

By: Representative Owen

To: Education

COMMITTEE SUBSTITUTE  
FOR  
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); 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 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.



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

65       \* \* \*

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

69           (e) The legal transfer of a student under this  
70 subsection shall include a provision for the transportation of the  
71 student by either the parent or legal guardian of the student or  
72 the transferee school district, provided that the transferee  
73 school district does not violate the provision of Section  
74 37-15-29(3), prohibiting the transportation of students in excess  
75 of thirty (30) miles from his or her home.

76           (f) The provisions of this subsection (1) of this  
77 section shall not apply to school-age children whose parent(s) or  
78 legal guardian(s) are active members of the United States Armed  
79 Forces complying with Section 37-15-29(5).

80           (g) Athletic eligibility for a school-age child who  
81 transfers to another school or school district pursuant to this  
82 subsection shall be determined in accordance with rules and  
83 regulations promulgated by the Mississippi High School Association



84 governing student eligibility for any athletic extracurricular  
85 activities.

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

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

106 (c) The employer transferee school district shall  
107 notify in writing the school district from which the pupil or



108 pupils are transferring, and the school board of the transferor  
109 school district shall spread the same upon its minutes.

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

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

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

126 \* \* \* The legal transfer of a student under this subsection shall  
127 include a provision for the transportation of the student by  
128 either the \* \* \* parent or legal guardian or the student or the  
129 transferee school district. In the event that \* \* \* the school  
130 board of the transferee \* \* \* school district shall object to the  
131 transfer, \* \* \* the parent or legal guardian shall have the right  
132 to appeal to the State Board of Education whose decision shall be



133 final. \* \* \* The responsibility for transporting the student to  
134 the transferee school district shall be that of the parent or  
135 guardian if the transferee school district does not agree in the  
136 consent of transfer, which shall be spread upon its minutes, to  
137 provide transportation for the student.

138 \* \* \*

139 ( \* \* \*4) \* \* \* Before September 1 of each year, the board  
140 of trustees of \* \* \* a municipal separate school district shall  
141 certify to the State Department of Education the number of  
142 students in the added territory of the municipal separate school  
143 district who are transferred to the adjacent school district under  
144 this subsection. The municipal separate school district also  
145 shall certify the total number of students in the school district  
146 residing in the added territory plus the number of those students  
147 who are transferred to the adjacent school district. Based upon  
148 these figures, the department shall calculate the percentage of  
149 the total number of students in the added territory who are  
150 transferred to the adjacent school district and shall certify this  
151 percentage to the levying authority for the municipal separate  
152 school district. The levying authority shall remit to the school  
153 board of the adjacent school district, from the proceeds of the ad  
154 valorem taxes collected for the support of the municipal separate  
155 school district from the added territory of the municipal separate  
156 school district, an amount equal to the percentage of the total



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

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

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

179 (b) In the development of its policies, each school  
180 board shall include a selection policy for requests for transfers  
181 of pupils to enroll in the school district, to ensure such



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

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





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

226 (8) (a) Each school district must determine the maximum  
227 enrollment for each grade level and individualized by school  
228 facilities, which shall then be used to determine space available  
229 for transfer requests, and which such information on capacity  
230 limitations shall be published on the school district's website at  
231 a reasonable time before the start of the academic school year.



232 For secondary grades, a district may use core classroom size per  
233 grade level as the standard to determine maximum enrollment.

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

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

250 (9) By August 1 of each year, the State Board of Education  
251 shall collect, analyze and publish to its website the capacity and  
252 transfer data from each school district from the previous year.  
253 The report shall include the number of participants, the number of  
254 denied requests, and other relevant information. The board shall  
255 also report this information to the Legislature no later than  
256 December 31 of each year.



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

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

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

276       **SECTION 2.** (1) There is established within the State  
277 Treasury, a special fund to be designated as the "Student  
278 Portability and Open Enrollment Fund." Monies in the fund shall  
279 be expended by the State Department of Education, upon  
280 appropriation of the Legislature, for the purposes of paying the  
281 cost of the local portion of total funding formula base-student



282 cost for the transferring student at the transferee district's  
283 rate, which shall be allocated to transferee school districts on a  
284 first-come, first-served basis. The Student Portability and Open  
285 Enrollment Fund shall consist of:

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

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

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

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

298 (e) Earnings on monies in the fund.

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

304 (3) Unexpended amounts remaining in the Student Portability  
305 and Open Enrollment Fund at the end of a fiscal year shall not  
306 lapse into the State General Fund, and any interest earned or



307 investment earnings on amounts in the fund shall be deposited into  
308 such fund.

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

