

By: Senator(s) Harden

To: Education;
Appropriations

SENATE BILL NO. 2636

1 AN ACT TO DIRECT THE STATE BOARD OF EDUCATION TO CONDUCT AN
2 ASSESSMENT OF ALL PREKINDERGARTEN SCHOOL READINESS PILOT PROGRAMS
3 OPERATED BY LOCAL SCHOOL DISTRICTS IN THE STATE; TO DIRECT THE
4 STATE BOARD OF EDUCATION TO INCLUDE CERTAIN DATA IN THE
5 ASSESSMENT; TO DIRECT LOCAL SCHOOL DISTRICTS OPERATING
6 PREKINDERGARTEN PROGRAMS AND OTHER PROGRAMS AND SERVICES FOR
7 PRESCHOOL-AGE CHILDREN TO PROVIDE CERTAIN DATA TO THE STATE BOARD
8 OF EDUCATION; TO DIRECT THE STATE BOARD OF EDUCATION TO MAKE
9 RECOMMENDATIONS ON THE NEED FOR ADDITIONAL PUBLIC SCHOOL
10 PREKINDERGARTEN PROGRAMS OR SERVICES AND THE STEPS NECESSARY TO
11 ENSURE PREKINDERGARTEN PROGRAMS OPERATED BY LOCAL SCHOOL DISTRICTS
12 IN THE STATE MEET OR EXCEED RECOGNIZED STANDARDS OF EXCELLENCE; TO
13 AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
14 LOCAL SCHOOL BOARDS TO USE SCHOOL FACILITIES TO PROVIDE SERVICES
15 FOR PREKINDERGARTEN-AGE CHILDREN; TO AMEND SECTIONS 37-13-91 AND
16 37-15-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COMPULSORY
17 SCHOOL ATTENDANCE LAW SHALL APPLY TO FIVE-YEAR OLDS WHO HAVE
18 ENROLLED IN FULL DAY PUBLIC SCHOOL KINDERGARTEN PROGRAMS; AND FOR
19 RELATED PURPOSES.

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

21 **SECTION 1.** (1) Prior to the end of the 2003-2003 school
22 year, the State Board of Education shall conduct an assessment of
23 all prekindergarten school readiness programs, including pilot
24 programs, operated by or in partnership with local public school
25 districts in the state. The assessment shall include, but not be
26 limited to, data that identifies the population served by each
27 program, including the age and number of children served in total
28 and in each classroom; the number and qualifications of teachers
29 and teacher assistants in total and in each classroom; the days
30 and hours of program operation; the criteria used to determine
31 eligibility for enrollment; the early care and education programs
32 attended by these children prior to enrollment, or in addition to
33 current enrollment; hours of parental employment; identification
34 of eligibility of the enrolled population for any other
35 publicly-supported programs; and how each district is evaluating



36 the success of these programs. This information shall be made
37 available on the Department of Education website for use by the
38 Interagency Advisory Council on Early Childhood Education and
39 others. The assessment shall also include data comparing program
40 operation to recognized standards, including, but not limited to,
41 the Regulations Governing the Operation of a Licensed Child Care
42 Facility established by the State Board of Health; the
43 accreditation standards of the National Association for the
44 Education of Young Children; the key indicators of operating
45 standards, such as group size and adult:child ratio, used in
46 proven program models that demonstrate the impact of
47 prekindergarten school readiness programs for at-risk children on
48 the later school and life success of the participating children.
49 The assessment shall also include data comparing the benchmarks of
50 the prekindergarten and kindergarten curriculum authorized by the
51 State Board of Education to the developmental milestones
52 recognized by the field of pediatrics as representing the optimum
53 development of children three (3) to five (5) years of age.

54 (2) Local school districts operating a prekindergarten
55 program shall provide local program data to the Department of
56 Education as directed by the State Board of Education.

57 (3) The State Board of Education shall consider the findings
58 of the assessment and make recommendations on the need for
59 additional public school prekindergarten programs or services and
60 the steps necessary to ensure prekindergarten programs operated by
61 local school districts in the state meet or exceed recognized
62 standards of excellence. In making its recommendations, the State
63 Board of Education shall use the information to assess the impact
64 of compulsory attendance of enrolled children in kindergarten, and
65 the need for special and remedial education classes. The State
66 Board of Education shall submit a report of the findings of the
67 assessment and any recommendations based on these findings to the
68 Legislature no later than July 1, 2003. The State Board of



69 Education shall also make the report and recommendations available
70 to the Interagency Advisory Council on Early Childhood Education
71 for the review and comment of the membership. Any comments and
72 recommendations of the council shall be included in the report to
73 the Legislature.

