

By: Representative Owen

To: Education

HOUSE BILL NO. 1435

1 AN ACT TO AMEND SECTION 37-15-31, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE REQUIREMENT FOR THE SCHOOL BOARD OF THE SCHOOL
3 DISTRICT OF A CHILD'S RESIDENCE CONSENT TO THE RELEASE OF THE
4 STUDENT FOR TRANSFER TO ANOTHER SCHOOL DISTRICT; TO ONLY REQUIRE
5 THAT THE TRANSFEREE SCHOOL BOARD APPROVE OR REFUSE THE TRANSFER OF
6 A STUDENT UPON RECEIVING NOTICE AND OFFICIAL MEETING OF THE BOARD
7 TO ACT ON SUCH TRANSFER; TO AUTHORIZE THE SIBLINGS OF A LAWFULLY
8 TRANSFERRED STUDENT TO ENROLL IN THE TRANSFEREE SCHOOL DISTRICT AT
9 THE DISCRETION OF THEIR PARENT(S) OR LEGAL GUARDIAN(S) TO PROVIDE
10 THAT A TRANSFER STUDENT'S ATHLETIC ELIGIBILITY SHALL BE DETERMINED
11 BY HIS OR HER FALL SEMESTER ENROLLMENT AND LIMIT PARTICIPATION TO
12 ONE SCHOOL PER SCHOOL YEAR TO PROVIDE FOR THE ALLOCATION AND
13 DISBURSEMENT OF FUNDS TO A RECEIVING SCHOOL DISTRICT UPON THE
14 COMPLETION AND CERTIFICATION OF A STUDENT TRANSFER REQUEST; TO
15 STIPULATE THAT A SCHOOL OR DISTRICT MAY NOT ACCEPT OR DENY
16 STUDENTS FOR TRANSFER BASED ON THE STUDENT'S ABILITY OR
17 DISABILITY; TO REQUIRE SCHOOL DISTRICTS TO PUBLISH THE NUMBER OF
18 AVAILABLE SEATS OPEN TO TRANSFERS WITHIN THE DISTRICT AND
19 INDIVIDUALIZED BY SCHOOL FACILITY; TO REQUIRE THE DISTRICT TO
20 PUBLISH SUCH INFORMATION AT A REASONABLE TIME BEFORE THE START OF
21 THE SCHOOL YEAR; TO REQUIRE DISTRICTS TO ADOPT AND PUBLISH THE
22 PROCESSES USED TO CHOOSE STUDENTS FOR TRANSFER; TO REQUIRE THE
23 STATE DEPARTMENT TO COLLECT AND PUBLISH STUDENT TRANSFER DATA,
24 CATEGORIZED BY ACCEPTANCE, DENIALS AND REASONS FOR DENIALS; TO
25 PROVIDE THAT TRANSFER AUTHORITY OF A DISTRICT TO RECEIVE OR DENY
26 THE ACCEPTANCE OF A STUDENT REQUESTING TRANSFER INTO THE DISTRICT
27 SHALL NOT SUPERSEDE ANY PROVISION OF AN ENFORCEABLE DESEGREGATION
28 ORDER OR A COURT-APPROVED DESEGREGATION PLAN; TO CREATE THE
29 STUDENT PORTABILITY AND OPEN ENROLLMENT FUND AS A SPECIAL FUND IN
30 THE STATE TREASURY; TO PROVIDE THAT MONIES IN THE FUND SHALL BE
31 EXPENDED BY THE STATE DEPARTMENT OF EDUCATION, UPON APPROPRIATION
32 OF THE LEGISLATURE, FOR THE PURPOSE OF PAYING THE COST OF THE
33 STATE PORTION OF TOTAL FUNDING FORMULA BASE-STUDENT COST FOR THE



34 TRANSFERRING STUDENT AT THE TRANSFeree DISTRICT'S RATE; AND FOR
35 RELATED PURPOSES.

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

37 **SECTION 1.** Section 37-15-31, Mississippi Code of 1972, is
38 amended as follows:

39 37-15-31. (1) (a) Except as provided in subsections (2)
40 through * * * (7) of this section, upon the petition in writing of
41 a parent or guardian resident of the school district of an
42 individual student filed or lodged with the president or secretary
43 of the school board of a school district * * * to which the
44 pupil * * * is seeking transfer, individual students living in one
45 school district * * * may be legally transferred to another school
46 district, * * * provided that the school board of the school
47 district to which the transfer is sought consents * * * to receive
48 the students seeking transfer, which such consent must be given in
49 writing and spread upon the minutes of * * * the school board of
50 the transferee school district.

51 (b) Upon receipt of such notice of petition for
52 transfer, the school board of the transferee school district shall
53 act on such request for transfer as soon as possible, and no later
54 than the next regular meeting of the transferee board, and a
55 failure of such transferee board to act within such time shall
56 constitute an approval of such request and approved enrollment by
57 the school board of the transferee school district. If such a
58 transfer is approved by the school board of the transferee school
59 district, then such decision shall be final.



