

By: Representative Owen

To: Education

HOUSE BILL NO. 1435
(As Passed the House)

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); THAT A
10 TRANSFER STUDENT'S ATHLETIC ELIGIBILITY SHALL BE DETERMINED IN
11 ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY MHSAA
12 GOVERNING STUDENT ELIGIBILITY 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 no later than sixty (60) days of
54 receipt of the request by the transferee board, and a failure of
55 such transferee board to act within such time shall constitute an
56 approval of such request and approved enrollment by the school
57 board of the transferee school district. If such a transfer is
58 approved or denied by the school board of the transferee school



district, then such decision shall be final and binding for the
duration of the scholastic year in which such decision was made.

(* * * 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. 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.

(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(5).



84 (g) Athletic eligibility for a school-age child who
85 transfers to another school or school district pursuant to this
86 subsection shall be determined in accordance with rules and
87 regulations promulgated by the Mississippi High School Association
88 governing student eligibility for any athletic extracurricular
89 activities.

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



the employment needs of the district, implemented according to job 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. * * * 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 school district, an amount equal to the percentage of the total



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

(5) The sibling(s) of any child lawfully transferred in accordance with this section, may also, at the discretion of their parent(s) or legal guardian(s), enroll and attend school in the transferee school district, subject to the provisions of this act. For purposes of this subsection, the term sibling includes any biological child, stepchild, adopted child, or foster child in temporary or permanent placement who resides in the same household of the parent or legal guardian who has a child lawfully transferred to another school district under the provisions of this section, provided that such sibling is transferred to the same school district as the previously transferred sibling. The transferee school district shall have the sole discretion to determine which school within the school district a student approved for transfer will be placed.

(6) (a) Each school district shall implement an enrollment options program as provided in this section. The local school board of each school district shall adopt policies, in its sole discretion, to govern the process for enrollment options pursuant to this section. The policies shall prohibit discrimination against any pupil on the basis of his residential address, ability, disability, race, ethnicity, sex or socioeconomic status. The policies shall be posted to the school district's website.



182 (b) In the development of its policies, each school
183 board shall prohibit an evaluation of whether a pupil should be
184 enrolled based upon the pupil's academic or athletic performance.
185 The local school board, in its sole discretion, shall calculate
186 the capacity for each school within the district in accordance
187 with subsection (8) of this section. School districts may employ
188 existing entrance criteria for specialized schools or programs if
189 the criteria are uniformly applied to all individuals submitting
190 transfer requests. This subsection shall not be construed to
191 prohibit school districts from using academic performance to
192 determine eligibility for, or placement in, programs for gifted
193 and talented pupils established under Section 37-23-179.

194 (7) For students transferring to a school district in which
195 the student does not reside, the State Department of Education
196 shall pay to the transferee school district (receiving school
197 district) to which the student is transferred an amount equal to
198 the total funding formula funds, allocated for each student
199 transferring to a school district outside his or her district of
200 residence. The amount of funds payable to the receiving school
201 district by the department must be based on the local school
202 district of residence's previous year's enrollment data,
203 determined by using months one (1) through nine (9) average daily
204 membership, as reported to the State Department of Education by
205 the transferor local school district. Any such payments made
206 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) In determining the capacity for each school within
the school district pursuant to subsection (6)(b) each school
district shall, in its sole discretion, determine the maximum
enrollment for each grade level for each school within the
district. The school district's enrollment options program,
including capacity and grade level enrollment levels, determined
by the school district shall be published on the school district's



website at a reasonable time before the start of the academic school year. The school district's decision on enrollment levels shall be final and binding.

(b) Not less than two (2) times during the school year, each school district shall publicly post on its website the capacity for each school within the school district as determined pursuant to subsection (6)(b) and the maximum enrollment for each grade level for each school as determined pursuant to paragraph (a) of this subsection. A school district that does not meet the minimum sample size necessary to prevent unlawful release of personally identifiable student data established pursuant to subsection (10) of this section is not subject to the publication requirements pursuant to this subsection.

(c) Not less than two (2) times during the school year, every school district shall report to the state reporting system the capacity for each school within the school district as determined pursuant to subsection (6)(b) and the maximum enrollment for each grade level for each school as determined pursuant to paragraph (a) of this subsection, the number of transfer requests, the number of accepted transferred pupils and the number of denied transfer requests.

(9) By August 1 of each year, the State Board of Education shall collect, analyze and publish to its website the capacity and transfer data from each school district from the previous year. The report shall include the number of participants, the number of



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

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

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

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

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

(e) Earnings on monies in the fund.

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



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

312 **SECTION 3.** PEER shall complete a comprehensive report to
313 include, but not limited to, basic administration, education
314 function, demographics, fiscal impact of district and state
315 equity, and transparency in adopted policies which shall be
316 presented to the Legislature after one (1) year of implementation
317 of this act.

318 **SECTION 4.** This act shall take effect and be in force from
319 and after July 1, 2025.

