MISSISSIPPI LEGISLATURE

By: Representative Fleming

To: Education; Appropriations

HOUSE BILL NO. 73

AN ACT TO PROHIBIT PUBLIC SCHOOLS FROM ENGAGING IN ABILITY GROUPING AND OTHER TRACKING PRACTICES DESIGNED TO PLACE STUDENTS ACCORDING TO ABILITY; TO AMEND SECTIONS 37-151-5, 37-151-7 AND 37-151-81, MISSISSIPPI CODE OF 1972, TO DELETE PROVISIONS FOR THE FUNDING OF GIFTED EDUCATION PROGRAMS UNDER THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM; TO REPEAL SECTIONS 37-23-171 THROUGH 37-23-181, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR GIFTED EDUCATION PROGRAMS IN ADDITION TO THE REGULAR PROGRAMS OF INSTRUCTION IN THE PUBLIC SCHOOLS; AND FOR RELATED PURPOSES.

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

SECTION 1. Beginning with the 2001-2002 school year, the principal or any other school employee who is responsible for assigning students in the public schools to the various classrooms may not group the students by ability or engage in any other tracking practice that places students in certain classrooms based upon their ability. In assigning students to various classrooms, each public school shall endeavor to achieve heterogeneously grouped classes only.

SECTION 2. Section 37-151-5, Mississippi Code of 1972, is amended as follows:

37-151-5. As used in Sections 37-151-3, 37-151-5 and 37-151-7:

(a) "Adequate program" or "adequate education program" or "Mississippi Adequate Education Program (M.A.E.P.)" shall mean the program proposed to establish adequate current operation funding levels necessary for the programs of such school district to meet at least Level III of the accreditation system as established by the State Board of Education, acting through the
Mississippi Commission on School Accreditation, regardless of the school district's geographic location.

(b) "Educational programs or elements of programs not included in the adequate education program calculations, but which may be included in appropriations and transfers to school districts" shall mean:

(i) "Capital outlay" shall mean those funds used for the constructing, improving, equipping, renovating or major repairing of school buildings or other school facilities, or the cost of acquisition of land whereon to construct or establish such school facilities.

(ii) "Pilot programs" shall mean programs of a pilot or experimental nature usually designed for special purposes and for a specified period of time other than those included in the adequate education program.

(iii) "Adult education" shall mean public education dealing primarily with students above eighteen (18) years of age not enrolled as full-time public school students and not classified as students of technical schools, colleges or universities of the state.

(iv) "Food service programs" shall mean those programs dealing directly with the nutritional welfare of the student, such as the school lunch and school breakfast programs.

(c) "Base student" shall mean that student classification that represents the most economically educated pupil in a school system meeting Level III accreditation, as determined by the State Board of Education.

(d) "Base student cost" shall mean the funding level necessary for providing an adequate education program for one (1) base student, subject to any minimum amounts prescribed in Section 37-151-7(1).
(e) "Add-on program costs" shall mean those items which are included in the adequate education program appropriations and are outside of the program calculations:

   (i) "Transportation" shall mean transportation to and from public schools for the students of Mississippi's public schools provided for under law and funded from state funds.

   (ii) "Vocational or technical education program" shall mean a secondary vocational or technical program approved by the State Department of Education and provided for from state funds.

   (iii) "Special education program" shall mean a program for exceptional children as defined and authorized by Sections 37-23-1 through 37-23-9, and approved by the State Department of Education and provided from state funds.

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   (iv) "Alternative school program" shall mean those programs for certain compulsory-school-age students as defined and provided for in Sections 37-13-92 and 37-19-22.

   (v) "Extended school year programs" shall mean those programs authorized by law which extend beyond the normal school year.

   (vi) "University-based programs" shall mean those university-based programs for handicapped children as defined and provided for in Section 37-23-131 et seq.

   (vii) "Bus driver training" programs shall mean those driver training programs as provided for in Section 37-41-1.

(f) "Teacher" shall include any employee of a local school who is required by law to obtain a teacher's license from the State Board of Education and who is assigned to an instructional area of work as defined by the State Department of Education.

