

By: Senator(s) Furniss

To: Education;  
Appropriations

## SENATE BILL NO. 2954

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
2 TO TRANSFER THE ADMINISTRATION OF THE MISSISSIPPI COMPULSORY  
3 SCHOOL ATTENDANCE LAW AND THE EMPLOYMENT OF SCHOOL ATTENDANCE  
4 OFFICERS FROM THE STATE DEPARTMENT OF EDUCATION TO THE DISTRICT  
5 ATTORNEYS OF THE STATE, AND TO REVISE THE STATUTORY SCALE FOR  
6 SCHOOL ATTENDANCE OFFICERS; TO REPEAL SECTION 37-13-81 THROUGH  
7 37-13-91, WHICH ESTABLISH THE OFFICE OF COMPULSORY SCHOOL  
8 ATTENDANCE ENFORCEMENT WITHIN THE STATE DEPARTMENT OF EDUCATION;  
9 AND FOR RELATED PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF  
10 THE STATE OF MISSISSIPPI:

11  
12 SECTION 1. Section 37-13-91, Mississippi Code of 1972, is  
13 amended as follows:

14 37-13-91. (1) This section shall be referred to as the  
15 "Mississippi Compulsory School Attendance Law."

16 (2) The following terms as used in this section are defined  
17 as follows:

18 (a) "Parent" means the father or mother to whom a child  
19 has been born, or the father or mother by whom a child has been  
20 legally adopted.

21 (b) "Guardian" means a guardian of the person of a  
22 child, other than a parent, who is legally appointed by a court of  
23 competent jurisdiction.

24 (c) "Custodian" means any person having the present  
25 care or custody of a child, other than a parent or guardian of the  
26 child.

27 (d) "School day" means not less than five (5) and not  
28 more than eight (8) hours of actual teaching in which both  
29 teachers and pupils are in regular attendance for scheduled  
30 schoolwork.

31 (e) "School" means any public school in this state or

32 any nonpublic school in this state which is in session each school  
33 year for at least one hundred eighty (180) school days, except  
34 that the "nonpublic" school term shall be the number of days that  
35 each school shall require for promotion from grade to grade.

36 (f) "Compulsory-school-age child" means a child who has  
37 attained or will attain the age of six (6) years on or before  
38 September 1 of the calendar year and who has not attained the age  
39 of seventeen (17) years on or before September 1 of the calendar  
40 year.

41 (g) "School attendance officer" means a full-time  
42 person employed by the district attorney assigned to monitor  
43 compulsory attendance.

44 (h) "Appropriate school official" means the  
45 superintendent of the school district or his designee or, in the  
46 case of a nonpublic school, the principal or the headmaster.

47 (i) "Nonpublic school" means an institution for the  
48 teaching of children, consisting of a physical plant, whether  
49 owned or leased, including a home, instructional staff members and  
50 students, and which is in session each school year. This  
51 definition shall include, but not be limited to, private, church,  
52 parochial and home instruction programs.

53 (3) A parent, guardian or custodian of a  
54 compulsory-school-age child in this state shall cause the child to  
55 enroll in and attend a public school or legitimate nonpublic  
56 school for the period of time that the child is of compulsory  
57 school age, except under the following circumstances:

58 (a) When a compulsory-school-age child is physically,  
59 mentally or emotionally incapable of attending school as  
60 determined by the appropriate school official based upon  
61 sufficient medical documentation.

62 (b) When a compulsory-school-age child is enrolled in  
63 and pursuing a course of special education, remedial education or  
64 education for handicapped or physically or mentally disadvantaged  
65 children.

66 (c) When a compulsory-school-age child is being  
67 educated in a legitimate home instruction program.

68 The parent, guardian or custodian of a compulsory-school-age  
69 child described in this subsection, or the parent, guardian or  
70 custodian of a compulsory-school-age child attending any nonpublic  
71 school, or the appropriate school official for any or all children  
72 attending a nonpublic school shall complete a "certificate of  
73 enrollment" in order to facilitate the administration of this  
74 section.

