

By: Representative Lamar

To: Education

HOUSE BILL NO. 1251

1 AN ACT TO AMEND SECTIONS 37-23-63 AND 37-23-67, MISSISSIPPI  
 2 CODE OF 1972, TO INCLUDE HOMESCHOOLED CHILDREN WITH DISABILITIES,  
 3 AS DEFINED UNDER IDEA, IN THE CATEGORY OF CHILDREN WITH  
 4 DISABILITIES FOR WHOM STATE FINANCIAL ASSISTANCE FOR PROPORTIONATE  
 5 SHARE OF COST OF SERVICES; TO BRING FORWARD SECTION 37-23-69,  
 6 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENTS;  
 7 TO AMEND SECTION 37-23-135, MISSISSIPPI CODE OF 1972, TO REQUIRE  
 8 LOCAL EDUCATIONAL AGENCIES TO PROVIDE CHILDREN WITH DISABILITIES,  
 9 WHO ARE ENROLLED IN PRIVATE SCHOOLS, LEGITIMATE HOME SCHOOL  
 10 PROGRAM OR OTHER FACILITY, WITH PROPORTIONATE SHARE OF FUNDS AND  
 11 EQUITABLE SERVICES AT THE LOCATION OF THE PRIVATE SCHOOL OF  
 12 ENROLLMENT, HOME SCHOOL PROGRAM LOCATION OR CLINICAL FACILITY  
 13 WHERE THE CHILD IS COMMITTED; 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 class work due to reasons of defective hearing,  
 20 vision, speech, intellectual disability or other mental or  
 21 physical conditions as determined by competent medical authorities  
 22 and psychologists, who has not finished or graduated from high  
 23 school, and who is in attendance in a private school, parochial



24 school, legitimate home school program, as defined in the policies  
25 and procedures standards promulgated by the State Department of  
26 Education, or speech, hearing and/or language clinic that is  
27 accredited by a state or regional accrediting agency or  
28 approved/licensed by the State Department of Education, shall be  
29 eligible and entitled to receive state financial assistance in the  
30 amount set forth in Section 37-23-69. Exceptional children as  
31 defined in Section 37-23-3(1) and who are certified by the  
32 designated state authority as requiring inpatient care in a  
33 private intermediate care facility for the \* \* \* intellectually  
34 disabled or psychiatric residential treatment facility, with  
35 Medicaid reimbursement, shall be eligible and entitled to receive  
36 state and federal financial assistance under the provisions of  
37 Section 37-23-69, as allowable and available, if an approved  
38 private school is operated as an integral part of the facility  
39 that provides twenty-four (24) hours a day monitoring, treatment  
40 and education.

41 **SECTION 2.** Section 37-23-67, Mississippi Code of 1972, is  
42 amended as follows:

43 37-23-67. The State Department of Education shall have the  
44 power to receive and administer all funds for or hereafter  
45 appropriated to, provided for, or otherwise accruing to, the State  
46 Department of Education for the purpose of providing financial  
47 assistance to students attending private schools, parochial  
48 schools, legitimate home school program, as defined in the



49 policies and procedures standards promulgated by the State  
50 Department of Education, or speech, hearing and/or language  
51 clinics that are accredited by a state or regional accrediting  
52 agency or approved/licensed by the State Department of Education,  
53 for the purpose of defraying the cost of the administration of  
54 Sections 37-23-61 through 37-23-75, and for any and all purposes  
55 necessary or proper for the administration of the provisions  
56 of \* \* \* these sections.

