

By: Representative Pierce

To: Education;
AppropriationsHOUSE BILL NO. 1366
(As Passed the House)

1 AN ACT TO AMEND SECTION 37-23-63, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE ELIGIBILITY REQUIREMENTS FOR EXCEPTIONAL CHILDREN TO
3 RECEIVE STATE FINANCIAL ASSISTANCE TO ATTEND CERTAIN SCHOOLS; TO
4 AMEND SECTION 37-23-69, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
5 PUBLIC SCHOOL DISTRICTS MAY BE REIMBURSED FOR THE EDUCATIONAL
6 COSTS OF THOSE CHILDREN UP TO AN ANNUAL MAXIMUM BASED ON A
7 MULTIPLE OF THE BASE STUDENT COST AS DETERMINED UNDER THE
8 MISSISSIPPI ADEQUATE EDUCATION PROGRAM (MAEP) OR OTHER COST
9 FACTORS AS DETERMINED BY THE STATE BOARD OF EDUCATION; TO AMEND
10 SECTION 37-23-77, TO PROVIDE THAT STATE FUNDS MAY BE USED TO
11 EDUCATE ANY SUCH CHILD UNDER THE GUARDIANSHIP OF THE DEPARTMENT OF
12 HUMAN SERVICES IF NO STATE FUNDED INSTITUTION PLACEMENT IS
13 AVAILABLE; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 37-23-63, Mississippi Code of 1972, is
16 amended as follows:

17 37-23-63. Every child who is a resident citizen of the State
18 of Mississippi under twenty-one (21) years of age, who cannot
19 pursue all regular classwork due to reasons of defective hearing,
20 vision, speech, mental retardation or other mental or physical
21 conditions as determined by competent medical authorities and
22 psychologists, who has not finished or graduated from high school,
23 and who is in attendance in a private school, parochial school or
24 speech, hearing and/or language clinic that is accredited by a
25 state or regional accrediting agency or approved/licensed by the
26 State Department of Education, shall be eligible and entitled to
27 receive state financial assistance in the amount set forth in
28 Section 37-23-69. Children who are certified by the designated
29 state authority as requiring inpatient care in a private
30 intermediate care facility for the mentally retarded and have an
31 eligibility ruling of mental retardation (MR), or children who are
32 certified by the designated state authority as requiring inpatient

33 care in a psychiatric residential treatment facility and have a
34 current eligibility ruling of emotional disturbance (EMD), with
35 Medicaid reimbursement, shall be eligible and entitled to receive
36 state financial assistance under the provisions of Section
37 37-23-69, if an approved private school is operated as an integral
38 part of the facility that provides twenty-four (24) hours a day
39 monitoring, treatment and education.

40 **SECTION 2.** Section 37-23-69, Mississippi Code of 1972, is
41 amended as follows:

42 37-23-69. The State Department of Education may determine
43 and pay the amount of the financial assistance to be made
44 available to each applicant, and * * * see that all applicants and
45 the programs for them meet the requirements of the program for
46 exceptional children. No financial assistance shall exceed the
47 obligation actually incurred by the applicant for educational
48 costs. Within the amount of available state funds appropriated
49 for that purpose, each such applicant may receive assistance
50 according to the following allowances:

51 (a) If the applicant chooses to attend a private
52 school, a parochial school or a speech, hearing and/or language
53 clinic having an appropriate program for the applicant, and if the
54 school or clinic meets federal and state regulations, then the
55 educational costs reimbursement will be one hundred percent (100%)
56 of the first Six Hundred Dollars (\$600.00) in educational costs
57 charged by the school or clinic; or, if the applicant is under six
58 (6) years of age, and no program appropriate for the child exists
59 in the public schools of his domicile, then the reimbursement
60 shall be one hundred percent (100%) of the first Six Hundred
61 Dollars (\$600.00) in educational costs charged by the school or
62 clinic, and fifty percent (50%) of the next Eight Hundred Dollars
63 (\$800.00) in educational costs charged by the school or clinic;

64 (b) A public school district shall be reimbursed for
65 the educational costs of an applicant up to an annual maximum

66 based on a multiple of the base student cost as determined under
67 the Mississippi Adequate Education Program (MAEP) or other cost
68 factor as determined by the State Board of Education if the
69 following conditions are met: (i) an applicant in the age range
70 six (6) through twenty (20) requests the public school district
71 where he resides to provide an education for him and the nature of
72 the applicant's educational problem is such that, according to
73 best educational practices, it cannot be met in the public school
74 district where the child resides; (ii) the public school district
75 decides to provide the applicant a free appropriate education by
76 placing him in a private school, a parochial school or a speech,
77 hearing and/or language clinic having an appropriate program for
78 the applicant; * * * (iii) the program meets federal and state
79 regulations; and (iv) the applicant is approved for financial
80 assistance by a state level review board established by the State
81 Board of Education. Nothing in this paragraph shall prevent two
82 (2) or more public school districts from forming a cooperative to
83 meet the needs of low incidence exceptional children, nor shall
84 the public school be relieved of its responsibility to provide an
85 education for all children. If state monies are not sufficient to
86 fund all applicants, there will be a ratable reduction for all
87 recipients receiving state funds under this section. School
88 districts may pay additional educational costs from available
89 federal, state and local funds.

