

By: Cameron

To: Education;
Appropriations

HOUSE BILL NO. 190

1 AN ACT TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO
2 IMPLEMENT A POLICY OF LIMITED OPEN ENROLLMENT WHICH ALLOWS
3 STUDENTS IN SCHOOL DISTRICTS ACCREDITED AT LEVEL ONE OR TWO,
4 BEGINNING IN THE 2001-2002 SCHOOL YEAR, TO ATTEND ANY PUBLIC
5 SCHOOL IN A DISTRICT ACCREDITED AT LEVEL THREE OR HIGHER OR ANY
6 ACCREDITED PRIVATE OR PAROCHIAL SCHOOL WITHIN THE STATE; TO
7 SPECIFY CERTAIN PROVISIONS THAT MUST BE INCLUDED IN THE LIMITED
8 OPEN ENROLLMENT POLICY; TO AMEND SECTIONS 37-15-13 THROUGH
9 37-15-17, 37-15-21, 37-15-29 THROUGH 37-15-33 AND 37-19-27,
10 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
11 ACT; AND FOR RELATED PURPOSES.

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

13 SECTION 1. (1) The State Department of Education shall
14 develop and implement a policy of limited open enrollment which
15 allows the parent, guardian or custodian of any student enrolled
16 in any school district accredited at Level 1 or 2 to apply for the
17 student's enrollment at any public school in a district accredited
18 at Level 3 or higher or at any accredited private or parochial
19 school within the state. Under the policy, the 2001-2002 school
20 year will be the first year that a student may attend a school
21 outside the school district in which the student resides.

22 (2) Before February 1, 2001, the State Department of
23 Education shall adopt a limited open enrollment policy for
24 students residing in school districts accredited at Level 1 or 2.

25 The policy must include provisions addressing the following

26 matters:

27 (a) **Application process.** The State Department of
28 Education shall prepare a uniform application form for each
29 student enrolled in a Level 1 or 2 school district seeking
30 enrollment in a school district accredited at Level 3 or higher.
31 The application forms shall be made available to students in the
32 principal's office of each school in districts accredited at Level
33 1 or 2. The limited open enrollment policy must specify the date
34 on which the application forms will be made available to students
35 and the deadline by which an application must be submitted by a
36 parent, guardian or custodian of a student to a school at which
37 the student is seeking enrollment.

38 (b) **Openings for nonresident students.** Each school in
39 those districts accredited at Level 3 or higher and each private
40 and parochial school choosing to participate in the limited open
41 enrollment policy shall establish the maximum number of students
42 which may be enrolled under the policy in each particular grade or
43 program in the school. These numbers shall be reported to the
44 State Department of Education before the date on which
45 applications are made available to students. A student who
46 resides in a particular school's attendance area in a school
47 district accredited at Level 3 or higher may not be displaced
48 under any circumstances by a student applying for enrollment in
49 that school under the limited open enrollment policy.

50 (c) **Selection of students.** Each school shall select
51 from its applicant pool those students who may be eligible to
52 enroll in the school under the limited open enrollment policy on a
53 random basis. Applications may not be opened before their
54 selection. The school shall select such students until the
55 maximum number of openings is achieved.

56 (d) **Waiting list.** In addition to the students selected

57 under paragraph (c) for enrollment in a school under the limited
58 open enrollment policy, a number of students shall be selected for
59 the purpose of establishing a waiting list. If those students
60 originally selected do not choose to enroll in the school or do
61 not meet the school's admissions requirements, students will be
62 offered the opportunity to enroll under the policy in the order
63 that their names appear on the waiting list.

64 (e) **Notification.** The limited open enrollment policy
65 must establish the date by which each school must notify students
66 applying to enroll in that school under the policy of their
67 acceptance or nonacceptance in the selection process. The State
68 Department of Education shall prepare a form for providing the
69 notice.

70 (f) **Subsequent school years.** A student who is selected
71 for enrollment in a school under the limited open enrollment
72 policy may remain enrolled in that school in subsequent school
73 years without reapplying under the policy. However, if the school
74 reduces the maximum number of students which may be enrolled under
75 the policy in a particular grade or program in a subsequent school
76 year due to an increase in enrollment from within the school's
77 attendance area, students enrolled in the school under the limited
78 open enrollment policy will be subject to displacement, with those
79 students most recently enrolled under the policy being subject to
80 displacement first. If the Level 1 or 2 school district in which
81 a student resides who is enrolled in a Level 3 or higher school
82 district under the limited open enrollment policy achieves an
83 accreditation of Level 3 or higher, the student shall be required
84 to enroll in the school district in which he resides beginning

with the next school year following the district's achieving Level 3 or higher accreditation. The student may not apply for enrollment in another school under the limited open enrollment policy so long as the school district in which the student resides is accredited at Level 3 or higher.

