

By: Representative Pierce

To: Education;
Appropriations

HOUSE BILL NO. 1366
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 37-23-63, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE DEFINITION AND REVISE THE ELIGIBILITY REQUIREMENTS
3 FOR EXCEPTIONAL CHILDREN TO RECEIVE STATE FINANCIAL ASSISTANCE TO
4 ATTEND CERTAIN SCHOOLS; TO AMEND SECTION 37-23-69, MISSISSIPPI
5 CODE OF 1972, TO PROVIDE THAT PUBLIC SCHOOL DISTRICTS MAY BE
6 REIMBURSED FOR THE EDUCATIONAL COSTS OF THOSE CHILDREN UP TO AN
7 ANNUAL MAXIMUM BASED ON A MULTIPLE OF THE BASE STUDENT COST AS
8 DETERMINED UNDER THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM (MAEP)
9 OR OTHER COST FACTORS AS DETERMINED BY THE STATE BOARD OF
10 EDUCATION; TO AMEND SECTION 37-23-77, TO PROVIDE THAT STATE FUNDS
11 MAY BE USED TO EDUCATE ANY SUCH CHILD UNDER THE GUARDIANSHIP OF
12 THE DEPARTMENT OF HUMAN SERVICES IF NO STATE FUNDED INSTITUTION
13 PLACEMENT IS 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. Exceptional children as defined in Section
29 37-23-3(1) and who are certified by the designated state authority
30 as requiring inpatient care in a private intermediate care
31 facility for the mentally retarded or psychiatric residential
32 treatment facility, with Medicaid reimbursement, shall be eligible

33 and entitled to receive state financial assistance under the
34 provisions of Section 37-23-69, if an approved private school is
35 operated as an integral part of the facility that provides
36 twenty-four (24) hours a day monitoring, treatment and education.

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

39 37-23-69. The State Department of Education may determine
40 and pay the amount of the financial assistance to be made
41 available to each applicant, and * * * see that all applicants and
42 the programs for them meet the requirements of the program for
43 exceptional children. No financial assistance shall exceed the
44 obligation actually incurred by the applicant for educational
45 costs, which shall include special education and related services
46 as defined by the Mississippi Department of Education Policies and
47 Procedures Regarding Children with Disabilities under the federal
48 Individuals with Disabilities Education Act (IDEA). Within the
49 amount of available state funds appropriated for that purpose,
50 each such applicant may receive assistance according to the
51 following allowances:

52 (a) If the applicant chooses to attend a private
53 school, a parochial school or a speech, hearing and/or language
54 clinic having an appropriate program for the applicant, and if the
55 school or clinic meets federal and state regulations, then the
56 educational costs reimbursement will be one hundred percent (100%)
57 of the first Six Hundred Dollars (\$600.00) in educational costs
58 charged by the school or clinic; or, if the applicant is under six
59 (6) years of age, and no program appropriate for the child exists
60 in the public schools of his domicile, then the reimbursement
61 shall be one hundred percent (100%) of the first Six Hundred
62 Dollars (\$600.00) in educational costs charged by the school or
63 clinic, and fifty percent (50%) of the next Eight Hundred Dollars
64 (\$800.00) in educational costs charged by the school or clinic;

65 (b) A public school district shall be reimbursed for
66 the educational costs of an applicant up to an annual maximum
67 based on a multiple of the base student cost as determined under
68 the Mississippi Adequate Education Program (MAEP) or other cost
69 factor as determined by the State Board of Education if the
70 following conditions are met: (i) an applicant in the age range
71 six (6) through twenty (20) requests the public school district
72 where he resides to provide an education for him and the nature of
73 the applicant's educational problem is such that, according to
74 best educational practices, it cannot be met in the public school
75 district where the child resides; (ii) the public school district
76 decides to provide the applicant a free appropriate education by
77 placing him in a private school, a parochial school or a speech,
78 hearing and/or language clinic having an appropriate program for
79 the applicant; * * * (iii) the program meets federal and state
80 regulations; and (iv) the applicant is approved for financial
81 assistance by a State Level Review Board established by the State
82 Board of Education. The Review Board will act on financial
83 assistance requests within five (5) working days of receipt.
84 Nothing in this paragraph shall prevent two (2) or more public
85 school districts from forming a cooperative to meet the needs of
86 low incidence exceptional children, nor shall the public school be
87 relieved of its responsibility to provide an education for all
88 children. If state monies are not sufficient to fund all
89 applicants, there will be a ratable reduction for all recipients
90 receiving state funds under this section. School districts may
91 pay additional educational costs from available federal, state and
92 local funds.

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

98 At any time that the Individualized Education Program (IEP)
99 Committee in the district where the home is located determines
100 that an exceptional child, as defined in Section 37-23-3, residing
101 in that home can no longer be provided a free appropriate public
102 education in that school district, and the State Department of
103 Education agrees with that decision, then the State Department of
104 Education shall recommend to the Department of Human Services
105 placement of the child by the Department of Human Services, which
106 shall take appropriate action. The placement of the exceptional
107 child in the facility shall be at no cost to the local school
108 district. Funds available under * * * Sections 37-23-61 through
109 37-23-77, as well as any available federal funds, may be used to
110 provide the educational costs of the placement. If the
111 exceptional child is under the guardianship of the Department of
112 Human Services or another state agency, the State Department of
113 Education shall pay only for the educational costs of that
114 placement, and the other agency shall be responsible for the room,
115 board and any other costs. The special education and related
116 services provided to the child shall be in compliance with State
117 Department of Education and any related federal regulations. The
118 State Board of Education may promulgate regulations that are
119 necessary to implement this section; and

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

131 and/or matching the pooled funds with federal dollars, the funds
132 may be used to implement individualized plans of care for those
133 additional exceptional children. Each local or regional provider
134 of services included in the individualized plans of care shall
135 comply with all appropriate state and federal regulations. The
136 State Board of Education may promulgate regulations that are
137 necessary to implement this section.

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

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

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

159 37-23-77. If a child, as defined in Sections 37-23-61 and
160 37-23-63, is under the legal guardianship of the State Department
161 of Human Services, or any other state agency, and for whom no
162 foster parents are available and no state-funded institution
163 placement is available, funds available under Section 37-23-1 et

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

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

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