74 (4) The State Department of Education shall utilize existing
75 staff to collect data required under this section. It is the
76 intent of the Legislature that any funds used shall be associated
77 with the production and duplication of reports in making the
78 information available to the Legislature.

79 **SECTION 2.** Section 37-7-301, Mississippi Code of 1972, is
80 amended as follows:

81 37-7-301. The school boards of all school districts shall
82 have the following powers, authority and duties in addition to all
83 others imposed or granted by law, to wit:

84 (a) To organize and operate the schools of the district
85 and to make such division between the high school grades and
86 elementary grades as, in their judgment, will serve the best
87 interests of the school;

88 (b) To introduce public school music, art, manual
89 training and other special subjects into either the elementary or
90 high school grades, as the board shall deem proper;

91 (c) To be the custodians of real and personal school
92 property and to manage, control and care for same, both during the
93 school term and during vacation;

94 (d) To have responsibility for the erection, repairing
95 and equipping of school facilities and the making of necessary
96 school improvements;

97 (e) To suspend or to expel a pupil or to change the
98 placement of a pupil to the school district's alternative school
99 or home-bound program for misconduct in the school or on school
100 property, as defined in Section 37-11-29, on the road to and from
101 school, or at any school-related activity or event, or for conduct



102 occurring on property other than school property or other than at
103 a school-related activity or event when such conduct by a pupil,
104 in the determination of the school superintendent or principal,
105 renders that pupil's presence in the classroom a disruption to the
106 educational environment of the school or a detriment to the best
107 interest and welfare of the pupils and teacher of such class as a
108 whole, and to delegate such authority to the appropriate officials
109 of the school district;

110 (f) To visit schools in the district, in their
111 discretion, in a body for the purpose of determining what can be
112 done for the improvement of the school in a general way;

113 (g) To support, within reasonable limits, the
114 superintendent, principal and teachers where necessary for the
115 proper discipline of the school;

116 (h) To exclude from the schools students with what
117 appears to be infectious or contagious diseases; provided,
118 however, such student may be allowed to return to school upon
119 presenting a certificate from a public health officer, duly
120 licensed physician or nurse practitioner that the student is free
121 from such disease;

122 (i) To require those vaccinations specified by the
123 State Health Officer as provided in Section 41-23-37, Mississippi
124 Code of 1972;

125 (j) To see that all necessary utilities and services
126 are provided in the schools at all times when same are needed;

127 (k) To authorize the use of the school buildings and
128 grounds for the holding of public meetings and gatherings of the
129 people under such regulations as may be prescribed by said board;

130 (l) To prescribe and enforce rules and regulations not
131 inconsistent with law or with the regulations of the State Board
132 of Education for their own government and for the government of
133 the schools, and to transact their business at regular and special
134 meetings called and held in the manner provided by law;



135 (m) To maintain and operate all of the schools under
136 their control for such length of time during the year as may be
137 required;

138 (n) To enforce in the schools the courses of study and
139 the use of the textbooks prescribed by the proper authorities;

140 (o) To make orders directed to the superintendent of
141 schools for the issuance of pay certificates for lawful purposes
142 on any available funds of the district and to have full control of
143 the receipt, distribution, allotment and disbursement of all funds
144 provided for the support and operation of the schools of such
145 school district whether such funds be derived from state
146 appropriations, local ad valorem tax collections, or otherwise;

147 (p) To select all school district personnel in the
148 manner provided by law, and to provide for such employee fringe
149 benefit programs, including accident reimbursement plans, as may
150 be deemed necessary and appropriate by the board;

151 (q) To provide athletic programs and other school
152 activities and to regulate the establishment and operation of such
153 programs and activities;

154 (r) To join, in their discretion, any association of
155 school boards and other public school-related organizations, and
156 to pay from local funds other than minimum foundation funds, any
157 membership dues;

