To: Education

MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001
By: Representative Lott

HOUSE BILL NO. 1415

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

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

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

37-13-91. (1) This section shall be referred to as the
"Mississippi Compulsory School Attendance Law."
(2) The following terms as used in this section are defined
as follows:

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

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

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

(d) "School day" means not less than five (5) and not
more than eight (8) hours of actual teaching in which both
teachers and pupils are in regular attendance for scheduled
schoolwork.
(e) "School" means any public school in this state or any nonpublic school in this state which is in session each school year for at least one hundred eighty (180) school days, except that the "nonpublic" school term shall be the number of days that each school shall require for promotion from grade to grade.

(f) "Compulsory-school-age child" means a child who:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) The signature of the parent, guardian or custodian of the compulsory-school-age child or, for any or all compulsory-school-age child or children attending a nonpublic school, the signature of the appropriate school official and the date signed.
The certificate of enrollment shall be returned to the school attendance officer where the child resides on or before September 15 of each year. Any parent, guardian or custodian found by the school attendance officer to be in noncompliance with this section shall comply, after written notice of the noncompliance by the school attendance officer, with this subsection within ten (10) days after the notice or be in violation of this section.

However, in the event the child has been enrolled in a public school within fifteen (15) calendar days after the first day of the school year as required in subsection (6), the parent or custodian may at a later date enroll the child in a legitimate nonpublic school or legitimate home instruction program and send the certificate of enrollment to the school attendance officer and be in compliance with this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) When a school attendance officer has made all attempts
to secure enrollment * * * or attendance, or both, of a
compulsory-school-age child and is unable to effect the
enrollment * * * or attendance, or both, the attendance officer
shall file a petition with the youth court under Section 43-21-451
or shall file a petition in a court of competent jurisdiction as
it pertains to parent or child. Sheriffs, deputy sheriffs and
municipal law enforcement officers shall be fully authorized to
investigate all cases of nonattendance and unlawful absences by
compulsory-school-age children, and shall be authorized to file a
petition with the youth court under Section 43-21-451 or file a
petition or information in the court of competent jurisdiction as
it pertains to parent or child for violation of this section. The
youth court shall expedite a hearing to make an appropriate
adjudication and a disposition to ensure compliance with the
Compulsory School Attendance Law, and may order the child to enroll or reenroll in school. The superintendent of the school district to which the child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

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

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

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

37-15-9. (1) Except as provided in subsection (2) and subject to the provisions of subsection (3) of this section, no child shall be enrolled or admitted to any school which is a part of the free public school system during any school year unless
such child will reach his sixth birthday on or before August 1 of that school year. No pupil shall be permanently enrolled in a school in the State of Mississippi who formerly was enrolled in another public or private school within the state until the cumulative record of the pupil shall have been received from the school from which he transferred. Should such record have become lost or destroyed, then it shall be the duty of the superintendent or principal of the school where the pupil last attended school to initiate a new record.

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

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

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

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

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

(3) When any child applies for admission or enrollment in any public school in the state, the parent, guardian or child, in the absence of an accompanying parent or guardian, shall indicate on the school registration form if the enrolling child has been expelled from any public or private school or is currently a party...
to an expulsion proceeding. If it is determined from the child's cumulative record or application for admission or enrollment that the child has been expelled, the school district may deny the student admission and enrollment until the superintendent of the school or his designee has reviewed the child's cumulative record and determined that the child has participated in successful rehabilitative efforts including, but not limited to, progress in an alternative school or similar program. If the child is a party to an expulsion proceeding, the child may be admitted to a public school pending final disposition of the expulsion proceeding. If the expulsion proceeding results in the expulsion of the child, the public school may revoke such admission to school. If the child was expelled or is a party to an expulsion proceeding for an act involving violence, weapons, alcohol, illegal drugs or other activity that may result in expulsion, the school district shall not be required to grant admission or enrollment to the child before one (1) calendar year after the date of the expulsion.

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

37-35-1. The State Board for Community and Junior Colleges is authorized and directed to prescribe rules and regulations * * * under which a program may be established, maintained and supervised for the purpose of supplying educational advantages to adults. For purposes of this chapter, the term "adult" shall include all persons who are seventeen (17) years of age or older before August 1 of the calendar year and those persons who attain seventeen (17) years of age after August 1 who are certified, under Section 37-35-3, as eligible to participate in the General Educational Development (GED) Program because of extenuating circumstances, who are not enrolled in school or required to be enrolled in school by the Compulsory School Attendance Law (Section 37-13-91). The aim and purpose of such a program shall be to reduce illiteracy and to provide a general
plan of continuing education in the fundamental principles of
democratic society, citizenship, public affairs, forums, home
family life, arts and crafts, general cultural subjects with
priority to be given to academic training through high school and
training in technical skills and trades needed by industries, and
such other subjects as the State Board for Community and Junior
Colleges may prescribe for the social and economic advancement of
adults. The State Board for Community and Junior Colleges is
authorized to employ such additional supervisory, secretarial and
clerical personnel as may be necessary to carry out the provisions
of this chapter.

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

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

(2) The trustees of any school district desiring to
establish such program may request the taxing authority of the
district to levy additional ad valorem taxes for the support of
this program. The board of supervisors, in the case of a county
school district, a special municipal separate school district, or
a community or junior college district, and the governing
authority of any municipality, in the case of a municipal separate
school district, is authorized, in its discretion, to levy a tax
not exceeding one (1) mill upon all the taxable property of the
district for the support of this program. The tax shall be in
addition to all other taxes authorized by law to be levied. In
addition to the funds realized from any such levy, the board of
trustees of any school district is authorized to use any surplus funds that it may have or that may be made available to it from local sources to supplement this program.

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

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

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

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

(d) GED programs may be operated by local school districts or may be operated by two (2) or more adjacent school districts, pursuant to a contract approved by the State Board of Education. When two (2) or more school districts contract to operate a GED program, the school board of a district designated to be the lead district shall serve as the governing
board of the * * * GED program. Transportation for students placed in the * * * GED program shall be the responsibility of the school district of origin. The expense of establishing, maintaining and operating such GED programs may be paid from funds made available to the school district through contributions, minimum program funds or from local district maintenance funds.

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

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

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

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

(iii) The student must have taken every opportunity to continue to participate in coursework leading to a diploma; and
The student must be certified to be eligible to participate in the GED course by the school district superintendent, based on the developed criteria.

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

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

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

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

This program shall be administered by the State Board for Community and Junior Colleges through the secondary schools and community and junior colleges as the local needs indicate and are practical.
Full and general supervision over the program by the State Board for Community and Junior Colleges shall insure that duplication of effort by secondary schools and community and junior colleges will be eliminated; however, nothing in this section shall be construed to prohibit a school district from implementing a program of GED preparatory instruction and testing in an alternative school program.

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

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

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