57 **SECTION 3.** Section 37-23-69, Mississippi Code of 1972, is  
58 brought forward as follows:

59 37-23-69. The State Department of Education may determine  
60 and pay the amount of the financial assistance to be made  
61 available to each applicant, and see that all applicants and the  
62 programs for them meet the requirements of the program for  
63 exceptional children. No financial assistance shall exceed the  
64 obligation actually incurred by the applicant for educational  
65 costs, which shall include special education and related services  
66 as defined by the Mississippi Department of Education Policies and  
67 Procedures Regarding Children with Disabilities under the federal  
68 Individuals with Disabilities Education Act (IDEA). Within the  
69 amount of available state funds appropriated for that purpose,  
70 each such applicant may receive assistance according to the  
71 following allowances:

72 (a) If the applicant chooses to attend a private  
73 school, a parochial school or a speech, hearing and/or language



74 clinic having an appropriate program for the applicant, and if the  
75 school or clinic meets federal and state regulations, then the  
76 educational costs reimbursement will be one hundred percent (100%)  
77 of the first Six Hundred Dollars (\$600.00) in educational costs  
78 charged by the school or clinic; or, if the applicant is under six  
79 (6) years of age, and no program appropriate for the child exists  
80 in the public schools of his domicile, then the reimbursement  
81 shall be one hundred percent (100%) of the first Six Hundred  
82 Dollars (\$600.00) in educational costs charged by the school or  
83 clinic, and fifty percent (50%) of the next Eight Hundred Dollars  
84 (\$800.00) in educational costs charged by the school or clinic;

85 (b) A public school district shall be reimbursed for  
86 the educational costs of an applicant up to an annual maximum  
87 based on a multiple of the base student cost as determined under  
88 the Mississippi Adequate Education Program (MAEP) or other cost  
89 factor as determined by the State Board of Education if the  
90 following conditions are met: (i) an applicant in the age range  
91 six (6) through twenty (20) requests the public school district  
92 where he resides to provide an education for him and the nature of  
93 the applicant's educational problem is such that, according to  
94 best educational practices, it cannot be met in the public school  
95 district where the child resides; (ii) the public school district  
96 decides to provide the applicant a free appropriate education by  
97 placing him in a private school, a parochial school or a speech,  
98 hearing and/or language clinic having an appropriate program for



99 the applicant; (iii) the program meets federal and state  
100 regulations; and (iv) the applicant is approved for financial  
101 assistance by a State Level Review Board established by the State  
102 Board of Education. The Review Board will act on financial  
103 assistance requests within five (5) working days of receipt.  
104 Nothing in this paragraph shall prevent two (2) or more public  
105 school districts from forming a cooperative to meet the needs of  
106 low incidence exceptional children, nor shall the public school be  
107 relieved of its responsibility to provide an education for all  
108 children. If state monies are not sufficient to fund all  
109 applicants, there will be a ratable reduction for all recipients  
110 receiving state funds under this section. School districts may  
111 pay additional educational costs from available federal, state and  
112 local funds.

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

118 At any time that the Individualized Education Program (IEP)  
119 Committee in the district where the home is located determines  
120 that an exceptional child, as defined in Section 37-23-3, residing  
121 in that home can no longer be provided a free appropriate public  
122 education in that school district, and the State Department of  
123 Education agrees with that decision, then the State Department of



124 Education shall recommend to the Department of Human Services  
125 placement of the child by the Department of Human Services, which  
126 shall take appropriate action. The placement of the exceptional  
127 child in the facility shall be at no cost to the local school  
128 district. Funds available under Sections 37-23-61 through  
129 37-23-77, as well as any available federal funds, may be used to  
130 provide the educational costs of the placement. If the  
131 exceptional child is under the guardianship of the Department of  
132 Human Services or another state agency, the State Department of  
133 Education shall pay only for the educational costs of that  
134 placement, and the other agency shall be responsible for the room,  
135 board and any other costs. The special education and related  
136 services provided to the child shall be in compliance with State  
137 Department of Education and any related federal regulations. The  
138 State Board of Education may promulgate regulations that are  
139 necessary to implement this section; and

140 (c) If an appropriate local or regional system of care,  
141 including a free appropriate public education, is available for  
142 exceptional children who are currently being served in  
143 out-of-district or Department of Human Services placements under  
144 Section 37-23-69(b) or 37-23-77, then the state funds from the  
145 State Department of Education that would have been used for those  
146 placements may be paid into a pool of funds with funds from other  
147 state agencies to be used for the implementation of the  
148 individualized plans of care for those children. If there are



149 sufficient funds to serve additional exceptional children because  
150 of cost savings as a result of serving these students at home  
151 and/or matching the pooled funds with federal dollars, the funds  
152 may be used to implement individualized plans of care for those  
153 additional exceptional children. Each local or regional provider  
154 of services included in the individualized plans of care shall  
155 comply with all appropriate state and federal regulations. The  
156 State Board of Education may promulgate regulations that are  
157 necessary to implement this section.