158 (s) To expend local school activity funds, or other
159 available school district funds, other than minimum education
160 program funds, for the purposes prescribed under this paragraph.
161 "Activity funds" shall mean all funds received by school officials
162 in all school districts paid or collected to participate in any
163 school activity, such activity being part of the school program
164 and partially financed with public funds or supplemented by public
165 funds. The term "activity funds" shall not include any funds
166 raised and/or expended by any organization unless commingled in a
167 bank account with existing activity funds, regardless of whether



168 the funds were raised by school employees or received by school
169 employees during school hours or using school facilities, and
170 regardless of whether a school employee exercises influence over
171 the expenditure or disposition of such funds. Organizations shall
172 not be required to make any payment to any school for the use of
173 any school facility if, in the discretion of the local school
174 governing board, the organization's function shall be deemed to be
175 beneficial to the official or extracurricular programs of the
176 school. For the purposes of this provision, the term
177 "organization" shall not include any organization subject to the
178 control of the local school governing board. Activity funds may
179 only be expended for any necessary expenses or travel costs,
180 including advances, incurred by students and their chaperons in
181 attending any in-state or out-of-state school-related programs,
182 conventions or seminars and/or any commodities, equipment, travel
183 expenses, purchased services or school supplies which the local
184 school governing board, in its discretion, shall deem beneficial
185 to the official or extracurricular programs of the district,
186 including items which may subsequently become the personal
187 property of individuals, including yearbooks, athletic apparel,
188 book covers and trophies. Activity funds may be used to pay
189 travel expenses of school district personnel. The local school
190 governing board shall be authorized and empowered to promulgate
191 rules and regulations specifically designating for what purposes
192 school activity funds may be expended. The local school governing
193 board shall provide (i) that such school activity funds shall be
194 maintained and expended by the principal of the school generating
195 the funds in individual bank accounts, or (ii) that such school
196 activity funds shall be maintained and expended by the
197 superintendent of schools in a central depository approved by the
198 board. The local school governing board shall provide that such
199 school activity funds be audited as part of the annual audit
200 required in Section 37-9-18. The State Auditor shall prescribe a



201 uniform system of accounting and financial reporting for all
202 school activity fund transactions;

203 (t) To contract, on a shared savings, lease or
204 lease-purchase basis, for energy efficiency services and/or
205 equipment as provided for in Section 31-7-14, not to exceed ten
206 (10) years;

207 (u) To maintain accounts and issue pay certificates on
208 school food service bank accounts;

209 (v) (i) To lease a school building from an individual,
210 partnership, nonprofit corporation or a private for-profit
211 corporation for the use of such school district, and to expend
212 funds therefor as may be available from any nonminimum program
213 sources. The school board of the school district desiring to
214 lease a school building shall declare by resolution that a need
215 exists for a school building and that the school district cannot
216 provide the necessary funds to pay the cost or its proportionate
217 share of the cost of a school building required to meet the
218 present needs. The resolution so adopted by the school board
219 shall be published once each week for three (3) consecutive weeks
220 in a newspaper having a general circulation in the school district
221 involved, with the first publication thereof to be made not less
222 than thirty (30) days prior to the date upon which the school
223 board is to act on the question of leasing a school building. If
224 no petition requesting an election is filed prior to such meeting
225 as hereinafter provided, then the school board may, by resolution
226 spread upon its minutes, proceed to lease a school building. If
227 at any time prior to said meeting a petition signed by not less
228 than twenty percent (20%) or fifteen hundred (1500), whichever is
229 less, of the qualified electors of the school district involved
230 shall be filed with the school board requesting that an election
231 be called on the question, then the school board shall, not later
232 than the next regular meeting, adopt a resolution calling an
233 election to be held within such school district upon the question



234 of authorizing the school board to lease a school building. Such
235 election shall be called and held, and notice thereof shall be
236 given, in the same manner for elections upon the questions of the
237 issuance of the bonds of school districts, and the results thereof
238 shall be certified to the school board. If at least three-fifths
239 (3/5) of the qualified electors of the school district who voted
240 in such election shall vote in favor of the leasing of a school
241 building, then the school board shall proceed to lease a school
242 building. The term of the lease contract shall not exceed twenty
243 (20) years, and the total cost of such lease shall be either the
244 amount of the lowest and best bid accepted by the school board
245 after advertisement for bids or an amount not to exceed the
246 current fair market value of the lease as determined by the
247 averaging of at least two (2) appraisals by certified general
248 appraisers licensed by the State of Mississippi. The term "school
249 building" as used in this item (v) shall be construed to mean any
250 building or buildings used for classroom purposes in connection
251 with the operation of schools and shall include the site therefor,
252 necessary support facilities, and the equipment thereof and
253 appurtenances thereto such as heating facilities, water supply,
254 sewage disposal, landscaping, walks, drives and playgrounds. The
255 term "lease" as used in this item (v) (i) may include a
256 lease/purchase contract;