(g) "Principal" shall mean the head of an attendance center or division thereof.
(h) "Superintendent" shall mean the head of a school district.

(i) "School district" shall mean any type of school district in the State of Mississippi, and shall include agricultural high schools.

(j) "Minimum school term" shall mean a term of at least one hundred eighty (180) days of school in which both teachers and pupils are in regular attendance for scheduled classroom instruction for not less than sixty percent (60%) of the normal school day. It is the intent of the Legislature that any tax levies generated to produce additional local funds required by any school district to operate school terms in excess of one hundred seventy-five (175) days shall not be construed to constitute a new program for the purposes of exemption from the limitation on tax revenues as allowed under Sections 27-39-321 and 37-57-107 for new programs mandated by the Legislature.

(k) The term "transportation density" shall mean the number of transported children in average daily attendance per square mile of area served in a school district, as determined by the State Department of Education.

(l) The term "transported children" shall mean children being transported to school who live within legal limits for transportation and who are otherwise qualified for being transported to school at public expense as fixed by Mississippi state law.

(m) The term "year of teaching experience" shall mean nine (9) months of actual teaching in the public or private schools of this or some other state. In no case shall more than one (1) year of teaching experience be given for all services in one (1) calendar or school year. In determining a teacher's experience, no deduction shall be made because of the temporary absence of the teacher because of illness or other good cause, and the teacher shall be given credit therefor. The State Board of
Education shall fix a number of days, not to exceed twenty-five (25) consecutive school days, during which a teacher may not be under contract of employment during any school year and still be considered to have been in full-time employment for a regular scholastic term. In determining the experience of school librarians, each complete year of continuous, full-time employment as a professional librarian in a public library in this or some other state shall be considered a year of teaching experience. If a full-time school administrator returns to actual teaching in the public schools, the term "year of teaching experience" shall include the period of time he or she served as a school administrator.

(n) The term "average daily attendance" shall be the figure which results when the total aggregate attendance during the period or months counted is divided by the number of days during the period or months counted upon which both teachers and pupils are in regular attendance for scheduled classroom instruction less the average daily attendance for self-contained special education classes and, prior to full implementation of the adequate education program the department shall deduct the average daily attendance for the alternative school program provided for in Section 37-19-22.

(o) The term "local supplement" shall mean the amount paid to an individual teacher over and above the adequate education program salary schedule for regular teaching duties.

(p) The term "aggregate amount of support from ad valorem taxation" shall mean the amounts produced by the district's total tax levies for operations.

(q) The term "adequate education program funds" shall mean all funds, both state and local, constituting the requirements for meeting the cost of the adequate program as provided for in Section 37-151-7.
(r) "Department" shall mean the State Department of Education.

(s) "Commission" shall mean the Mississippi Commission on School Accreditation created under Section 37-17-3.

SECTION 3. Section 37-151-7, Mississippi Code of 1972, is amended as follows:

37-151-7. The annual allocation to each school district for the operation of the adequate education program shall be determined as follows:

1. Computation of the basic amount to be included for current operation in the adequate education program. The following procedure shall be followed in determining the annual allocation to each school district:

a) **Determination of average daily attendance.** During months two (2) and three (3) of the current school year, the average daily attendance of a school district shall be computed, or the average daily attendance for the prior school year shall be used, whichever is greater. The district's average daily attendance shall be computed and currently maintained in accordance with regulations promulgated by the State Board of Education.

b) **Determination of base student cost.** The State Board of Education, on or before August 1, with adjusted estimate no later than January 2, shall annually submit to the Legislative Budget Office and the Governor a proposed base student cost adequate to provide the following cost components of educating a pupil in an average school district meeting Level III accreditation standards required by the Commission on School Accreditation: (i) Instructional Cost; (ii) Administrative Cost; (iii) Operation and Maintenance of Plant; and (iv) Ancillary Support Cost. The department shall utilize a statistical methodology which considers such factors as, but not limited to, (i) school size; (ii) assessed valuation per pupil; (iii) the...
percentage of students receiving free lunch; (iv) the local
district maintenance tax levy; (v) other local school district
revenues; and (vi) the district's accreditation level, in the
selection of the representative Mississippi school districts for
which cost information shall be obtained for each of the above
listed cost areas.

