

By: Representative Lott

To: Education

HOUSE BILL NO. 1415

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,
 2 TO CHANGE THE DATE THAT ESTABLISHES WHETHER OR NOT A CHILD IS
 3 COMPULSORY-SCHOOL-AGE FROM SEPTEMBER 1 TO AUGUST 1 AND TO INCLUDE
 4 IN THE DEFINITION OF THE TERM "COMPULSORY-SCHOOL-AGE CHILD" THOSE
 5 STUDENTS WHO TURN SEVENTEEN YEARS OF AGE DURING THE SCHOOL YEAR;
 6 TO AMEND SECTION 37-15-9, MISSISSIPPI CODE OF 1972, IN CONFORMITY
 7 THERETO; TO AMEND SECTIONS 37-35-1, 37-35-3 AND 37-35-9,
 8 MISSISSIPPI CODE OF 1972, TO INCREASE THE GENERAL AGE REQUIREMENT
 9 FOR PARTICIPATING IN THE GED PROGRAM FROM SIXTEEN TO SEVENTEEN;
 10 AND FOR RELATED PURPOSES.

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

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:

37 (i) Has attained or will attain the age of six (6)
38 years on or before August 1 of the calendar year;

39 (ii) Has not attained the age of seventeen (17)
40 years on or before August 1 of the calendar year and who has not
41 graduated from high school; and

42 (iii) If the child's birthday occurs during the
43 school year, has not completed the school year during which the
44 child attains the age of seventeen (17) years.

45 (g) "School attendance officer" means a person employed
46 by the State Department of Education pursuant to Section 37-13-89.

47 (h) "Appropriate school official" means the
48 superintendent of the school district or his designee or, in the
49 case of a nonpublic school, the principal or the headmaster.

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

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

61 (a) When a compulsory-school-age child is physically,
62 mentally or emotionally incapable of attending school as

63 determined by the appropriate school official based upon
64 sufficient medical documentation.

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

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

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

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

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

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

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

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

95 The certificate of enrollment shall be returned to the school
96 attendance officer where the child resides on or before September
97 15 of each year. Any parent, guardian or custodian found by the
98 school attendance officer to be in noncompliance with this section
99 shall comply, after written notice of the noncompliance by the
100 school attendance officer, with this subsection within ten (10)
101 days after the notice or be in violation of this section.
102 However, in the event the child has been enrolled in a public
103 school within fifteen (15) calendar days after the first day of
104 the school year as required in subsection (6), the parent or
105 custodian may at a later date enroll the child in a legitimate
106 nonpublic school or legitimate home instruction program and send
107 the certificate of enrollment to the school attendance officer and
108 be in compliance with this subsection.

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

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

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

124 (a) An absence is excused when the absence results from
125 the compulsory-school-age child's attendance at an authorized
126 school activity with the prior approval of the superintendent of
127 the school district or his designee. These activities may include

128 field trips, athletic contests, student conventions, musical
129 festivals and any similar activity.

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

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

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

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

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

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

159 (h) An absence may be excused when it is demonstrated
160 to the satisfaction of the superintendent of the school district

161 or his designee that the purpose of the absence is to take
162 advantage of a valid educational opportunity such as travel
163 including vacations or other family travel. Approval of the
164 absence must be gained from the superintendent of the school
165 district or his designee before the absence, but the approval
166 shall not be unreasonably withheld.

167 (i) An absence may be excused when it is demonstrated
168 to the satisfaction of the superintendent of the school district
169 or his designee that conditions are sufficient to warrant the
170 compulsory-school-age child's nonattendance. However, no absences
171 shall be excused by the school district superintendent or his
172 designee when any student suspensions or expulsions circumvent the
173 intent and spirit of the compulsory attendance law.

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

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

194 section shall be brought against a parent, guardian or custodian
195 of a compulsory-school-age child unless the school attendance
196 officer has contacted promptly the home of the child and has
197 provided written notice to the parent, guardian or custodian of
198 the requirement for the child's enrollment or attendance.