257 (ii) If two (2) or more school districts propose
258 to enter into a lease contract jointly, then joint meetings of the
259 school boards having control may be held but no action taken shall
260 be binding on any such school district unless the question of
261 leasing a school building is approved in each participating school
262 district under the procedure hereinabove set forth in item (v) (i).
263 All of the provisions of item (v) (i) regarding the term and amount
264 of the lease contract shall apply to the school boards of school
265 districts acting jointly. Any lease contract executed by two (2)
266 or more school districts as joint lessees shall set out the amount



267 of the aggregate lease rental to be paid by each, which may be
268 agreed upon, but there shall be no right of occupancy by any
269 lessee unless the aggregate rental is paid as stipulated in the
270 lease contract. All rights of joint lessees under the lease
271 contract shall be in proportion to the amount of lease rental paid
272 by each;

273 (w) To employ all noninstructional and noncertificated
274 employees and fix the duties and compensation of such personnel
275 deemed necessary pursuant to the recommendation of the
276 superintendent of schools;

277 (x) To employ and fix the duties and compensation of
278 such legal counsel as deemed necessary;

279 (y) Subject to rules and regulations of the State Board
280 of Education, to purchase, own and operate trucks, vans and other
281 motor vehicles, which shall bear the proper identification
282 required by law;

283 (z) To expend funds for the payment of substitute
284 teachers and to adopt reasonable regulations for the employment
285 and compensation of such substitute teachers;

286 (aa) To acquire in its own name by purchase all real
287 property which shall be necessary and desirable in connection with
288 the construction, renovation or improvement of any public school
289 building or structure. Whenever the purchase price for such real
290 property is greater than Fifty Thousand Dollars (\$50,000.00), the
291 school board shall not purchase the property for an amount
292 exceeding the fair market value of such property as determined by
293 the average of at least two (2) independent appraisals by
294 certified general appraisers licensed by the State of Mississippi.
295 If the board shall be unable to agree with the owner of any such
296 real property in connection with any such project, the board shall
297 have the power and authority to acquire any such real property by
298 condemnation proceedings pursuant to Section 11-27-1 et seq.,
299 Mississippi Code of 1972, and for such purpose, the right of



300 eminent domain is hereby conferred upon and vested in said board.
301 Provided further, that the local school board is authorized to
302 grant an easement for ingress and egress over sixteenth section
303 land or lieu land in exchange for a similar easement upon
304 adjoining land where the exchange of easements affords substantial
305 benefit to the sixteenth section land; provided, however, the
306 exchange must be based upon values as determined by a competent
307 appraiser, with any differential in value to be adjusted by cash
308 payment. Any easement rights granted over sixteenth section land
309 under such authority shall terminate when the easement ceases to
310 be used for its stated purpose. No sixteenth section or lieu land
311 which is subject to an existing lease shall be burdened by any
312 such easement except by consent of the lessee or unless the school
313 district shall acquire the unexpired leasehold interest affected
314 by the easement;

315 (bb) To charge reasonable fees related to the
316 educational programs of the district, in the manner prescribed in
317 Section 37-7-335;

318 (cc) Subject to rules and regulations of the State
319 Board of Education, to purchase relocatable classrooms for the use
320 of such school district, in the manner prescribed in Section
321 37-1-13;

322 (dd) Enter into contracts or agreements with other
323 school districts, political subdivisions or governmental entities
324 to carry out one or more of the powers or duties of the school
325 board, or to allow more efficient utilization of limited resources
326 for providing services to the public;

327 (ee) To provide for in-service training for employees
328 of the district. Until June 30, 1994, the school boards may
329 designate two (2) days of the minimum school term, as defined in
330 Section 37-19-1, for employee in-service training for
331 implementation of the new statewide testing system as developed by
332 the State Board of Education. Such designation shall be subject