158         The State Department of Education may also provide for the  
159 payment of that financial assistance in installments and for  
160 proration of that financial assistance in the case of children  
161 attending a school or clinic for less than a full school session  
162 and, if available funds are insufficient, may allocate the  
163 available funds among the qualified applicants and local school  
164 districts by reducing the maximum assistance provided for in this  
165 section.

166         Any monies provided an applicant under Sections 37-23-61  
167 through 37-23-75 shall be applied by the receiving educational  
168 institution as a reduction in the amount of the educational costs  
169 paid by the applicant, and the total educational costs paid by the  
170 applicant shall not exceed the total educational costs paid by any  
171 other child in similar circumstances enrolled in the same program  
172 in that institution. However, this limitation shall not prohibit  
173 the waiving of all or part of the educational costs for a limited



174 number of children based upon demonstrated financial need, and the  
175 State Department of Education may adopt and enforce reasonable  
176 rules and regulations to carry out the intent of these provisions.

177 **SECTION 4.** Section 37-23-135, Mississippi Code of 1972, is  
178 amended as follows:

179 37-23-135. (1) For the purposes of this section, each local  
180 educational agency is eligible for assistance under IDEA Part B  
181 for a fiscal year if, in providing for the education of children  
182 with disabilities within its jurisdiction, policies, procedures  
183 and programs are in effect that are consistent with the  
184 regulations established by the State Department of Education.

185 (2) The local educational agency shall have in effect  
186 policies \* \* \*, procedures, and programs that are consistent with  
187 the State Department of Education's policies and procedures to  
188 ensure:

189 (a) A free appropriate public education is available to  
190 all children with disabilities residing in the state between the  
191 ages of three (3) and twenty (20), inclusive. Educational  
192 services for children with disabilities who have been suspended or  
193 expelled from school shall be provided based on the requirements  
194 of IDEA, applicable federal regulations and state regulations;

195 (b) The full educational opportunity goal established  
196 by the state is implemented;

197 (c) All children with disabilities, who are in need of  
198 special education and related services, including children with





199 disabilities attending private school, regardless of the severity  
200 of their disabilities, are identified, located and evaluated;

201 (d) An individualized education program is developed,  
202 reviewed and revised for each child with a disability;

203 (e) Children with disabilities are provided services  
204 within their least restrictive environment;

205 (f) Children with disabilities and their parents are  
206 afforded the procedural safeguards required under IDEA;

207 (g) Children with disabilities are evaluated as  
208 required under IDEA;

209 (h) The State Department of Education and local \* \* \*  
210 educational agencies will assure the protection of the  
211 confidentiality of any personally identifiable data, information  
212 and records collected or maintained as required under IDEA and the  
213 Family Rights and Privacy Act \* \* \*;

214 (i) Children with disabilities participating in early  
215 intervention programs assisted under IDEA Part C who will  
216 participate in preschool programs assisted under IDEA Part B shall  
217 experience a smooth transition. An individualized educational  
218 program shall be developed and implemented by the child's third  
219 birthday;

220 (j) Children with disabilities enrolled in private  
221 schools by their parents shall be provided special education and  
222 related services to the extent required under IDEA;



223           (k) Children with disabilities who are placed in  
224 private schools or facilities by the local educational agency  
225 shall be provided special education and related services, in  
226 accordance with an individualized education program, at no cost to  
227 their parents;

228           (l) A comprehensive system of personnel development has  
229 been developed to ensure appropriately qualified personnel are  
230 available and personnel are trained in accordance with the  
231 requirements of the State Department of Education and IDEA;

232           (m) Personnel providing educational services to  
233 children with disabilities meet the personnel standards of the  
234 State Department of Education;

235           (n) The performance goals and indicators shall be  
236 implemented as established by the State Board of Education; and

237           (o) Children with disabilities are included in  
238 statewide and district-wide assessment programs, with appropriate  
239 accommodations, in accordance with regulations established by the  
240 State Board of Education.