199 (6) If a compulsory-school-age child has not been enrolled
200 in a school within fifteen (15) calendar days after the first day
201 of the school year of the school which the child is eligible to
202 attend or the child has accumulated five (5) unlawful absences
203 during the school year of the public school in which the child is
204 enrolled, the school district superintendent shall report, within
205 two (2) school days or within five (5) calendar days, whichever is
206 less, the absences to the school attendance officer. The State
207 Department of Education shall prescribe a uniform method for
208 schools to utilize in reporting the unlawful absences to the
209 school attendance officer. The superintendent, or his designee,
210 also shall report any student suspensions or student expulsions to
211 the school attendance officer when they occur.

212 (7) When a school attendance officer has made all attempts
213 to secure enrollment * * * or attendance, or both, of a
214 compulsory-school-age child and is unable to effect the
215 enrollment * * * or attendance, or both, the attendance officer
216 shall file a petition with the youth court under Section 43-21-451
217 or shall file a petition in a court of competent jurisdiction as
218 it pertains to parent or child. Sheriffs, deputy sheriffs and
219 municipal law enforcement officers shall be fully authorized to
220 investigate all cases of nonattendance and unlawful absences by
221 compulsory-school-age children, and shall be authorized to file a
222 petition with the youth court under Section 43-21-451 or file a
223 petition or information in the court of competent jurisdiction as
224 it pertains to parent or child for violation of this section. The
225 youth court shall expedite a hearing to make an appropriate
226 adjudication and a disposition to ensure compliance with the

227 Compulsory School Attendance Law, and may order the child to
228 enroll or reenroll in school. The superintendent of the school
229 district to which the child is ordered may assign, in his
230 discretion, the child to the alternative school program of the
231 school established pursuant to Section 37-13-92.

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

236 (9) Notwithstanding any provision or implication herein to
237 the contrary, it is not the intention of this section to impair
238 the primary right and the obligation of the parent or parents, or
239 person or persons in loco parentis to a child, to choose the
240 proper education and training for such child, and nothing in this
241 section shall ever be construed to grant, by implication or
242 otherwise, to the State of Mississippi, any of its officers,
243 agencies or subdivisions any right or authority to control,
244 manage, supervise or make any suggestion as to the control,
245 management or supervision of any private or parochial school or
246 institution for the education or training of children, of any kind
247 whatsoever that is not a public school according to the laws of
248 this state; and this section shall never be construed so as to
249 grant, by implication or otherwise, any right or authority to any
250 state agency or other entity to control, manage, supervise,
251 provide for or affect the operation, management, program,
252 curriculum, admissions policy or discipline of any such school or
253 home instruction program.

254 SECTION 2. Section 37-15-9, Mississippi Code of 1972, is
255 amended as follows:

256 37-15-9. (1) Except as provided in subsection (2) and
257 subject to the provisions of subsection (3) of this section, no
258 child shall be enrolled or admitted to any school which is a part
259 of the free public school system during any school year unless

260 such child will reach his sixth birthday on or before August 1 of
261 that school year. No pupil shall be permanently enrolled in a
262 school in the State of Mississippi who formerly was enrolled in
263 another public or private school within the state until the
264 cumulative record of the pupil shall have been received from the
265 school from which he transferred. Should such record have become
266 lost or destroyed, then it shall be the duty of the superintendent
267 or principal of the school where the pupil last attended school to
268 initiate a new record.

269 (2) Subject to the provisions of subsection (3) of this
270 section, any child who transfers from an out-of-state public or
271 private school in which that state's law provides for a
272 first-grade or kindergarten enrollment date subsequent to August
273 1, shall be allowed to enroll in the public schools of
274 Mississippi, at the same grade level as their prior out-of-state
275 enrollment, if:

276 (a) The parent, legal guardian or custodian of such
277 child was a legal resident of the state from which the child is
278 transferring;

279 (b) The out-of-state school from which the child is
280 transferring is duly accredited by that state's appropriate
281 accrediting authority;

282 (c) Such child was legally enrolled in a public or
283 private school for a minimum of four (4) weeks in the previous
284 state; and

285 (d) The superintendent of schools in the applicable
286 Mississippi school district has determined that the child was
287 making satisfactory educational progress in the previous state.

