

By: Senator(s) Chaney

To: Education

SENATE BILL NO. 2704  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 37-15-29, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE FOR THE AUTOMATIC TRANSFER OF A STUDENT LIVING MORE  
3 THAN 20 MILES FROM HIS SCHOOL TO ANOTHER SCHOOL IN AN ADJACENT  
4 SCHOOL DISTRICT LOCATED ON A SHORTER BUS ROUTE IF THERE ARE NO  
5 SCHOOLS LOCATED IN THE COUNTY; TO PROVIDE FOR THE AUTOMATIC  
6 TRANSFER OF A STUDENT WHOSE PARENT OR GUARDIAN IS A MEMBER OF THE  
7 UNITED STATES ARMED FORCES OR MISSISSIPPI NATIONAL GUARD ON  
8 EXTENDED ACTIVE DUTY AND STATIONED ON A MILITARY INSTALLATION IN  
9 MISSISSIPPI; TO PROVIDE FOR THE AUTOMATIC TRANSFER OF A STUDENT  
10 WITH A DISABILITY WHO IS NOT RECEIVING SERVICES IN A LEAST  
11 RESTRICTIVE EDUCATIONAL ENVIRONMENT AS SPECIFIED IN THE STUDENTS  
12 INDIVIDUAL EDUCATION PLAN IN ACCORDANCE WITH FEDERAL REQUIREMENTS;  
13 TO AMEND SECTION 37-15-31, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
14 THERE TO; AND FOR RELATED PURPOSES.

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

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

18 37-15-29. (1) Except as provided in subsections (2), (3)  
19 and (4) of this section, no minor child may enroll in or attend  
20 any school except in the school district of his residence, unless  
21 such child be lawfully transferred from the school district of his  
22 residence to a school in another school district in accord with  
23 the statutes of this state now in effect or which may be hereafter  
24 enacted.

25 (2) Those children whose parent(s) or legal guardian(s) are  
26 instructional personnel or certificated employees of a school  
27 district may at such employee's discretion enroll and attend the  
28 school or schools of their parent's or legal guardian's employment  
29 regardless of the residence of the child.

30 (3) No child shall be required to be transported in excess  
31 of thirty (30) miles on a school bus from his or her home to  
32 school, or in excess of thirty (30) miles from school to his or  
33 her home, if there is another school in an adjacent school

34 district located on a shorter school bus transportation route by  
35 the nearest traveled road. In addition, no child residing in a  
36 county in the state in which no school is located shall be  
37 required to be transported in excess of twenty (20) miles on a  
38 school bus from his or her home to school or in excess of twenty  
39 (20) miles from school to his or her home if there is another  
40 school in an adjacent school district located on a shorter  
41 transportation route by the nearest traveled road. Those children  
42 residing in such geographical situations may, at the discretion of  
43 their parent(s) or legal guardian(s), enroll and attend the nearer  
44 school, regardless of the residence of the child. In the event  
45 the parent or legal guardian of such child and the school board  
46 are unable to agree on the school bus mileage required to  
47 transport the child from his or her home to school, an appeal  
48 shall lie to the State Board of Education, or its designee, whose  
49 decision shall be final.

50 (4) Those children lawfully transferred from the school  
51 district of his residence to a school in another school district  
52 prior to July 1, 1992, may, at the discretion of their parent(s)  
53 or legal guardian(s), continue to enroll and attend school in the  
54 transferee school district. Provided further, that the brother(s)  
55 and sister(s) of said children lawfully transferred prior to July  
56 1, 1992, may also, at the discretion of their parent(s) or legal  
57 guardian(s), enroll and attend school in the transferee school  
58 district.

59 (5) Those children whose parent(s) or legal guardian(s) are  
60 members of the United States Armed Forces or Mississippi National  
61 Guard on extended active duty and stationed within the State of  
62 Mississippi and who reside on a military installation, may, at the  
63 discretion of such parent or guardian, enroll and attend the  
64 school or schools of another school district located in the county  
65 in which such parent or guardian is stationed.

66       (6) Those students with a disability who are not receiving  
67 services in a least restrictive educational environment agreed to  
68 in the student's individual education plan in accordance with  
69 federal requirements. The parent or legal guardian of such  
70 student may choose, as an alternative, to enroll the student in a  
71 public school in another school district which has available space  
72 and has a program with the services agreed to in the student's  
73 individual education plan already in place, and that school  
74 district shall accept the student and report the student for  
75 purposes of the district's funding pursuant to the Mississippi  
76 Adequate Education Program. Transportation of such student shall  
77 be the responsibility of the transferring school district.