333 to approval by the State Board of Education pursuant to uniform
334 rules and regulations;

335 (ff) As part of their duties to prescribe the use of
336 textbooks, to provide that parents and legal guardians shall be
337 responsible for the textbooks and for the compensation to the
338 school district for any books which are not returned to the proper
339 schools upon the withdrawal of their dependent child. If a
340 textbook is lost or not returned by any student who drops out of
341 the public school district, the parent or legal guardian shall
342 also compensate the school district for the fair market value of
343 the textbooks;

344 (gg) To conduct fund-raising activities on behalf of
345 the school district that the local school board, in its
346 discretion, deems appropriate or beneficial to the official or
347 extracurricular programs of the district; provided that:

348 (i) Any proceeds of the fund-raising activities
349 shall be treated as "activity funds" and shall be accounted for as
350 are other activity funds under this section; and

351 (ii) Fund-raising activities conducted or
352 authorized by the board for the sale of school pictures, the
353 rental of caps and gowns or the sale of graduation invitations for
354 which the school board receives a commission, rebate or fee shall
355 contain a disclosure statement advising that a portion of the
356 proceeds of the sales or rentals shall be contributed to the
357 student activity fund;

358 (hh) To allow individual lessons for music, art and
359 other curriculum-related activities for academic credit or
360 nonacademic credit during school hours and using school equipment
361 and facilities, subject to uniform rules and regulations adopted
362 by the school board;

363 (ii) To charge reasonable fees for participating in an
364 extracurricular activity for academic or nonacademic credit for



365 necessary and required equipment such as safety equipment, band
366 instruments and uniforms;

367 (jj) To conduct or participate in any fund-raising
368 activities on behalf of or in connection with a tax-exempt
369 charitable organization;

370 (kk) To exercise such powers as may be reasonably
371 necessary to carry out the provisions of this section; * * *

372 (ll) To expend funds for the services of nonprofit arts
373 organizations or other such nonprofit organizations who provide
374 performances or other services for the students of the school
375 district; and

376 (mm) Any district currently operating a prekindergarten
377 school readiness program or expanding or establishing such a
378 program prior to the 2004 legislative session shall be authorized
379 to use school facilities to provide the prekindergarten program
380 during the regular school day and school year provided the
381 district fully complies with the reporting requirements of this
382 act and conducts an assessment of any changes in program operation
383 that would be necessary to comply with the regulations governing
384 the licensing of child care facilities.

385 Any district currently operating a program for a period
386 longer than the school day and school year, expanding program
387 hours beyond the school day and school year, or establishing a new
388 program with expanded hours shall be in compliance with
389 regulations of the State Board of Health related to child care
390 facilities.

391 **SECTION 3.** Section 37-13-91, Mississippi Code of 1972, is
392 amended as follows:

393 37-13-91. (1) This section shall be referred to as the
394 "Mississippi Compulsory School Attendance Law."

395 (2) The following terms as used in this section are defined
396 as follows:



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

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

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

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

410 (e) "School" means any public school in this state or
411 any nonpublic school in this state which is in session each school
412 year for at least one hundred eighty (180) school days, except
413 that the "nonpublic" school term shall be the number of days that
414 each school shall require for promotion from grade to grade.

415 (f) "Compulsory-school-age child" means a child who has
416 attained or will attain the age of six (6) years on or before
417 September 1 of the calendar year and who has not attained the age
418 of seventeen (17) years on or before September 1 of the calendar
419 year; and shall include any child who has attained or will attain
420 the age of five (5) years on or before September 1 and has
421 enrolled in a full-day public school kindergarten program.

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

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

427 (i) "Nonpublic school" means an institution for the
428 teaching of children, consisting of a physical plant, whether
429 owned or leased, including a home, instructional staff members and



430 students, and which is in session each school year. This
431 definition shall include, but not be limited to, private, church,
432 parochial and home instruction programs.

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

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

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

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

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

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

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

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



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

467 (iv) The signature of the parent, guardian or
468 custodian of the compulsory-school-age child or, for any or all
469 compulsory-school-age child or children attending a nonpublic
470 school, the signature of the appropriate school official and the
471 date signed.