(* * * c) * * * The transferee school district shall notify, in writing, the school district from which the pupil or pupils are transferring of the receipt of such transfer request within a reasonable period of time, and the school board of the transferor school district shall spread the same upon its minutes.

* * *

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

(e) The legal transfer of a student under this subsection shall include a provision for the transportation of the student by either the parent or legal guardian of the student or the transferee school district, provided that the transferee school district does not violate the provision of Section 37-15-29(3), prohibiting the transportation of students in excess of thirty (30) miles from his or her home.

(f) The provisions of this subsection (1) of this section shall not apply to school-age children whose parent(s) or legal guardian(s) are active members of the United States Armed Forces complying with Section 37-15-29(4).

(g) Athletic eligibility for a school-age child who transfers to another school or school district pursuant to this subsection shall be determined based on the child's fall semester enrollment. A child shall be athletically eligible for one (1) school per school year. A child may transfer to another school



85 mid-year, however, that child shall not be athletically eligible
86 until the following fall school year. A child shall not be deemed
87 athletically ineligible, thus ruled ineligible for any length of
88 time, based upon a transfer of schools, so long as the provisions
89 in this section are followed.

90 (2) (a) Upon the petition in writing of any parent or
91 guardian who is a resident of Mississippi and is an instructional
92 or licensed employee of a school district, but not a resident of
93 such district, 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. Upon the petition in writing of any
97 parent or guardian who is not a resident of Mississippi and who is
98 an instructional or licensed employee of a school district in
99 Mississippi, the school board of the employer school district
100 shall consent to the transfer of such employee's dependent
101 school-age children to its district and shall spread the same upon
102 the minutes of the board.

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



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

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

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

(3) Upon the petition in writing of any parent or legal guardian of a school-age child who is a resident of an adjacent school district residing in the geographical situation described in Section 37-15-29(3), the school board of the school district operating the school located in closer proximity to the residence of the child shall consent to the transfer of the child to its district, and shall spread the same upon the minutes of the board.

* * * The legal transfer of a student under this subsection shall include a provision for the transportation of the student by either the * * * parent or legal guardian or the student or the transferee school district. In the event that * * * the school board of the transferee * * * school district shall object to the



transfer, * * * the parent or legal guardian shall have the right to appeal to the State Board of Education whose decision shall be final. * * * The responsibility for transporting the student to the transferee school district shall be that of the parent or guardian if the transferee school district does not agree in the consent of transfer, which shall be spread upon its minutes, to provide transportation for the student.

* * *

(* * *4) * * * Before September 1 of each year, the board of trustees of * * * a municipal separate school district shall certify to the State Department of Education the number of students in the added territory of the municipal separate school district who are transferred to the adjacent school district under this subsection. The municipal separate school district also shall certify the total number of students in the school district residing in the added territory plus the number of those students who are transferred to the adjacent school district. Based upon these figures, the department shall calculate the percentage of the total number of students in the added territory who are transferred to the adjacent school district and shall certify this percentage to the levying authority for the municipal separate school district. The levying authority shall remit to the school board of the adjacent school district, from the proceeds of the ad valorem taxes collected for the support of the municipal separate school district from the added territory of the municipal separate



160 school district, an amount equal to the percentage of the total
161 number of students in the added territory who are transferred to
162 the adjacent school district.

163 (5) The sibling(s) of any child lawfully transferred in
164 accordance with this section, may also, at the discretion of their
165 parent(s) or legal guardian(s), enroll and attend school in the
166 transferee school district, subject to the provisions of this act.
167 For purposes of this subsection, the term sibling includes any
168 biological child, stepchild, adopted child, or foster child in
169 temporary or permanent placement who resides in the same household
170 of the parent or legal guardian who has a child lawfully
171 transferred to another school district under the provisions of
172 this section, provided that such sibling is transferred to the
173 same school or district as the previously transferred sibling.

174 (6) (a) Each school district shall implement an enrollment
175 options program as provided in this section. The local school
176 boards of each school district shall adopt policies to govern the
177 process for enrollment options pursuant to this section, including
178 intradistrict transfers. The policies shall prohibit
179 discrimination against any pupil on the basis of his residential
180 address, ability, disability, race, ethnicity, sex or
181 socioeconomic status. The policies shall be posted to the school
182 district's website.

183 (b) In the development of its policies, each school
184 board shall include a selection policy for requests for transfers



185 of pupils to enroll in the school district, to ensure such
186 selections are made through a random, unbiased process that
187 prohibits an evaluation of whether a pupil should be enrolled
188 based upon the pupil's academic or athletic performance. The
189 local school board shall calculate the capacity of the schools in
190 the district for purposes of this subdivision in a nonarbitrary
191 manner in accordance with subsection (8) of this section.
192 However, school districts may employ existing entrance criteria
193 for specialized schools or programs if the criteria are uniformly
194 applied to all individuals submitting transfer requests. This
195 subsection shall not be construed to prohibit school districts
196 from using academic performance to determine eligibility for, or
197 placement in, programs for gifted and talented pupils established
198 under Section 37-23-179.