241           (3) The local educational agency shall make available to  
242 parents of children with disabilities and to the general public  
243 all documents relating to the agency's eligibility under IDEA.

244           (4) If the State Department of Education determines that a  
245 local educational agency is not eligible to receive federal funds  
246 due to compliance violations not being resolved within a specified  
247 timeline, the local educational agency shall be notified of that



248 determination and shall be provided with reasonable notice and an  
249 opportunity for a hearing. The local educational agency in  
250 receipt of such notice shall, by means of public notice, take such  
251 measures as may be necessary to bring the pendency of an action to  
252 withhold funds to the attention of the public within the  
253 jurisdiction of such agency.

254 (5) The State Department of Education, after reasonable  
255 notice and an opportunity for a hearing, shall reduce or shall not  
256 provide any further payments to the local educational agency until  
257 the department is satisfied that the violations have been  
258 corrected.

259 (6) (a) Each local educational agency (LEA), in its  
260 implementation of the federal Child Find requirements under the  
261 Individuals with Disabilities Education Act Amendments of 2004  
262 (IDEA 2004), must have in effect policies and procedures to ensure  
263 that all children under twenty-one (21) years of age with  
264 disabilities residing in the district where the LEA is located,  
265 including children with disabilities who are homeless children,  
266 are wards of the state, are attending private schools or enrolled  
267 in a home school program, which for purposes of this section shall  
268 be treated as a private school, regardless of the severity of  
269 their disabilities, and who are in need of special education and  
270 related services, are identified, located and evaluated to ensure  
271 equitable participation in programs assisted or carried out under  
272 IDEA which provide individualized appropriate special education



273 and related services that enable those children to reach their  
274 appropriate and uniquely designed goals for success.

275 (b) In addition to spending the required proportionate  
276 share of IDEA federal funds to provide equitable services to  
277 children with disabilities described in paragraph (a) of this  
278 subsection, the local educational agency, upon the completion of  
279 the Child Find requirements, shall consult with private school  
280 representatives, representatives of parents of parentally-placed  
281 children with disabilities or the parents or representatives of  
282 parents of homeschooled children with disabilities, as respective  
283 circumstances dictate, to design and develop service plans for  
284 special education and related services for those children. Upon  
285 the completion of the individualized service plan (ISP) for a  
286 child with a disability, the local educational agency shall  
287 provide the necessary services required by the child to reach  
288 their appropriate and uniquely designed goals for success, as  
289 outlined in his or her ISP, to be delivered to the child:

290 (i) On the premises of the private or parochial  
291 school where the child is enrolled;

292 (ii) At the residence or designated center of  
293 instruction of a legitimate home school program, as defined in the  
294 policies and procedures standards promulgated by the State  
295 Department of Education; or

296 (iii) At the speech, hearing or language clinics,  
297 or other clinics that are accredited by a state or regional



298 accrediting agency or approved/licensed by the State Department of  
299 Education.

300 (c) An LEA shall use a proportionate share of IDEA  
301 federal funds available for parentally-placed children with  
302 disabilities in private schools:

303 (i) To make public school personnel available in  
304 other than public facilities to the extent necessary to provide  
305 the necessary services for those children if those services are  
306 not normally provided by the private school; and

307 (ii) To pay for the services of an employee of a  
308 private school to provide the necessary services for those  
309 children if the employee performs the services outside of his or  
310 her regular hours of duty, under public supervision and control.

311 **SECTION 5.** This act shall take effect and be in force from  
312 and after July 1, 2024.

