or
524 pupils are transferring, and the school board of the transferor
525 school district shall spread the same upon its minutes.

526 (d) Any such agreement by school boards for the legal
527 transfer of a student shall include a provision providing for the
528 transportation of the student. In the absence of such a provision
529 the responsibility for transporting the student to the transferee
530 school district shall be that of the parent or guardian.

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

535 (3) Upon the petition in writing of any parent or legal
536 guardian of a school-age child who is a resident of an adjacent
537 school district residing in the geographical situation described
538 in Section 37-15-29(3), the school board of the school district
539 operating the school located in closer proximity to the residence
540 of the child shall consent to the transfer of the child to its
541 district, and shall spread the same upon the minutes of the board.
542 Any such agreement by school boards for the legal transfer of a
543 student under this subsection shall include a provision for the
544 transportation of the student by either the transferor or the
545 transferee school district. In the event that either the school
546 board of the transferee or the transferor school district shall
547 object to the transfer, it shall have the right to appeal to the
548 State Board of Education whose decision shall be final. However,
549 if the school boards agreeing on the legal transfer of any student
550 shall fail to agree on which district shall provide
551 transportation, the responsibility for transporting the student to
552 the transferee school district shall be that of the parent or
553 guardian.

554 (4) Upon the petition in writing of any parent or legal
555 guardian of a school-age child who was lawfully transferred to
556 another school district prior to July 1, 1992, as described in
557 Section 37-15-29(4), the school board of the transferee school
558 district shall consent to the transfer of such child and the

559 transfer of any school-age brother and sister of such child to its
560 district, and shall spread the same upon the minutes of the board.

561 (5) (a) If the board of trustees of a municipal separate
562 school district with added territory does not have a member who is
563 a resident of the added territory outside the corporate limits,
564 upon the petition in writing of any parent or legal guardian of a
565 school-age child who is a resident of the added territory outside
566 the corporate limits, the board of trustees of the municipal
567 separate school district and the school board of the school
568 district adjacent to the added territory shall consent to the
569 transfer of the child from the municipal separate school district
570 to the adjacent school district. The agreement must be spread
571 upon the minutes of the board of trustees of the municipal
572 separate school district and the school board of the adjacent
573 school district. The agreement must provide for the
574 transportation of the student. In the absence of such a
575 provision, the parent or legal guardian shall be responsible for
576 transporting the student to the adjacent school district. Any
577 school district that accepts a student under this subsection may
578 not assess any tuition fees against the transferring student.

579 (b) Before September 1 of each year, the board of
580 trustees of the municipal separate school district shall certify
581 to the State Department of Education the number of students in the
582 added territory of the municipal separate school district who are
583 transferred to the adjacent school district under this subsection.
584 The municipal separate school district also shall certify the
585 total number of students in the school district residing in the
586 added territory plus the number of those students who are
587 transferred to the adjacent school district. Based upon these
588 figures, the department shall calculate the percentage of the
589 total number of students in the added territory who are
590 transferred to the adjacent school district and shall certify this
591 percentage to the levying authority for the municipal separate

592 school district. The levying authority shall remit to the school
593 board of the adjacent school district, from the proceeds of the ad
594 valorem taxes collected for the support of the municipal separate
595 school district from the added territory of the municipal separate
596 school district, an amount equal to the percentage of the total
597 number of students in the added territory who are transferred to
598 the adjacent school district.

599 (6) Whenever a child has been accepted for enrollment by a
600 school which is outside the school district in which the child
601 resides under the open enrollment policy implemented by the State
602 Department of Education pursuant to Section 1 of Senate Bill No.
603 2696, 2005 Regular Session, the school board of the school
604 district in which the school is situated shall consent to the
605 child's enrollment in and attendance at the school.

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

608 37-15-33. All students seeking to transfer from any school,
609 public or private, within or outside of the boundaries of the
610 State of Mississippi, to a public school within the state may be
611 required to take a test to determine the grade and class to which
612 the pupil shall be assigned at the time of pupil transfer.

613 The administrative head of each public school shall
614 administer the test or tests to such pupil or pupils as shall
615 apply for transfer to such public school. Such test or tests
616 shall be administered within thirty (30) days after the filing of
617 each such application for transfer. Notice of the giving of such
618 test shall be given the applicant not less than five (5) days
619 prior to the date of the administration of such test.

620 No transfer of a pupil shall be effected until the test has
621 been given and the pupil is assigned according to the grade and
622 class for which the test shows he is best suited. No pupil shall
623 be assigned to a grade and class more than three (3) grades above
624 or below the grade or class that the pupil would have been

625 assigned to had the pupil remained in the school from which the
626 transfer is being made. Pending the administration of the test
627 herein provided for and its grading and an assignment based
628 thereon the superintendent of the school district or the
629 attendance center principal to which the pupil seeks admission may
630 assign the pupil temporarily to a grade and class comparable to
631 that in which the pupil would have been had the pupil continued in
632 the school from which the transfer was being made.

633 If any student is transferred or reassigned within the school
634 district * * * as authorized by law of the State of
635 Mississippi * * *, the requirement of that pupil's taking the
636 standardized test shall be waived. Likewise, if a pupil shall
637 transfer from one school district to another school district in
638 the manner provided and required by the laws of the State of
639 Mississippi, the requirement of such pupil taking the standardized
640 test shall be waived.

641 **SECTION 9.** This act shall take effect and be in force from
642 and after July 1, 2005.