288 (3) When any child applies for admission or enrollment in
289 any public school in the state, the parent, guardian or child, in
290 the absence of an accompanying parent or guardian, shall indicate
291 on the school registration form if the enrolling child has been
292 expelled from any public or private school or is currently a party

293 to an expulsion proceeding. If it is determined from the child's
294 cumulative record or application for admission or enrollment that
295 the child has been expelled, the school district may deny the
296 student admission and enrollment until the superintendent of the
297 school or his designee has reviewed the child's cumulative record
298 and determined that the child has participated in successful
299 rehabilitative efforts including, but not limited to, progress in
300 an alternative school or similar program. If the child is a party
301 to an expulsion proceeding, the child may be admitted to a public
302 school pending final disposition of the expulsion proceeding. If
303 the expulsion proceeding results in the expulsion of the child,
304 the public school may revoke such admission to school. If the
305 child was expelled or is a party to an expulsion proceeding for an
306 act involving violence, weapons, alcohol, illegal drugs or other
307 activity that may result in expulsion, the school district shall
308 not be required to grant admission or enrollment to the child
309 before one (1) calendar year after the date of the expulsion.

310 SECTION 3. Section 37-35-1, Mississippi Code of 1972, is
311 amended as follows:

312 37-35-1. The State Board for Community and Junior Colleges
313 is authorized and directed to prescribe rules and
314 regulations * * * under which a program may be established,
315 maintained and supervised for the purpose of supplying educational
316 advantages to adults. For purposes of this chapter, the term
317 "adult" shall include all persons who are seventeen (17) years of
318 age or older before August 1 of the calendar year and those
319 persons who attain seventeen (17) years of age after August 1 who
320 are certified, under Section 37-35-3, as eligible to participate
321 in the General Educational Development (GED) Program because of
322 extenuating circumstances, who are not enrolled in school or
323 required to be enrolled in school by the Compulsory School
324 Attendance Law (Section 37-13-91). The aim and purpose of such a
325 program shall be to reduce illiteracy and to provide a general

326 plan of continuing education in the fundamental principles of
327 democratic society, citizenship, public affairs, forums, home
328 family life, arts and crafts, general cultural subjects with
329 priority to be given to academic training through high school and
330 training in technical skills and trades needed by industries, and
331 such other subjects as the State Board for Community and Junior
332 Colleges may prescribe for the social and economic advancement of
333 adults. The State Board for Community and Junior Colleges is
334 authorized to employ such additional supervisory, secretarial and
335 clerical personnel as may be necessary to carry out the provisions
336 of this chapter.

337 SECTION 4. Section 37-35-3, Mississippi Code of 1972, is
338 amended as follows:

339 37-35-3. (1) The board of trustees of any school district,
340 including any community or junior college, may establish and
341 maintain classes for adults, including general educational
342 development classes, under the regulations authorized in this
343 chapter and pursuant to the standards prescribed in subsection
344 (3). The property and facilities of the public school districts
345 may be used for this purpose where such use does not conflict with
346 uses already established.

347 (2) The trustees of any school district desiring to
348 establish such program may request the taxing authority of the
349 district to levy additional ad valorem taxes for the support of
350 this program. The board of supervisors, in the case of a county
351 school district, a special municipal separate school district, or
352 a community or junior college district, and the governing
353 authority of any municipality, in the case of a municipal separate
354 school district, is authorized, in its discretion, to levy a tax
355 not exceeding one (1) mill upon all the taxable property of the
356 district for the support of this program. The tax shall be in
357 addition to all other taxes authorized by law to be levied. In
358 addition to the funds realized from any such levy, the board of

359 trustees of any school district is authorized to use any surplus
360 funds that it may have or that may be made available to it from
361 local sources to supplement this program.

362 (3) (a) Any student participating in an approved General
363 Educational Development (GED) program administered by a local
364 school district or the appropriate community or junior college
365 shall not be considered a dropout. Students in such a program
366 administered by a local school district shall be considered as
367 enrolled within the school district of origin for the purpose of
368 enrollment for minimum program funding only. Such students shall
369 not be considered as enrolled in the regular school program for
370 academic or programmatic purposes. Students in such a program
371 administered by a community college shall be considered as
372 enrolled in the school district of origin for funding purposes.

373 (b) Students participating in an approved * * * GED
374 program shall have an individual career plan developed at the time
375 of placement to insure that the student's academic and job skill
376 needs will be met. The Individual Career Plan will address, but
377 is not limited to, the following:

378 (i) Academic/instructional needs of the student;
379 (ii) Job readiness needs of the student; and
380 (iii) Work experience program options available
381 for the student.