For the instructional cost component, the department shall
determine the instructional cost of each of the representative
school districts selected above, excluding instructional cost of
self-contained special education programs and vocational education
programs, and the average daily attendance in the selected school
districts. The instructional cost is then totalled and divided by
the total average daily attendance for the selected school
districts to yield the instructional cost component. For the
administrative cost component, the department shall determine the
administrative cost of each of the representative school districts
selected above, excluding administrative cost of self-contained
special education programs and vocational education programs, and
the average daily attendance in the selected school districts.
The administrative cost is then totalled and divided by the total
average daily attendance for the selected school districts to
yield the administrative cost component. For the plant and
maintenance cost component, the department shall determine the
plant and maintenance cost of each of the representative school
districts selected above, excluding plant and maintenance cost of
self-contained special education programs and vocational education
programs, and the average daily attendance in the selected school
districts. The plant and maintenance cost is then totalled and
divided by the total average daily attendance for the selected
school districts to yield the plant and maintenance cost
component. For the ancillary support cost component, the
department shall determine the ancillary support cost of each of
the representative school districts selected above, excluding
ancillary support cost of self-contained special education
programs and vocational education programs, and the average daily attendance in the selected school districts. The ancillary support cost is then totalled and divided by the total average daily attendance for the selected school districts to yield the ancillary support cost component. The total base cost for each year shall be the sum of the instructional cost component, administrative cost component, plant and maintenance cost component and ancillary support cost component, and any estimated adjustments for additional state requirements as determined by the State Board of Education. Provided, however, that the base student cost in fiscal year 1998 shall be Two Thousand Six Hundred Sixty-four Dollars ($2,664.00).

(c) **Determination of the basic adequate education program cost.** The basic amount for current operation to be included in the Mississippi Adequate Education Program for each school district shall be computed as follows:

Multiply the average daily attendance of the district by the base student cost as established by the Legislature, which yields the total base program cost for each school district.

(d) **Adjustment to the base student cost for at-risk pupils.** The amount to be included for at-risk pupil programs for each school district shall be computed as follows: Multiply the base student cost for the appropriate fiscal year as determined under paragraph (b) by five percent (5%), and multiply that product by the number of pupils participating in the federal free school lunch program in such school district, which yields the total adjustment for at-risk pupil programs for such school district.

(e) **Add-on program cost.** The amount to be allocated to school districts in addition to the adequate education program cost for add-on programs for each school district shall be computed as follows:
(i) Transportation cost shall be the amount allocated to such school district for the operational support of the district transportation system from state funds.

(ii) Vocational or technical education program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(iii) Special education program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(iv) Alternative school program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(v) Extended school year programs shall be the amount allocated to school districts for those programs authorized by law which extend beyond the normal school year.

(vi) University-based programs shall be the amount allocated to school districts for those university-based programs for handicapped children as defined and provided for in Section 37-23-131 et seq., Mississippi Code of 1972.

(vii) Bus driver training programs shall be the amount provided for those driver training programs as provided for in Section 37-41-1.

The sum of the items listed above--(i) transportation, (ii) vocational or technical education, (iii) special education, (iv) alternative school, (v) extended school year, and (vi) university-based--shall yield the add-on cost for each school district.

(f) Total projected adequate education program cost.

The total Mississippi Adequate Education Program Cost shall be the sum of the total basic adequate education program cost (paragraph (c)), and the adjustment to the base student cost for at-risk pupils (paragraph (d)) for each school district.
(g) Supplemental grant to school districts. In addition to the adequate education program grant, the State Department of Education shall annually distribute an additional amount as follows: Multiply the base student cost for the appropriate fiscal year as determined under paragraph (b) by .13% and multiply that product by the average daily attendance of each school district. Such grant shall not be subject to the local revenue requirement provided in subsection (2).