75 The form of the certificate of enrollment shall be prepared  
76 by the Office of Compulsory School Attendance Enforcement of the  
77 State Department of Education and shall be designed to obtain the  
78 following information only:

79 (i) The name, address, telephone number and date  
80 of birth of the compulsory-school-age child;

81 (ii) The name, address and telephone number of the  
82 parent, guardian or custodian of the compulsory-school-age child;

83 (iii) A simple description of the type of  
84 education the compulsory-school-age child is receiving and, if the  
85 child is enrolled in a nonpublic school, the name and address of  
86 the school; and

87 (iv) The signature of the parent, guardian or  
88 custodian of the compulsory-school-age child or, for any or all  
89 compulsory-school-age child or children attending a nonpublic  
90 school, the signature of the appropriate school official and the  
91 date signed.

92 The certificate of enrollment shall be returned to the school  
93 attendance officer where the child resides on or before September  
94 15 of each year. Any parent, guardian or custodian found by the  
95 school attendance officer to be in noncompliance with this section  
96 shall comply, after written notice of the noncompliance by the  
97 school attendance officer, with this subsection within ten (10)  
98 days after the notice or be in violation of this section.

99 However, in the event the child has been enrolled in a public

100 school within fifteen (15) calendar days after the first day of  
101 the school year as required in subsection (6), the parent or  
102 custodian may at a later date enroll the child in a legitimate  
103 nonpublic school or legitimate home instruction program and send  
104 the certificate of enrollment to the school attendance officer and  
105 be in compliance with this subsection.

106 For the purposes of this subsection, a legitimate nonpublic  
107 school or legitimate home instruction program shall be those not  
108 operated or instituted for the purpose of avoiding or  
109 circumventing the compulsory attendance law.

110 (4) An "unlawful absence" is an absence during a school day  
111 by a compulsory-school-age child, which absence is not due to a  
112 valid excuse for temporary nonattendance. Days missed from school  
113 due to disciplinary suspension shall not be considered an  
114 "excused" absence under this section. This subsection shall not  
115 apply to children enrolled in a nonpublic school.

116 Each of the following shall constitute a valid excuse for  
117 temporary nonattendance of a compulsory-school-age child enrolled  
118 in a public school, provided satisfactory evidence of the excuse  
119 is provided to the superintendent of the school district or his  
120 designee:

121 (a) An absence is excused when the absence results from  
122 the compulsory-school-age child's attendance at an authorized  
123 school activity with the prior approval of the superintendent of  
124 the school district or his designee. These activities may include  
125 field trips, athletic contests, student conventions, musical  
126 festivals and any similar activity.

127 (b) An absence is excused when the absence results from  
128 illness or injury which prevents the compulsory-school-age child  
129 from being physically able to attend school.

130 (c) An absence is excused when isolation of a  
131 compulsory-school-age child is ordered by the county health  
132 officer, by the State Board of Health or appropriate school  
133 official.

134           (d) An absence is excused when it results from the  
135 death or serious illness of a member of the immediate family of a  
136 compulsory-school-age child. The immediate family members of a  
137 compulsory-school-age child shall include children, spouse,  
138 grandparents, parents, brothers and sisters, including  
139 stepbrothers and stepsisters.

140           (e) An absence is excused when it results from a  
141 medical or dental appointment of a compulsory-school-age child  
142 where an approval of the superintendent of the school district or  
143 his designee is gained before the absence, except in the case of  
144 emergency.

145           (f) An absence is excused when it results from the  
146 attendance of a compulsory-school-age child at the proceedings of  
147 a court or an administrative tribunal if the child is a party to  
148 the action or under subpoena as a witness.

149           (g) An absence may be excused if the religion to which  
150 the compulsory-school-age child or the child's parents adheres,  
151 requires or suggests the observance of a religious event. The  
152 approval of the absence is within the discretion of the  
153 superintendent of the school district or his designee, but  
154 approval should be granted unless the religion's observance is of  
155 such duration as to interfere with the education of the child.

156           (h) An absence may be excused when it is demonstrated  
157 to the satisfaction of the superintendent of the school district  
158 or his designee that the purpose of the absence is to take  
159 advantage of a valid educational opportunity such as travel  
160 including vacations or other family travel. Approval of the  
161 absence must be gained from the superintendent of the school  
162 district or his designee before the absence, but the approval  
163 shall not be unreasonably withheld.