(g) **Return to original school.** A student attending a school under the limited open enrollment policy may reenroll in the school in the attendance area in which the student resides in between consecutive school years. However, if a student seeks to change his enrollment during a school year, the principal of both schools involved must approve of the change.

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

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

(3) A student attending a public school or private or parochial school under the limited open enrollment policy shall have all of the rights and privileges and shall be subject to the same rules and regulations as students residing in that particular school's attendance area.

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

37-15-13. When any child qualified under the requirements of Section 37-15-9 shall apply or present himself for enrollment in or admission to the public schools of any school district of this state, the school board of such school district shall have the power and authority to designate the particular school or attendance center of the district in which such child shall be enrolled and which he shall attend; no enrollment of a child in a school shall be final or permanent until such designation shall be made by the school board. Except as otherwise provided in Section 1 of House Bill No. , 2000 Regular Session, no child shall be entitled to attend any school or attendance center except that to which he has been assigned by the school board; however, the principal of a school or superintendent of the district * * *, in proper cases, may permit a child to attend a school temporarily until a permanent assignment is made by the school board.

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

37-15-15. (1) In making assignments of children to schools or attendance centers, the school board shall take into consideration the educational needs and welfare of the child involved, the welfare and best interest of all the pupils attending the school or schools involved, the availability of school facilities, sanitary conditions and facilities at the school or schools involved, health and moral factors at the school or schools, and in the community involved, and all other factors which the school board may consider pertinent, relevant or

material in their effect on the welfare and best interest of the school district and the particular school or schools involved. All such assignments shall be on an individual basis as to the particular child involved and, in making such assignment, the school board shall not be limited or circumscribed by the boundaries of any attendance areas which may have been established by such board.

(2) This section shall not affect the eligibility of a student to enroll in a school other than the school serving the attendance area in which the student resides under the limited open enrollment policy implemented by the State Department of Education pursuant to Section 1, House Bill No. , 2000 Regular Session.

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

37-15-17. (1) If the parent, guardian or other person having custody of any child shall feel aggrieved by the assignment of such child to a school or attendance center by the school board, then such parent, guardian or other person * * *, at any time within thirty (30) days after such assignment, may make application in writing to the school board for a review or reconsideration of such assignment. Upon receiving any such application, the school board shall set a time and place for the hearing thereof which time shall be not more than fifteen (15) days after the regular meeting of the board next succeeding the date of the filing of the application. At the time and place so fixed, the person filing such application shall have the right to appear and present evidence in support of the application. After

hearing the evidence, the school board shall determine whether the application is well taken and supported by the evidence and shall enter an order either affirming its previous action or modifying or changing same as the school board shall find proper.

(2) This section shall not authorize any parent, guardian or custodian aggrieved by the nonacceptance or displacement of his or her child at a particular school under the limited open enrollment policy implemented by the State Department of Education pursuant to Section 1, House Bill No. , 2000 Regular Session, to apply to the school board for a review of a school's decision under the limited open enrollment policy.

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

37-15-21. (1) If any parent, guardian or other person having custody of any child affected by the assignment of such child to a school or attendance center by the school board shall feel aggrieved at the order of the school board provided for in Section 37-15-17, such person * * *, at any time within thirty (30) days from the date of such order, may appeal therefrom by filing a petition for appeal in the circuit court of the county in which the school district involved is located. Upon the filing of such petition for an appeal, process shall be issued for and served upon the president of the school board of the school district involved. Upon being served with process, it shall be the duty of the school board to transmit promptly to the court a certified copy of the entire record of the proceedings as shown by the file of the school board. From the judgment of the circuit court, an appeal may be taken to the Supreme Court in the same

manner as other appeals are taken from other judgments of such court.

(2) This section shall not authorize any parent, guardian or custodian aggrieved by the nonacceptance or displacement of his or her child at a particular school under the limited open enrollment policy implemented by the State Department of Education pursuant to Section 1, House Bill No. _____, 2000 Regular Session, to appeal the school's decision under the limited open enrollment policy to the circuit court.