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

80       37-15-31. (1) (a) Except as provided in subsections (2)  
81 through (5) of this section, upon the petition in writing of a  
82 parent or guardian resident of the school district of an  
83 individual student filed or lodged with the president or secretary  
84 of the school board of a school district in which the pupil has  
85 been enrolled or is qualified to be enrolled as a student under  
86 Section 37-15-9, or upon the aforesaid petition or the initiative  
87 of the school board of a school district as to the transfer of a  
88 grade or grades, individual students living in one school district  
89 or a grade or grades of a school within the districts may be  
90 legally transferred to another school district, by the mutual  
91 consent of the school boards of all school districts concerned,  
92 which consent must be given in writing and spread upon the minutes  
93 of such boards.

94       (b) The school board of the transferring school  
95 district to which such petition may be addressed shall act thereon  
96 not later than its next regular meeting subsequent to the filing  
97 or lodging of the petition, and a failure to act within that time  
98 shall constitute a rejection of such request. The school board of

99 the other school district involved (the transferee board) shall  
100 act on such request for transfer as soon as possible after the  
101 transferor board shall have approved or rejected such transfer and  
102 no later than the next regular meeting of the transferee board,  
103 and a failure of such transferee board to act within such time  
104 shall constitute a rejection of such request. If such a transfer  
105 is approved by the transferee board, then such decision shall be  
106 final. If such a transfer should be refused by the school board  
107 of either school district, then such decision shall be final.

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

111 (2) (a) Upon the petition in writing of any parent or  
112 guardian who is a resident of Mississippi and is an instructional  
113 or licensed employee of a school district, but not a resident of  
114 such district, the school board of the employer school district  
115 shall consent to the transfer of such employee's dependent  
116 school-age children to its district and shall spread the same upon  
117 the minutes of the board. Upon the petition in writing of any  
118 parent or guardian who is not a resident of Mississippi and who is  
119 an instructional or licensed employee of a school district in  
120 Mississippi, the school board of the employer school district  
121 shall consent to the transfer of such employee's dependent  
122 school-age children to its district and shall spread the same upon  
123 the minutes of the board.

124 (b) The school board of any school district, in its  
125 discretion, may adopt a uniform policy to allow the enrollment and  
126 attendance of the dependent children of noninstructional and  
127 nonlicensed employees, who are residents of Mississippi but are  
128 not residents of their district. Such policy shall be based upon  
129 the employment needs of the district, implemented according to job  
130 classification groups and renewed each school year.

131           (c) The employer transferee school district shall  
132 notify in writing the school district from which the pupil or  
133 pupils are transferring, and the school board of the transferor  
134 school district shall spread the same upon its minutes.

135           (d) Any such agreement by school boards for the legal  
136 transfer of a student shall include a provision providing for the  
137 transportation of the student. In the absence of such a provision  
138 the responsibility for transporting the student to the transferee  
139 school district shall be that of the parent or guardian.

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

144           (3) Upon the petition in writing of any parent or legal  
145 guardian of a school-age child who is a resident of an adjacent  
146 school district residing in the geographical situation described  
147 in Section 37-15-29(3), the school board of the school district  
148 operating the school located in closer proximity to the residence  
149 of the child shall consent to the transfer of the child to its  
150 district, and shall spread the same upon the minutes of the board.  
151 Any such agreement by school boards for the legal transfer of a  
152 student under this subsection shall include a provision for the  
153 transportation of the student by either the transferor or the  
154 transferee school district. In the event that either the school  
155 board of the transferee or the transferor school district shall  
156 object to the transfer, it shall have the right to appeal to the  
157 State Board of Education whose decision shall be final. However,  
158 if the school boards agreeing on the legal transfer of any student  
159 shall fail to agree on which district shall provide  
160 transportation, the responsibility for transporting the student to  
161 the transferee school district shall be that of the parent or  
162 guardian.

163           (4) Upon the petition in writing of any parent or legal  
164 guardian of a school-age child who was lawfully transferred to  
165 another school district prior to July 1, 1992, as described in  
166 Section 37-15-29(4), the school board of the transferee school  
167 district shall consent to the transfer of such child and the  
168 transfer of any school-age brother and sister of such child to its  
169 district, and shall spread the same upon the minutes of the board.