164           (i) An absence may be excused when it is demonstrated  
165 to the satisfaction of the superintendent of the school district  
166 or his designee that conditions are sufficient to warrant the  
167 compulsory-school-age child's nonattendance. However, no absences

168 shall be excused by the school district superintendent or his  
169 designee when any student suspensions or expulsions circumvent the  
170 intent and spirit of the compulsory attendance law.

171 (5) Any parent, guardian or custodian of a  
172 compulsory-school-age child subject to this section who refuses or  
173 willfully fails to perform any of the duties imposed upon him or  
174 her under this section or who intentionally falsifies any  
175 information required to be contained in a certificate of  
176 enrollment, shall be guilty of contributing to the neglect of a  
177 child and, upon conviction, shall be punished in accordance with  
178 Section 97-5-39.

179 Upon prosecution of a parent, guardian or custodian of a  
180 compulsory-school-age child for violation of this section, the  
181 presentation of evidence by the prosecutor that shows that the  
182 child has not been enrolled in school within eighteen (18)  
183 calendar days after the first day of the school year of the public  
184 school which the child is eligible to attend, or that the child  
185 has accumulated twelve (12) unlawful absences during the school  
186 year at the public school in which the child has been enrolled,  
187 shall establish a prima facie case that the child's parent,  
188 guardian or custodian is responsible for the absences and has  
189 refused or willfully failed to perform the duties imposed upon him  
190 or her under this section. However, no proceedings under this  
191 section shall be brought against a parent, guardian or custodian  
192 of a compulsory-school-age child unless the school attendance  
193 officer has contacted promptly the home of the child and has  
194 provided written notice to the parent, guardian or custodian of  
195 the requirement for the child's enrollment or attendance.

196 (6) If a compulsory-school-age child has not been enrolled  
197 in a school within fifteen (15) calendar days after the first day  
198 of the school year of the school which the child is eligible to  
199 attend or the child has accumulated five (5) unlawful absences  
200 during the school year of the public school in which the child is  
201 enrolled, the school district superintendent shall report, within

202 two (2) school days or within five (5) calendar days, whichever is  
203 less, the absences to the school attendance officer. The State  
204 Department of Education shall prescribe a uniform method for  
205 schools to utilize in reporting the unlawful absences to the  
206 school attendance officer. The superintendent, or his designee,  
207 also shall report any student suspensions or student expulsions to  
208 the school attendance officer when they occur.

209 (7) When a school attendance officer has made all attempts  
210 to secure enrollment and/or attendance of a compulsory-school-age  
211 child and is unable to effect the enrollment and/or attendance,  
212 the attendance officer shall file a petition with the youth court  
213 under Section 43-21-451 or shall file a petition in a court of  
214 competent jurisdiction as it pertains to parent or child. The  
215 youth court shall expedite a hearing to make an appropriate  
216 adjudication and a disposition to ensure compliance with the  
217 Compulsory School Attendance Law, and may order the child to  
218 enroll or reenroll in school. The superintendent of the school  
219 district to which the child is ordered may assign, in his  
220 discretion, the child to the alternative school program of the  
221 school established pursuant to Section 37-13-92.

222 (8) The State Board of Education shall adopt rules and  
223 regulations for the purpose of reprimanding any school  
224 superintendents who fail to timely report unexcused absences under  
225 the provisions of this section.

226 (9) Notwithstanding any provision or implication herein to  
227 the contrary, it is not the intention of this section to impair  
228 the primary right and the obligation of the parent or parents, or  
229 person or persons in loco parentis to a child, to choose the  
230 proper education and training for such child, and nothing in this  
231 section shall ever be construed to grant, by implication or  
232 otherwise, to the State of Mississippi, any of its officers,  
233 agencies or subdivisions any right or authority to control,  
234 manage, supervise or make any suggestion as to the control,  
235 management or supervision of any private or parochial school or

236 institution for the education or training of children, of any kind  
237 whatsoever that is not a public school according to the laws of  
238 this state; and this section shall never be construed so as to  
239 grant, by implication or otherwise, any right or authority to any  
240 state agency or other entity to control, manage, supervise,  
241 provide for or affect the operation, management, program,  
242 curriculum, admissions policy or discipline of any such school or  
243 home instruction program.