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

37-15-29. (1) Except as provided in subsections (2) through (5) of this section, no minor child may enroll in or attend any school except in the school district of his residence, unless such child is lawfully transferred from the school district of his residence to a school in another school district in accord with the statutes of this state * * *.

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

(3) No child shall be required to be transported in excess of thirty (30) miles on a school bus from his or her home to school, or in excess of thirty (30) miles from school to his or her home, if there is another school in an adjacent school district located on a shorter school bus transportation route by the nearest traveled road. Those children residing in such

geographical situations * * *, at the discretion of their parent(s) or legal guardian(s), may enroll and attend the nearer school, regardless of the residence of the child. In the event the parent or legal guardian of such child and the school board are unable to agree on the school bus mileage required to transport the child from his or her home to school, an appeal shall lie to the State Board of Education, or its designee, whose decision shall be final.

(4) Those children lawfully transferred from the school district of his residence to a school in another school district prior to July 1, 1992, * * * at the discretion of their parent(s) or legal guardian(s), may continue to enroll and attend school in the transferee school district. * * * The brother(s) and sister(s) of those children lawfully transferred prior to July 1, 1992, * * * at the discretion of their parent(s) or legal guardian(s), also may enroll and attend school in the transferee school district.

(5) Any child selected for enrollment in a school outside the school district in which the child resides under the limited open enrollment policy implemented by the State Department of Education pursuant to Section 1, House Bill No. _____, 2000 Regular Session, may enroll in and attend school outside the district of his residence; however, if the child is subject to displacement in a subsequent school year, the child must enroll in and attend school in the school district of his residence unless the child is lawfully transferred to a school in another district or accepted for enrollment at another school under the limited open enrollment policy. Further, if the Level 1 or 2 school district in which a

253 student resides who is enrolled in a Level 3 or higher school
254 district under the limited open enrollment policy achieves an
255 accreditation of Level 3 or higher, the student shall be required
256 to enroll in the school district in which he resides beginning
257 with the next school year following the district's achieving Level
258 3 or higher accreditation.

259 SECTION 7. Section 37-15-31, Mississippi Code of 1972, is
260 amended as follows:

261 37-15-31. (1) (a) Except as provided in subsections (2)
262 through (5) of this section, upon the petition in writing of a
263 parent or guardian, resident of the school district of an
264 individual student, filed or lodged with the president or
265 secretary of the school board of a school district in which the
266 pupil has been enrolled or is qualified to be enrolled as a
267 student under Section 37-15-9, or upon the aforesaid petition or
268 the initiative of the school board of a school district as to the
269 transfer of a grade or grades, individual students living in one
270 school district or a grade or grades of a school within the
271 districts may be legally transferred to another school district,
272 by the mutual consent of the school boards of all school districts
273 concerned, which consent must be given in writing and spread upon
274 the minutes of such boards.

275 (b) * * * If such a transfer is refused by the school
276 board of either school district, then an appeal may be had to the
277 county board of education. The county board of education to which
278 the appeal is taken shall act thereon not later than the date of
279 its next regular meeting subsequent to the disapproval or failure
280 to act by the school board of the school district, or not later

281 than the date of its next regular meeting subsequent to the filing
282 of such appeal.

283 (c) The school board of the transferring school
284 district to which such petition may be addressed shall act thereon
285 not later than its next regular meeting subsequent to the filing
286 or lodging of the petition, and a failure to act within that time
287 shall constitute a rejection of such request. The school board of
288 the other school district involved, the transferee board, and the
289 county board of education, if applicable under paragraph (b) of
290 this subsection, shall act on such request for transfer as soon as
291 possible after the transferor board shall have approved or
292 rejected such transfer and no later than the next regular meeting
293 of the transferee board or county board of education, and a
294 failure of such transferee board to act within such time shall
295 constitute a rejection of such request. If such a transfer is
296 approved by the transferee board, and the county board of
297 education if applicable under paragraph (b) of this subsection,
298 then such decision shall be final. If such a transfer is refused
299 by the school board of either school district or the county board
300 of education, then such decision shall be final.

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

304 (2) (a) Upon the petition in writing of any parent or
305 guardian who is a resident of Mississippi and is an instructional
306 or licensed employee of a school district, but not a resident of
307 such district, the school board of the employer school district
308 shall consent to the transfer of such employee's dependent

309 school-age children to its district and shall spread the same upon
310 the minutes of the board. Upon the petition in writing of any
311 parent or guardian who is not a resident of Mississippi and on
312 January 1, 1993, is an instructional or licensed employee of a
313 school district in Mississippi, the school board of the employer
314 school district shall consent to the transfer of such employee's
315 dependent school-age children to its district and shall spread the
316 same upon the minutes of the board.