(2) Computation of the required local revenue in support of the adequate education program. The amount that each district shall provide toward the cost of the adequate education program shall be calculated as follows:

(a) The State Board of Education shall certify to each school district that twenty-eight (28) mills, less the estimated amount of the yield of the School Ad Valorem Tax Reduction Fund grants as determined by the State Department of Education, is the millage rate required to provide the district required local effort for that year, or twenty-seven percent (27%) of the basic adequate education program cost for such school district as determined under subsection (c), whichever is a lesser amount. In the case of an agricultural high school the millage requirement shall be set at a level which generates an equitable amount per pupil to be determined by the State Board of Education.

(b) The State Board of Education shall determine (i) the total assessed valuation of nonexempt property for school purposes in each school district; (ii) assessed value of exempt property owned by homeowners aged sixty-five (65) or older or disabled as defined in Section 27-33-67(2); (iii) the school district's tax loss from exemptions provided to applicants under the age of sixty-five (65) and not disabled as defined in Section 27-33-67(1); and (iv) the school district's homestead reimbursement revenues.
(c) The amount of the total adequate education program funding which shall be contributed by each school district shall be the sum of the ad valorem receipts generated by the millage required under this subsection plus the following local revenue sources for the appropriate fiscal year which are or may be available for current expenditure by the school district:

One hundred percent (100%) of Grand Gulf income as prescribed in Section 27-35-309.

(3) Computation of the required state effort in support of the adequate education program.

The required state effort in support of the adequate education program shall be determined by subtracting the sum of the required local tax effort as set forth in subsection (2)(a) of this section and the other local revenue sources as set forth in subsection (2)(c) of this section in an amount not to exceed twenty-seven percent (27%) of the total projected adequate education program cost as set forth in subsection (1)(f) of this section.

Provided, however, that in fiscal year 1998 and in the fiscal year in which the adequate education program is fully funded by the Legislature, any increase in the said state contribution, including the supplemental grant to school districts provided under subsection (1)(g), to any district calculated under this section shall be not less than eight percent (8%) in excess of the amount received by said district from state funds for the fiscal year immediately preceding. For purposes of this section, state funds shall include minimum program funds less the add-on programs, state Uniform Millage Assistance Grant funds, Education Enhancement Funds appropriated for Uniform Millage Assistance Grants and state textbook allocations, and State General Funds allocated for textbooks.
(4) The State Adequate Education Program Fund is hereby established in the State Treasury which shall be used to distribute any funds specifically appropriated by the Legislature to such fund, to school districts entitled to increased allocations of state funds under the adequate education program funding formula prescribed in Sections 37-151-3, 37-151-5 and 37-151-7 of this article. If the Legislature provides less funds than the total state funds needed for support of such increased allocations under the adequate education program, the State Department of Education shall reduce all elements of the cost of the adequate education program proportionately. Any such adequate education program funds shall be transferred to the school district maintenance fund of such district in the manner prescribed in Section 37-19-47, and shall be expended in the manner provided by law.

(5) The Interim School District Capital Expenditure Fund is hereby established in the State Treasury which shall be used to distribute any funds specifically appropriated by the Legislature to such fund to school districts entitled to increased allocations of state funds under the adequate education program funding formula prescribed in Sections 37-151-3 through 37-151-7, until such time as the said adequate education program is fully funded by the Legislature. The following percentages of the total state cost of increased allocations of funds under the adequate education program funding formula shall be appropriated by the Legislature into the Interim School District Capital Expenditure Fund to be distributed to all school districts under the formula:

Nine and two-tenths percent (9.2%) shall be appropriated in fiscal year 1998, twenty percent (20%) shall be appropriated in fiscal year 1999, forty percent (40%) shall be appropriated in fiscal year 2000, sixty percent (60%) shall be appropriated in fiscal year 2001, eighty percent (80%) shall be appropriated in fiscal year 2002, and one hundred percent (100%) shall be appropriated in
fiscal year 2003 into the State Adequate Education Program Fund created in subsection (4). Until such time as the adequate education program is fully funded by the Legislature, such money shall be used by school districts for the following purposes:

