

Senate Amendments to House Bill No. 1366

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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 as determined by the State Department of Education.

46 Educational costs may include, but are not limited to, salaries
47 and benefits, the cost for books and teaching materials, meals,
48 supplies, training, professional dues, utilities, supplemental
49 support services, equipment and administrative cost. Within the
50 amount of available state funds appropriated for that purpose,
51 each such applicant may receive assistance according to the
52 following allowances:

53 (a) If the applicant chooses to attend a private
54 school, a parochial school or a speech, hearing and/or language
55 clinic having an appropriate program for the applicant, and if the
56 school or clinic meets federal and state regulations, then the
57 educational costs reimbursement will be one hundred percent (100%)
58 of the first Six Hundred Dollars (\$600.00) in educational costs
59 charged by the school or clinic; or, if the applicant is under six
60 (6) years of age, and no program appropriate for the child exists
61 in the public schools of his domicile, then the reimbursement
62 shall be one hundred percent (100%) of the first Six Hundred
63 Dollars (\$600.00) in educational costs charged by the school or
64 clinic, and fifty percent (50%) of the next Eight Hundred Dollars
65 (\$800.00) in educational costs charged by the school or clinic;

66 (b) A public school district shall be reimbursed for
67 the educational costs of an applicant up to an annual maximum
68 based on a multiple of the base student cost as determined under
69 the Mississippi Adequate Education Program (MAEP) or other cost
70 factor as determined by the State Board of Education if the
71 following conditions are met: (i) an applicant in the age range
72 six (6) through twenty (20) requests the public school district
73 where he resides to provide an education for him and the nature of
74 the applicant's educational problem is such that, according to
75 best educational practices, it cannot be met in the public school

76 district where the child resides; (ii) the public school district
77 decides to provide the applicant a free appropriate education by
78 placing him in a private school, a parochial school or a speech,
79 hearing and/or language clinic having an appropriate program for
80 the applicant; * * * (iii) the program meets federal and state
81 regulations; and (iv) the applicant is approved for financial
82 assistance by a State Level Review Board established by the State
83 Board of Education. The Review Board will act on financial
84 assistance requests within five (5) working days of receipt.
85 Nothing in this paragraph shall prevent two (2) or more public
86 school districts from forming a cooperative to meet the needs of
87 low incidence exceptional children, nor shall the public school be
88 relieved of its responsibility to provide an education for all
89 children. If state monies are not sufficient to fund all
90 applicants, there will be a ratable reduction for all recipients
91 receiving state funds under this section. School districts may
92 pay additional educational costs from available federal, state and
93 local funds.

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

99 At any time that the Individualized Education Program (IEP)
100 Committee in the district where the home is located determines
101 that an exceptional child, as defined in Section 37-23-3, residing
102 in that home can no longer be provided a free appropriate public
103 education in that school district, and the State Department of
104 Education agrees with that decision, then the State Department of
105 Education shall recommend to the Department of Human Services
106 placement of the child by the Department of Human Services, which
107 shall take appropriate action. The placement of the exceptional
108 child in the facility shall be at no cost to the local school
109 district. Funds available under * * * Sections 37-23-61 through
110 37-23-77, as well as any available federal funds, may be used to

111 provide the educational costs of the placement. If the
112 exceptional child is under the guardianship of the Department of
113 Human Services or another state agency, the State Department of
114 Education shall pay only for the educational costs of that
115 placement, and the other agency shall be responsible for the room,
116 board and any other costs. The special education and related
117 services provided to the child shall be in compliance with State
118 Department of Education and any related federal regulations. The
119 State Board of Education may promulgate regulations that are
120 necessary to implement this section; and

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

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

145 districts by reducing the maximum assistance provided for in this
146 section.

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

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

160 37-23-77. If a child, as defined in Sections 37-23-61 and
161 37-23-63, is under the legal guardianship of the State Department
162 of Human Services, or any other state agency, and for whom no
163 foster parents are available and no state-funded institution
164 placement is available, funds available under Section 37-23-1 et
165 seq. may be used to provide for the education of the child in an
166 institution approved by the Department of Human Services and the
167 State Department of Education. However, if the educational
168 services needed by the child are available in a state funded
169 institution, these funds shall not be used to pay for educational
170 services at that institution. At any such time a child is taken
171 out of a school setting and placed under the custody of the
172 Department of Human Services, the department shall immediately
173 notify the State Department of Education and apply for funds for
174 the child's educational services under Section 37-23-1 et seq. and
175 the State Department of Education shall respond to the application
176 within ten (10) working days. The special education and related
177 services provided for this child shall be provided in compliance
178 with State Department of Education regulations. The State

179 Department of Education shall promulgate such regulations as are
180 necessary to implement this section.

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

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.

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John O. Gilbert
Secretary of the Senate