317 (b) The school board of any school district may, in its
318 discretion, may adopt a uniform policy to allow the enrollment and
319 attendance of the dependent children of noninstructional and
320 nonlicensed employees, who are residents of Mississippi but are
321 not residents of their district. Such policy shall be based upon
322 the employment needs of the district, implemented according to job
323 classification groups and renewed each school year.

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

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

334 (e) Any school district which accepts a student under
335 the provisions of this subsection shall not assess any tuition
336 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.

Any such agreement by school boards for the legal transfer of a student under this subsection shall include a provision for the transportation of the student by either the transferor or the transferee school district. In the event that either the school board of the transferee or the transferor school district shall object to the transfer, it shall have the right to appeal to the State Board of Education whose decision shall be final. However, if the school boards agreeing on the legal transfer of any student * * * fail to agree on which district shall provide transportation, the responsibility for transporting the student to the transferee school district shall be that of the parent or guardian.

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

(5) Whenever a child has been accepted for enrollment by a

school which is outside the school district in which the child resides under the limited open enrollment policy implemented by the State Department of Education pursuant to Section 1, House Bill No. , 2000 Regular Session, the school board of the school district in which the school is situated shall consent to the child's enrollment in and attendance at the school.

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

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

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

No transfer of a pupil shall be effected until the test has been given and the pupil is assigned according to the grade and class for which the test shows he is best suited. No pupil shall be assigned to a grade and class more than three (3) grades above or below the grade or class that the pupil would have been assigned to had the pupil remained in the school from which the transfer is being made. Pending the administration of the test herein provided for and its grading and an assignment based

393 thereon the superintendent of the school district or the
394 attendance center principal to which the pupil seeks admission may
395 assign the pupil temporarily to a grade and class comparable to
396 that in which the pupil would have been had the pupil continued in
397 the school from which the transfer was being made.

398 If any student is transferred or reassigned within the school
399 district * * * as authorized by law of the State of
400 Mississippi * * *, the requirement of that pupil's taking the
401 standardized test shall be waived. Likewise, if a pupil shall
402 transfer from one school district to another school district in
403 the manner provided and required by the laws of the State of
404 Mississippi, the requirement of such pupil taking the standardized
405 test shall be waived.

406 SECTION 9. Section 37-19-27, Mississippi Code of 1972, is
407 amended as follows:

408 37-19-27. (1) Legally transferred students going from one
409 school district to another shall be counted for teacher allotment
410 and allotments for supportive services by the school district
411 wherein the pupils attend school, including cost allotments
412 prescribed in Sections 37-19-19 and 37-19-31 for school district
413 administrative and clerical salaries and other expenses, but shall
414 be counted for transportation allotment purposes in the school
415 district which furnishes or provides the transportation. The
416 school boards of the school districts which approve the transfer
417 of a student under the provisions of Section 37-15-31 shall enter
418 into an agreement and contract for the payment or nonpayment of
419 any portion of their local maintenance funds which they deem fair
420 and equitable in support of any transferred student. Except as

provided in subsection (2) of this section, local maintenance funds shall be transferred only to the extent specified in the agreement and contract entered into by the affected school districts. The terms of any local maintenance fund payment transfer contract shall be spread upon the minutes of both of the affected school district school boards. The school district accepting any transfer students shall be authorized to accept tuition from such students under the provisions of Section 37-15-31(1) and such agreement may remain in effect for any length of time designated in the contract. The terms of such student transfer contracts and the amounts of any tuition charged any transfer student shall be spread upon the minutes of both of the affected school boards. No school district or private or parochial school accepting any transfer students under the provisions of Section 37-15-31(2), which provides for the transfer of certain school district employee dependents, or under the limited open enrollment policy implemented by the State Department of Education pursuant to Section 1, House Bill No. _____, 2000 Regular Session, shall be authorized to charge such transfer students any tuition fees.

(2) Local maintenance funds shall be paid by the home school district to the transferee school district or private or parochial school for students granted transfers under the provisions of Sections 37-15-29(3), 37-15-31(3) and 37-15-31(5), not to exceed the "individual student entitlement" as defined in Section 37-22-1(2)(d), multiplied by the number of such legally transferred students.

SECTION 10. This act shall take effect and be in force from

449 and after July 1, 2000.