

By: Senator(s) Watson, McDaniel

To: Education;
Appropriations

SENATE BILL NO. 2294

1 AN ACT RELATING TO DIGITAL LEARNING; CREATING THE
2 "MISSISSIPPI DIGITAL LEARNING NOW ACT"; PROVIDING LEGISLATIVE
3 FINDINGS RELATED TO THE ELEMENTS TO BE INCLUDED IN HIGH-QUALITY
4 DIGITAL LEARNING; PROVIDING DIGITAL PREPARATION REQUIREMENTS;
5 PROVIDING FOR CUSTOMIZED AND ACCELERATED LEARNING; TO AMEND
6 SECTION 37-165-7, MISSISSIPPI CODE OF 1972, AUTHORIZING THE
7 ESTABLISHMENT OF VIRTUAL CHARTER SCHOOLS; PROVIDING APPLICATION
8 REQUIREMENTS FOR ESTABLISHMENT OF A VIRTUAL CHARTER SCHOOL;
9 AUTHORIZING A CHARTER SCHOOL TO IMPLEMENT BLENDED LEARNING
10 COURSES; PROVIDING FUNDING FOR A VIRTUAL CHARTER SCHOOL; AND
11 ESTABLISHING ADMINISTRATIVE FEES FOR A VIRTUAL CHARTER SCHOOL; TO
12 AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972, REDEFINING THE
13 TERM "FULL-TIME EQUIVALENT STUDENT" AS IT APPLIES TO THE
14 MISSISSIPPI VIRTUAL SCHOOL UNDER THE MISSISSIPPI ADEQUATE
15 EDUCATION PROGRAM; AND PROVIDING INSTRUCTION, ELIGIBILITY,
16 FUNDING, ASSESSMENT AND ACCOUNTABILITY REQUIREMENTS; TO AMEND
17 SECTION 37-161-3, MISSISSIPPI CODE OF 1972, PROVIDING STANDARDS
18 FOR THE MISSISSIPPI VIRTUAL PUBLIC SCHOOL PROGRAM; REVISING THE
19 DEFINITION OF THE TERM "VIRTUAL INSTRUCTION PROGRAM"; REVISING
20 SCHOOL DISTRICT REQUIREMENTS FOR PROVIDING VIRTUAL INSTRUCTION
21 PROGRAMS; REQUIRING FULL-TIME AND PART-TIME VIRTUAL INSTRUCTION
22 PROGRAM OPTIONS; AUTHORIZING A SCHOOL DISTRICT TO ENTER INTO AN
23 AGREEMENT WITH A VIRTUAL CHARTER SCHOOL TO PROVIDE VIRTUAL
24 INSTRUCTION TO DISTRICT STUDENTS; AUTHORIZING VIRTUAL CHARTER
25 SCHOOL CONTRACTS; PROVIDING ADDITIONAL PROVIDER QUALIFICATIONS
26 RELATING TO CURRICULUM, STUDENT PERFORMANCE ACCOUNTABILITY AND
27 DISCLOSURE; AND REVISING STUDENT ELIGIBILITY REQUIREMENTS; TO
28 AMEND SECTION 37-16-7, MISSISSIPPI CODE OF 1972, REQUIRING AT
29 LEAST ONE COURSE REQUIRED FOR HIGH SCHOOL GRADUATION TO BE
30 COMPLETED THROUGH ONLINE LEARNING; AND AUTHORIZING SCHOOL
31 DISTRICTS TO OFFER VIRTUAL COURSES AND BLENDED LEARNING COURSES;
32 TO AMEND SECTION 37-16-3, MISSISSIPPI CODE OF 1972, REQUIRING ALL
33 STATEWIDE END-OF-COURSE ASSESSMENTS TO BE ADMINISTRATED ONLINE
34 BEGINNING WITH THE 2014-2015 SCHOOL YEAR; AND REQUIRING THE
35 DEPARTMENT OF EDUCATION TO SUBMIT A REPORT TO THE GOVERNOR AND THE
36 LEGISLATURE RELATING TO SCHOOL DISTRICT OFFERING OF, AND STUDENT
37 ACCESS TO, DIGITAL LEARNING; AND FOR RELATED PURPOSES.