382 (c) Students participating in an approved * * * GED
383 program may participate in existing job and skills development
384 programs or in similar programs developed in conjunction with the
385 GED program and the vocational director.

386 (d) * * * GED programs may be operated by local school
387 districts or may be operated by two (2) or more adjacent school
388 districts, pursuant to a contract approved by the State Board of
389 Education. When two (2) or more school districts contract to
390 operate a * * * GED program, the school board of a district
391 designated to be the lead district shall serve as the governing

392 board of the * * * GED program. Transportation for students
393 placed in the * * * GED program shall be the responsibility of the
394 school district of origin. The expense of establishing,
395 maintaining and operating such GED programs may be paid from funds
396 made available to the school district through contributions,
397 minimum program funds or from local district maintenance funds.

398 (e) Students participating in an approved * * * GED
399 program within a community or junior college shall be included in
400 the average daily attendance of the school district of origin.
401 The school district of origin is authorized to contract with the
402 community or junior college to provide GED services for the
403 student.

404 (f) The State Department of Education will develop
405 procedures and criteria for placement of a student in the * * *
406 GED programs. Students placed in * * * GED programs shall have
407 parental approval for such placement and must meet the following
408 criteria:

409 (i) The student must be at least seventeen (17)
410 years of age before August 1 of the calendar year; however, the
411 school district superintendent may certify a student who attains
412 seventeen (17) years of age after August 1 as eligible to
413 participate in the GED program if the student presents to the
414 superintendent written medical documentation of extenuating
415 circumstances from a licensed physician, which circumstances may
416 include, but are not necessarily limited to, the pregnancy of the
417 student or critical illness of the student's parent;

418 (ii) The student must be at least two (2) grade
419 levels behind or acquired less than four (4) Carnegie units;

420 (iii) The student must have taken every
421 opportunity to continue to participate in coursework leading to a
422 diploma; and

423 (iv) The student must be certified to be eligible
424 to participate in the GED course by the school district
425 superintendent, based on the developed criteria.

426 (g) Students participating in an approved * * * GED
427 program may be excluded from the Mississippi Student Assessment
428 Program, based on the existence of appropriate alternate
429 accountability measures that have been approved by the State
430 Department of Education.

431 SECTION 5. Section 37-35-9, Mississippi Code of 1972, is
432 amended as follows:

433 37-35-9. The State Board for Community and Junior Colleges
434 is authorized to develop and establish General Educational
435 Development (GED) preparatory classes in secondary schools and
436 community and junior colleges and to provide financial assistance
437 from the state for the specific purpose of preparing persons who
438 are seventeen (17) years of age or older before August 1 of the
439 calendar year and those persons who attain seventeen (17) years of
440 age after August 1 who are certified, under Section 37-35-3, as
441 eligible to participate in the GED program because of extenuating
442 circumstances, who are not enrolled in school or required to be
443 enrolled in school by the Compulsory School Attendance Law
444 (Section 37-13-91), to successfully write the GED test and earn a
445 certificate of equivalency which is equivalent to the high school
446 diploma.

447 The State Board for Community and Junior Colleges is
448 authorized to administer the * * * GED Testing Program under the
449 policies and guidelines of the GED Testing Service of the American
450 Council on Education.

451 This program shall be administered by the State Board for
452 Community and Junior Colleges through the secondary schools and
453 community and junior colleges as the local needs indicate and are
454 practical.

455 Full and general supervision over the program by the State
456 Board for Community and Junior Colleges shall insure that
457 duplication of effort by secondary schools and community and
458 junior colleges will be eliminated; however, nothing in this
459 section shall be construed to prohibit a school district from
460 implementing a program of * * * GED preparatory instruction and
461 testing in an alternative school program.

462 Adult students for GED preparatory classes may be accepted by
463 schools and community and junior colleges from any area of the
464 state provided students are bona fide residents of Mississippi.

465 Instructors, counselors and supervisors utilized in the
466 teaching of GED preparatory classes shall be licensed in the
467 appropriate area as required by the State Board for Community and
468 Junior Colleges.

469 SECTION 6. This act shall take effect and be in force from
470 and after July 1, 2001.