(a) Purchasing, erecting, repairing, equipping, remodeling and enlarging school buildings and related facilities, including gymnasiums, auditoriums, lunchrooms, vocational training buildings, libraries, school barns and garages for transportation vehicles, school athletic fields and necessary facilities connected therewith, and purchasing land therefor. Any such capital improvement project by a school district shall be approved by the State Board of Education, and based on an approved long-range plan. The State Board of Education shall promulgate minimum requirements for the approval of school district capital expenditure plans.

(b) Providing necessary water, light, heating, air conditioning, and sewerage facilities for school buildings, and purchasing land therefor.

(c) Paying debt service on existing capital improvement debt of the district or refinancing outstanding debt of a district if such refinancing will result in an interest cost savings to the district.

(d) From and after October 1, 1997, through June 30, 1998, pursuant to a school district capital expenditure plan approved by the State Department of Education, a school district may pledge such funds until July 1, 2002, plus funds provided for in paragraph (e) of this subsection (5) that are not otherwise permanently pledged under such paragraph (e) to pay all or a portion of the debt service on debt issued by the school district under Sections 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302 and 37-41-81, or debt issued by boards of supervisors for agricultural high schools pursuant to Section...
37-27-65, or lease-purchase contracts entered into pursuant to Section 31-7-13, or to retire or refinance outstanding debt of a district, if such pledge is accomplished pursuant to a written contract or resolution approved and spread upon the minutes of an official meeting of the district's school board or board of supervisors. It is the intent of this provision to allow school districts to irrevocably pledge their Interim School District Capital Expenditure Fund allotments as a constant stream of revenue to secure a debt issued under the foregoing code sections. To allow school districts to make such an irrevocable pledge, the state shall take all action necessary to ensure that the amount of a district's Interim School District Capital Expenditure Fund allotments shall not be reduced below the amount certified by the department or the district's total allotment under the Interim Capital Expenditure Fund if fully funded, so long as such debt remains outstanding.

(e) From and after October 1, 1997, through June 30, 1998, in addition to any other authority a school district may have, any school district may issue State Aid Capital Improvement Bonds secured in whole by a continuing annual pledge of any Mississippi Adequate Education Program funds available to the district, in an amount not to exceed One Hundred Sixty ($160.00) per pupil based on the latest completed average daily attendance count certified by the department prior to the issuance of the bonds. Such State Aid Capital Improvement Bonds may be issued for the purposes enumerated in subsections (a), (b), (c) and (g) of this section. Prior to issuing such bonds, the school board of the district shall adopt a resolution declaring the necessity for and its intention of issuing such bonds and borrowing such money, specifying the approximate amount to be so borrowed, how such money is to be used and how such indebtedness is to be evidenced. Any capital improvement project financed with State Aid Capital Improvement Bonds shall be approved by the department, and based
on an approved long-range plan. The State Board of Education shall promulgate minimum requirements for the approval of such school district capital expenditure plans. The State Board of Education shall not approve any capital expenditure plan for a pledge of funds under this paragraph unless it determines (i) that the quality of instruction in such district will not be reduced as a result of this pledge, and (ii) the district has other revenue available to attain and maintain at least Level III accreditation.