472 The certificate of enrollment shall be returned to the school
473 attendance officer where the child resides on or before September
474 15 of each year. Any parent, guardian or custodian found by the
475 school attendance officer to be in noncompliance with this section
476 shall comply, after written notice of the noncompliance by the
477 school attendance officer, with this subsection within ten (10)
478 days after the notice or be in violation of this section.

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

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

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



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

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

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

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

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

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

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



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

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

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

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

559 Upon prosecution of a parent, guardian or custodian of a
560 compulsory-school-age child for violation of this section, the
561 presentation of evidence by the prosecutor that shows that the



562 child has not been enrolled in school within eighteen (18)
563 calendar days after the first day of the school year of the public
564 school which the child is eligible to attend, or that the child
565 has accumulated twelve (12) unlawful absences during the school
566 year at the public school in which the child has been enrolled,
567 shall establish a prima facie case that the child's parent,
568 guardian or custodian is responsible for the absences and has
569 refused or willfully failed to perform the duties imposed upon him
570 or her under this section. However, no proceedings under this
571 section shall be brought against a parent, guardian or custodian
572 of a compulsory-school-age child unless the school attendance
573 officer has contacted promptly the home of the child and has
574 provided written notice to the parent, guardian or custodian of
575 the requirement for the child's enrollment or attendance.

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

589 (7) When a school attendance officer has made all attempts
590 to secure enrollment and/or attendance of a compulsory-school-age
591 child and is unable to effect the enrollment and/or attendance,
592 the attendance officer shall file a petition with the youth court
593 under Section 43-21-451 or shall file a petition in a court of
594 competent jurisdiction as it pertains to parent or child.



595 Sheriffs, deputy sheriffs and municipal law enforcement officers
596 shall be fully authorized to investigate all cases of
597 nonattendance and unlawful absences by compulsory-school-age
598 children, and shall be authorized to file a petition with the
599 youth court under Section 43-21-451 or file a petition or
600 information in the court of competent jurisdiction as it pertains
601 to parent or child for violation of this section. The youth court
602 shall expedite a hearing to make an appropriate adjudication and a
603 disposition to ensure compliance with the Compulsory School
604 Attendance Law, and may order the child to enroll or reenroll in
605 school. The superintendent of the school district to which the
606 child is ordered may assign, in his discretion, the child to the
607 alternative school program of the school established pursuant to
608 Section 37-13-92.

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

613 (9) Notwithstanding any provision or implication herein to
614 the contrary, it is not the intention of this section to impair
615 the primary right and the obligation of the parent or parents, or
616 person or persons in loco parentis to a child, to choose the
617 proper education and training for such child, and nothing in this
618 section shall ever be construed to grant, by implication or
619 otherwise, to the State of Mississippi, any of its officers,
620 agencies or subdivisions any right or authority to control,
621 manage, supervise or make any suggestion as to the control,
622 management or supervision of any private or parochial school or
623 institution for the education or training of children, of any kind
624 whatsoever that is not a public school according to the laws of
625 this state; and this section shall never be construed so as to
626 grant, by implication or otherwise, any right or authority to any
627 state agency or other entity to control, manage, supervise,



628 provide for or affect the operation, management, program,
629 curriculum, admissions policy or discipline of any such school or
630 home instruction program.

631 **SECTION 4.** Section 37-15-9, Mississippi Code of 1972, is
632 amended as follows:

633 37-15-9. (1) Except as provided in subsection (2) and
634 subject to the provisions of subsection (3) of this section, no
635 child shall be enrolled or admitted to any kindergarten which is a
636 part of the free public school system during any school year
637 unless such child will reach his fifth birthday on or before
638 September 1 of said school year, and no child shall be enrolled or
639 admitted to the first grade in any school which is a part of the
640 free public school system during any school year unless such child
641 will reach his sixth birthday on or before September 1 of said
642 school year. No pupil shall be permanently enrolled in a school
643 in the State of Mississippi who formerly was enrolled in another
644 public or private school within the state until the cumulative
645 record of the pupil shall have been received from the school from
646 which he transferred. Should such record have become lost or
647 destroyed, then it shall be the duty of the superintendent or
648 principal of the school where the pupil last attended school to
649 initiate a new record.

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

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



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

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

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

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



692 **SECTION 5.** This act shall take effect and be in force from
693 and after its passage.