170           (5) (a) If the board of trustees of a municipal separate  
171 school district with added territory does not have a member who is  
172 a resident of the added territory outside the corporate limits,  
173 upon the petition in writing of any parent or legal guardian of a  
174 school-age child who is a resident of the added territory outside  
175 the corporate limits, the board of trustees of the municipal  
176 separate school district and the school board of the school  
177 district adjacent to the added territory shall consent to the  
178 transfer of the child from the municipal separate school district  
179 to the adjacent school district. The agreement must be spread  
180 upon the minutes of the board of trustees of the municipal  
181 separate school district and the school board of the adjacent  
182 school district. The agreement must provide for the  
183 transportation of the student. In the absence of such a  
184 provision, the parent or legal guardian shall be responsible for  
185 transporting the student to the adjacent school district. Any  
186 school district that accepts a student under this subsection may  
187 not assess any tuition fees against the transferring student.

188           (b) Before September 1 of each year, the board of  
189 trustees of the municipal separate school district shall certify  
190 to the State Department of Education the number of students in the  
191 added territory of the municipal separate school district who are  
192 transferred to the adjacent school district under this subsection.  
193 The municipal separate school district also shall certify the  
194 total number of students in the school district residing in the  
195 added territory plus the number of those students who are

196 transferred to the adjacent school district. Based upon these  
197 figures, the department shall calculate the percentage of the  
198 total number of students in the added territory who are  
199 transferred to the adjacent school district and shall certify this  
200 percentage to the levying authority for the municipal separate  
201 school district. The levying authority shall remit to the school  
202 board of the adjacent school district, from the proceeds of the ad  
203 valorem taxes collected for the support of the municipal separate  
204 school district from the added territory of the municipal separate  
205 school district, an amount equal to the percentage of the total  
206 number of students in the added territory who are transferred to  
207 the adjacent school district.

208 (6) Upon the petition in writing of any parent or guardian  
209 who is a member of the United States Armed Forces or Mississippi  
210 National Guard on extended active duty and stationed within the  
211 State of Mississippi and who reside on a military installation,  
212 the school board of any other school district located within the  
213 county in which the parent or guardian is stationed shall consent  
214 to the transfer of such parent or guardian's dependent school-age  
215 child(ren) to its district and shall spread the same upon the  
216 minutes of the board. The school board of the transferee school  
217 district shall notify in writing the school district from which  
218 the student(s) is(are) transferring, and the school board of the  
219 transferor school district shall consent to the transfer and  
220 spread the same upon its minutes. Any such agreement by such  
221 school boards for the legal transfer of a student under this  
222 subsection (6) shall include a provision providing for the  
223 transportation of the student. In the absence of such a provision  
224 the responsibility for transporting the student to the transferee  
225 school district shall be that of the parent or guardian. Any  
226 school district which accepts a student under the provisions of  
227 this subsection (6) shall not assess any tuition fees upon such  
228 transferring student. The school board of any school district

229 may, in its discretion, adopt a uniform policy to allow the  
230 enrollment and attendance of the dependent children of military  
231 personnel who are residents of Mississippi but are not residents  
232 of their district, based upon the employment needs of the  
233 district.

234 (7) Upon the petition in writing of any parent or guardian  
235 of a student with a disability who is not receiving service in a  
236 least restrictive environment agreed to in the student's  
237 individual education plan in accordance with federal law, the  
238 school board of another school district which has available space  
239 and has a program with the services agreed to in the student's  
240 individual education plan already in place shall consent to the  
241 transfer of such student to its district. The school board of the  
242 transferee school district shall notify in writing the school  
243 district from which the student(s) is(are) transferring, and the  
244 school board of the transferor school district shall consent to  
245 the transfer and spread the same upon its minutes. Any such  
246 agreement by such school boards for the legal transfer of a  
247 student under this subsection (7) shall include a provision  
248 providing for the transportation of the student. In the absence  
249 of such a provision the responsibility for transporting the  
250 student to the transferee school district shall be that of the  
251 transferor school district. Any school district which accepts a  
252 student under the provisions of this subsection (7) shall not  
253 assess any tuition fees upon such transferring student.

254 **SECTION 3.** This act shall take effect and be in force from  
255 and after July 1, 2006.