A district issuing State Aid Capital Improvement Bonds may pledge for the repayment of such bonds all funds received by the district from the state, in an amount not to exceed One Hundred Sixty Dollars ($160.00) per pupil in average daily attendance in the school district as set forth above, and not otherwise permanently pledged under paragraph (d) of this subsection or under Section 37-61-33(2)(d). The district's school board shall specify by resolution the amount of state funds, which are being pledged by the district for the repayment of the State Aid Capital Improvement Bonds. Once such a pledge is made to secure the bonds, the district shall notify the department of such pledge. Upon making such a pledge, the school district may request the department which may agree to irrevocably transfer a specified amount or percentage of the district's state revenue pledged to repay the district's State Aid Capital Improvement Bonds directly to a state or federally chartered bank serving as a trustee or paying agent on such bonds for the payment of all or portion of such State Aid Capital Improvement Bonds. Such instructions shall be incorporated into a resolution by the school board for the benefit of holders of the bonds and may provide that such withholding and transfer of such other available funds shall be made only upon notification by a trustee or paying agent on such bonds that the amounts available to pay such bonds on any payment date will not be sufficient. It is the intent of this provision to allow school districts to irrevocably pledge a certain,
constant stream of revenue as security for State Aid Capital Improvement Bonds issued hereunder. To allow school districts to make such an irrevocable pledge, the state shall take all action necessary to ensure that the amount of a district's state revenues up to an amount equal to One Hundred Sixty Dollars ($160.00) per pupil as set forth above which have been pledged to repay debt as set forth herein shall not be reduced so long as any State Aid Capital Improvement Bonds are outstanding.

Any such State Aid Capital Improvement bonds shall mature as determined by the district's school bond over a period not to exceed twenty (20) years. Such bonds shall not bear a greater overall maximum interest rate to maturity than that allowed in Section 75-17-101. The further details and terms of such bonds shall be as determined by the school board of the district.

The provisions of this subsection shall be cumulative and supplemental to any existing funding programs or other authority conferred upon school districts or school boards. Debt of a school district secured in whole by a pledge of revenue pursuant to this section shall not be subject to any debt limitation.

For purposes of this paragraph (e), "State Aid Capital Improvement Bond" shall mean any bond, note, or other certificate of indebtedness issued by a school district under the provisions hereof.

This paragraph (e) shall stand repealed from and after June 30, 1998.

(f) As an alternative to the authority granted under paragraph (e), a school district, in its discretion, may authorize the State Board of Education to withhold an amount of the district's adequate education program allotment equal to up to One Hundred Sixty Dollars ($160.00) per student in average daily attendance in the district to be allocated to the State Public School Building Fund to the credit of such school district. A school district may choose the option provided under this
paragraph (e) or paragraph (f), but not both. In addition to the
grants made by the state pursuant to Section 37-47-9, a school
district shall be entitled to grants based on the allotments to
the State Public School Building Fund credited to such school
district under this paragraph. This paragraph (f) shall stand
repealed from and after June 30, 1998.

(g) The State Board of Education may authorize the
school district to expend not more than twenty percent (20%) of
its annual allotment of such funds or Twenty Thousand Dollars
($20,000.00), whichever is greater, for technology needs of the
school district, including computers, software,
telecommunications, cable television, interactive video, film
low-power television, satellite communications, microwave
communications, technology-based equipment installation and
maintenance, and the training of staff in the use of such
technology-based instruction. Any such technology expenditure
shall be reflected in the local district technology plan approved
by the State Board of Education under Section 37-151-17.

(h) To the extent a school district has not utilized
twenty percent (20%) of its annual allotment for technology
purposes under paragraph (g), a school district may expend not
more than twenty percent (20%) of its annual allotment or Twenty
Thousand Dollars ($20,000.00), whichever is greater, for
instructional purposes. The State Board of Education may
authorize a school district to expend more than said twenty
percent (20%) of its annual allotment for instructional purposes
if it determines that such expenditures are needed for
accreditation purposes.

(i) The State Department of Education or the State
Board of Education may require that any project commenced pursuant
to this act with an estimated project cost of not less than Five
Million Dollars ($5,000,000.00) shall be done only pursuant to
program management of the process with respect to design and
construction. Any individuals, partnerships, companies or other
entities acting as a program manager on behalf of a local school
district and performing program management services for projects
covered under this subsection shall be approved by the State
Department of Education.

Any interest accruing on any unexpended balance in the
Interim School District Capital Expenditure Fund shall be invested
by the State Treasurer and placed to the credit of each school
district participating in such fund in its proportionate share.