199 (7) For students transferring to a school located in a
200 school district in which the student does not reside, the State
201 Department of Education shall pay to the transferee school
202 district (receiving school district) to which the student is
203 transferred an amount equal to the total funding formula funds,
204 allocated for each student transferring to a school district
205 outside his or her district of residence. The amount of funds
206 payable to the receiving school district by the department must be
207 based on the local school district of residence's previous year's
208 enrollment data, determined by using months one (1) through nine
209 (9) average daily membership, as reported to the State Department



of Education by the transferor local school district. Any such
payments made under this subsection (5) by the State Department of
Education to a receiving school district must be made two (2)
business days prior to the last working day of each month. There
shall be paid to a receiving school district, by electronic funds
transfer, one-twelfth (1/12) of the funds to which the receiving
school district is entitled from funds appropriated for the
adequate education program fund, or any subsequent funding program
which replaces such program fund, for each child transferred to
such school district under the authority of this section.
However, in December those payments shall be made on December 15th
or the next business day after that date. If a student transfer
occurs after the start date of the scholastic year, the department
shall not make any distribution of payments to the receiving
school district until such time that the receiving school district
certifies the enrollment of the transfer student to the
department, which shall then only make payments to the receiving
school district for such student for the remainder of the
scholastic year as a proportionate share of the one-twelfth (1/12)
of funds to which the receiving school district is entitled.

(8) (a) Each school district must determine the maximum
enrollment for each grade level and individualized by school
facilities, which shall then be used to determine space available
for transfer requests, and which such information on capacity
limitations shall be published on the school district's website at



235 a reasonable time before the start of the academic school year.
236 For secondary grades, a district may use core classroom size per
237 grade level as the standard to determine maximum enrollment.

238 (b) Not less than four (4) times during the school
239 year, each school district shall publicly post on its website the
240 space available at each grade-level and at each school. Space
241 available shall be determined by comparing the maximum enrollment
242 to the number of pupils actually enrolled. A school district that
243 does not meet the minimum sample size necessary to prevent
244 unlawful release of personally identifiable student data
245 established pursuant to subsection (10) of this section is not
246 subject to the publication requirements pursuant to this
247 subsection.

248 (c) Not less than four (4) times during the school
249 year, every school district shall report to the state reporting
250 system the space available at each grade-level, school, and in
251 each program, the number of transfer requests, the number of
252 accepted transferred pupils and the number of denied transfer
253 requests.

254 (9) By August 1 of each year, the State Board of Education
255 shall collect, analyze and publish to its website the capacity and
256 transfer data from each school district from the previous year.
257 The report shall include the number of participants, the number of
258 denied requests, and other relevant information. The board shall



also report this information to the Legislature no later than
December 31 of each year.

(10) The State Board of Education shall not publish or
release data of a school district if the number of students who
requested a transfer is less than the minimum sample size
necessary for prevention of the unlawful release of personally
identifiable student data. The board shall establish the minimum
number of students necessary to meet the requirements of this
subsection.

(11) The provisions of this section shall not supersede any
provision of an enforceable desegregation court order or a
court-approved desegregation plan.

(12) The receiving school district shall identify each
student it accepts into its district under the transfer authority
of this section and report that data to the State Department of
Education by category of student name, grade classification, grade
point average, gender and ethnicity. The department shall then
compile this data by district, redacting all personally
identifying information of students to prevent any FERPA
violations, and submit an annual report of this information to
each member of the Legislature.

SECTION 2. (1) There is established within the State
Treasury, a special fund to be designated as the "Student
Portability and Open Enrollment Fund." Monies in the fund shall
be expended by the State Department of Education, upon



284 appropriation of the Legislature, for the purposes of paying the
285 cost of the local portion of total funding formula base-student
286 cost for the transferring student at the transferee district's
287 rate, which shall be allocated to transferee school districts on a
288 first-come, first-served basis. The Student Portability and Open
289 Enrollment Fund shall consist of:

290 (a) Monies appropriated to or transferred into the fund
291 by the Legislature, provided that such annual legislative
292 appropriations or transfers into the fund shall not exceed Five
293 Million Dollars (\$5,000,000.00);

294 (b) Monies transferred to the fund from the federal
295 government, other state agencies or local governments;

296 (c) Any gifts, donations or grants made to the state
297 for deposit in the fund;

298 (d) Monies collected for the fund from contributions
299 to, or investment returns or assets of, the program or other
300 monies collected by or for the program to the extent permitted
301 under federal and state law; and

302 (e) Earnings on monies in the fund.

303 (2) The State Board of Education shall accept any grants,
304 gifts, appropriations, or other monies from the state, any unit of
305 federal, state or local government, or any other person, firm,
306 partnership, corporation or other entity solely for deposit into
307 the fund, whether for investment or administrative expenses.



308 (3) Unexpended amounts remaining in the Student Portability
309 and Open Enrollment Fund at the end of a fiscal year shall not
310 lapse into the State General Fund, and any interest earned or
311 investment earnings on amounts in the fund shall be deposited into
312 such fund.

313 **SECTION 3.** This act shall take effect and be in force from
314 and after July 1, 2025.