90 If an exceptional child, as defined in Section 37-23-3, is
91 placed in a therapeutic or other group home licensed or approved
92 by the state that has no educational program associated with it,
93 the local school district in which the home is located shall offer
94 an appropriate educational program to that child.

95 At any time that the Individualized Education Program (IEP)
96 Committee in the district where the home is located determines
97 that an exceptional child, as defined in Section 37-23-3, residing
98 in that home can no longer be provided a free appropriate public

99 education in that school district, and the State Department of
100 Education agrees with that decision, then the State Department of
101 Education shall recommend to the Department of Human Services
102 placement of the child by the Department of Human Services, which
103 shall take appropriate action. The placement of the exceptional
104 child in the facility shall be at no cost to the local school
105 district. Funds available under * * * Sections 37-23-61 through
106 37-23-77, as well as any available federal funds, may be used to
107 provide the educational costs of the placement. If the
108 exceptional child is under the guardianship of the Department of
109 Human Services or another state agency, the State Department of
110 Education shall pay only for the educational costs of that
111 placement, and the other agency shall be responsible for the room,
112 board and any other costs. The special education and related
113 services provided to the child shall be in compliance with State
114 Department of Education and any related federal regulations. The
115 State Board of Education may promulgate regulations that are
116 necessary to implement this section; and

117 (c) If an appropriate local or regional system of care,
118 including a free appropriate public education, is available for
119 exceptional children who are currently being served in
120 out-of-district or Department of Human Services placements under
121 Section 37-23-69(b) or 37-23-77, then the state funds from the
122 State Department of Education that would have been used for those
123 placements may be paid into a pool of funds with funds from other
124 state agencies to be used for the implementation of the
125 individualized plans of care for those children. If there are
126 sufficient funds to serve additional exceptional children because
127 of cost savings as a result of serving these students at home
128 and/or matching the pooled funds with federal dollars, the funds
129 may be used to implement individualized plans of care for those
130 additional exceptional children. Each local or regional provider
131 of services included in the individualized plans of care shall

132 comply with all appropriate state and federal regulations. The
133 State Board of Education may promulgate regulations that are
134 necessary to implement this section.

135 The State Department of Education may also provide for the
136 payment of that financial assistance in installments and for
137 proration of that financial assistance in the case of children
138 attending a school or clinic for less than a full school session
139 and, if available funds are insufficient, may allocate the
140 available funds among the qualified applicants and local school
141 districts by reducing the maximum assistance provided for in this
142 section.

143 Any monies provided an applicant under Sections 37-23-61
144 through 37-23-75 shall be applied by the receiving educational
145 institution as a reduction in the amount of the educational costs
146 paid by the applicant, and the total educational costs paid by the
147 applicant shall not exceed the total educational costs paid by any
148 other child in similar circumstances enrolled in the same program
149 in that institution. However, this limitation shall not prohibit
150 the waiving of all or part of the educational costs for a limited
151 number of children based upon demonstrated financial need, and the
152 State Department of Education may adopt and enforce reasonable
153 rules and regulations to carry out the intent of these provisions.

154 **SECTION 3.** Section 37-23-77, Mississippi Code of 1972, is
155 amended as follows:

156 37-23-77. If a child, as defined in Sections 37-23-61 and
157 37-23-63, is under the legal guardianship of the State Department
158 of Human Services, or any other state agency, and for whom no
159 foster parents are available and no state-funded institution
160 placement is available, funds available under Section 37-23-1 et
161 seq. may be used to provide for the education of the child in an
162 institution approved by the Department of Human Services and the
163 State Department of Education. However, if the educational
164 services needed by the child are available in a state funded

165 institution, these funds shall not be used to pay for educational
166 services at that institution. At any such time a child is taken
167 out of a school setting and placed under the custody of the
168 Department of Human Services, the department shall immediately
169 notify the State Department of Education and apply for funds for
170 the child's educational services under Section 37-23-1 et seq. and
171 the State Department of Education shall respond to the application
172 within ten (10) working days. The special education and related
173 services provided for this child shall be provided in compliance
174 with State Department of Education regulations. The State
175 Department of Education shall promulgate such regulations as are
176 necessary to implement this section.

177 The State Department of Education shall require that the
178 special education and related services provided for the children
179 under this section be designed to provide individualized
180 appropriate special education and related services that enable a
181 child to reach his or her appropriate and uniquely designed goals
182 for success.

183 **SECTION 4.** This act shall take effect and be in force from
184 and after July 1, 2004.