The provisions of this subsection shall be cumulative and
supplemental to any existing funding programs or other authority
conferred upon school districts or school boards.

SECTION 4. Section 37-151-81, Mississippi Code of 1972, is
amended as follows:

37-151-81. (1) In addition to other funds provided for in
this chapter, there shall be added to the allotment for each
school district for each teacher employed in a State Department of
Education approved program for exceptional children as defined in
Section 37-23-3, the value of one hundred percent (100%) of the
adequate education program salary schedule prescribed in Section
37-19-7, based on the type of certificate and number of years'
teaching experience held by each approved special education
teacher plus one hundred percent (100%) of the applicable
employer's rate for social security and state retirement, except
that only seventy percent (70%) of the value will be added for the
program for three- and four-year old exceptional children.

(2) In addition to the allowances provided above, for each
handicapped child who is being educated by a public school
district or is placed in accord with Section 37-23-77, and whose
individualized educational program (IEP) requires an extended
school year in accord with the State Department of Education
criteria, a sufficient amount of funds shall be allocated for the
purpose of providing the educational services the student
requires. The State Board of Education shall promulgate such regulations as are required to insure the equitable distribution of these funds. All costs for the extended school year for a particular summer shall be reimbursed from funds appropriated for the fiscal year beginning July 1 of that summer. If sufficient funds are not made available to finance all of the required educational services, the State Department of Education shall expend available funds in such a manner that it does not limit the availability of appropriate education to handicapped students more severely than it does to nonhandicapped students.

(3) The State Department of Education is hereby authorized to match adequate education program and other funds allocated for provision of services to handicapped children with Division of Medicaid funds to provide language-speech services, physical therapy and occupational therapy to handicapped students who meet State Department of Education or Division of Medicaid standards and who are Medicaid eligible. Provided further, that the State Department of Education is authorized to pay such funds as may be required as a match directly to the Division of Medicaid pursuant to an agreement to be developed between the State Department of Education and the Division of Medicaid.

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(4) When any children who are residents of the State of Mississippi and qualify under the provisions of Section 37-23-31, shall be provided a program of education, instruction and training within a school under the provisions of said section, the State Department of Education shall allocate the value of one hundred percent (100%) of the adequate education program salary schedule prescribed in Section 37-19-7, for each approved program based on the type of certificate and number of years' teaching experience held by each approved teacher plus one hundred percent (100%) of the applicable employer's rate for social security and state retirement. The university or college shall be eligible for state
and federal funds for such programs on the same basis as local
school districts. The university or college shall be responsible
for providing for the additional costs of the program.

(5) In addition to the allotments provided above, a school
district may provide a program of education and instruction to
children ages five (5) years through twenty-one (21) years, who
are resident citizens of the State of Mississippi, who cannot have
their educational needs met in a regular public school program and
who have not finished or graduated from high school, if those
children are determined by competent medical authorities and
psychologists to need placement in a state licensed facility for
inpatient treatment, day treatment or residential treatment or a
therapeutic group home. Such program shall operate under rules,
regulations, policies and standards of school districts as
determined by the State Board of Education. If a private school
approved by the State Board of Education is operated as an
integral part of the state licensed facility that provides for the
treatment of such children, the private school within the facility
may provide a program of education, instruction and training to
such children by requesting the State Department of Education to
allocate one (1) teacher unit or a portion of a teacher unit for
each approved class. The facility shall be responsible for
providing any additional costs of the program.

Such funds will be allotted based on the type of certificate
and number of years' teaching experience held by each approved
teacher. Such children shall not be counted in average daily
attendance when determining regular teacher unit allocation.

SECTION 5. Sections 37-23-171, 37-23-173, 37-23-175,
37-23-177, 37-23-179 and 37-23-181, Mississippi Code of 1972,
which provide for gifted education programs in addition to the
regular programs of instruction in the public schools, are
repealed.
SECTION 6. Sections 1 through 3 and 5 of this act shall take effect and be in force from and after July 1, 2001. Section 4 of this act shall take effect and be in force from and after July 1, 2002.