244 (10) Each district attorney shall employ the number of  
245 school attendance officers determined to be necessary according to  
246 the following: From and after July 1, 1999, the state shall  
247 provide funding for one (1) school attendance officer employed by  
248 the district attorney for each two thousand five hundred (2,500),  
249 or major fraction thereof, of compulsory-school-age children as  
250 defined in subsection (2)(f) of this section in enrollment in the  
251 public schools of the county for the purpose of employing school  
252 attendance officers as defined in subsection (2)(g) of this  
253 section. Each district attorney shall be allotted at least one  
254 (1) school attendance officer for each county within the  
255 jurisdiction of the district attorney's circuit court district,  
256 but in no case shall state funds be used to fund more than five  
257 (5) attendance officers per county. Provided further, that the  
258 State Board of Education shall not approve funding more than one  
259 (1) school attendance officer in any county until justification  
260 therefor is certified by the district attorney. From and after  
261 July 1, 1999, the salary scale for school attendance officers  
262 shall be as follows:

263 (a) For school attendance officers holding a bachelor's  
264 degree or any other attendance officer who does not hold such a  
265 degree, the annual salary shall be based on years of experience as  
266 a school attendance officer or related field of service or  
267 employment, no less than as follows:

| 268 | <u>Years of Experience</u> | <u>Salary</u>      |
|-----|----------------------------|--------------------|
| 269 | <u>0 - 4 years</u>         | <u>\$21,030.00</u> |



|     |                      |                  |
|-----|----------------------|------------------|
| 270 | <u>5 - 8 years</u>   | <u>23,060.00</u> |
| 271 | <u>9 - 12 years</u>  | <u>24,690.00</u> |
| 272 | <u>13 - 16 years</u> | <u>26,320.00</u> |
| 273 | <u>Over 17 years</u> | <u>27,940.00</u> |

274 (b) For school attendance officers holding a license as  
275 a social worker, the annual salary shall be based on years of  
276 experience as a school attendance officer or related field of  
277 service or employment, no less than as follows:

|     |                            |                    |
|-----|----------------------------|--------------------|
| 278 | <u>Years of Experience</u> | <u>Salary</u>      |
| 279 | <u>0 - 4 years</u>         | <u>\$22,100.00</u> |
| 280 | <u>5 - 8 years</u>         | <u>24,560.00</u>   |
| 281 | <u>9 - 12 years</u>        | <u>26,530.00</u>   |
| 282 | <u>13 - 16 years</u>       | <u>28,500.00</u>   |
| 283 | <u>17 - 20 years</u>       | <u>30,470.00</u>   |
| 284 | <u>Over 21 years</u>       | <u>32,440.00</u>   |

285 (c) For school attendance officers holding a master's  
286 degree in a behavioral science or a related field, the annual  
287 salary shall be based on years of experience as a school  
288 attendance officer or related field of service or employment, no  
289 less than as follows:

|     |                            |                    |
|-----|----------------------------|--------------------|
| 290 | <u>Years of Experience</u> | <u>Salary</u>      |
| 291 | <u>0 - 4 years</u>         | <u>\$22,960.00</u> |
| 292 | <u>5 - 8 years</u>         | <u>25,680.00</u>   |
| 293 | <u>9 - 12 years</u>        | <u>27,870.00</u>   |
| 294 | <u>13 - 16 years</u>       | <u>30,050.00</u>   |
| 295 | <u>17 - 20 years</u>       | <u>32,230.00</u>   |
| 296 | <u>Over 21 years</u>       | <u>34,420.00</u>   |

297 SECTION 2. Sections 37-13-81, 37-13-83, 37-13-85, 37-13-87,  
298 37-13-89 and 37-13-91, Mississippi Code of 1972, which establish  
299 the Office of Compulsory School Attendance Enforcement with the  
300 State Department of Education, are repealed.

301 SECTION 3. This act shall take effect and be in force from  
302 and after its passage.