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

39 **SECTION 1. Digital learning. (1) Mississippi Digital**
40 **Learning NOW Act.** There is created the Mississippi Digital
41 Learning NOW Act.



42 (2) **Elements of high-quality digital learning.** The
43 Legislature finds that each student should have access to a
44 high-quality digital learning environment that provides:
45 (a) Access to digital learning.
46 (b) Access to high-quality digital content and online
47 courses.
48 (c) Education that is customized to the needs of the
49 student using digital content.
50 (d) A means for the student to demonstrate competency
51 in completed coursework.
52 (e) High-quality digital content, instructional
53 materials, and online and blended learning courses.
54 (f) High-quality digital instruction and teachers.
55 (g) Content and instruction that are evaluated on the
56 metric of student learning.
57 (h) The use of funding as an incentive for performance,
58 options and innovation.
59 (i) Infrastructure that supports digital learning.
60 (j) Online administration of state assessments.
61 (3) **Digital preparation.** Each student must graduate from
62 high school having taken at least one (1) online course, as
63 provided in Section 37-16-7.
64 (4) **Customized and accelerated learning.** A school district
65 must establish multiple opportunities for student participation in
66 part-time and full-time Kindergarten through Grade 12 virtual
67 instruction. Options include, but are not limited to:
68 (a) School district operated part-time or full-time
69 virtual instruction programs under Section 37-161-3 for
70 Kindergarten through Grade 12 students enrolled in the school
71 district.
72 (b) Mississippi Virtual School instructional services
73 authorized under Section 37-161-3.



74 (c) Blended learning instruction provided by charter
75 schools authorized under Section 37-165-7(10).

76 (d) Full-time virtual charter school instruction
77 authorized under Section 37-165-7(10).

78 (e) Courses delivered in the traditional school setting
79 by personnel providing direct instruction through a virtual
80 environment or through a blended virtual and physical environment
81 pursuant to Section 37-16-7.

82 (f) Virtual courses offered in the Course Code
83 Directory to students within the school district or to students in
84 other school districts throughout the state pursuant to Section
85 37-16-7.

86 **SECTION 2.** Section 37-165-7, Mississippi Code of 1972, is
87 amended as follows:

88 37-165-7. (1) The provisions of this chapter shall be
89 applicable to only those chronically under-performing public
90 schools in the State of Mississippi which seek to be converted,
91 and ultimately may be converted, to conversion charter schools
92 upon approval of a petition for conversion charter school status
93 by the State Board of Education.

94 (2) The State Board of Education, subject to the
95 requirements of the Mississippi Administrative Procedures Law,
96 shall establish rules and regulations for the submission of
97 petitions for the conversion of a public school to conversion
98 charter school status and criteria and procedures for the
99 operation of conversion charter schools. The board shall receive
100 and review each petition for the conversion of a public school to
101 conversion charter school status from the school's sponsors and,
102 in its discretion, may approve the petition and grant conversion
103 charter school status.

104 (3) In order to be approved, a petition for conversion
105 charter school status must adequately include:



106 (a) A plan for improvement at the school level for
107 improving student learning and achieving a Successful rating or
108 higher under the State Accountability Model;

109 (b) A set of academic or vocational, or both,
110 performance-based objectives and student achievement-based
111 objectives for the term of the contract and the means for
112 measuring those objectives on no less than an annual basis;

113 (c) An agreement to provide a yearly report to parents,
114 the school board of the school district in which the conversion
115 charter school is located, and the State Board of Education which
116 indicates the progress made by the conversion charter school in
117 the previous year in meeting the academic or vocational, or both,
118 performance objectives;

119 (d) An agreement that the conversion charter school
120 shall be nonsectarian;

121 (e) An agreement that the conversion charter school
122 shall not charge tuition; and

123 (f) An agreement requiring the conversion charter
124 school to be subject to financial audits in the same manner as
125 public school districts.

126 (4) The procedures and process for the conversion of a
127 public school to conversion charter school status shall be as
128 follows:

129 (a) A petition shall be developed by a sponsor or its
130 appointed representative and shall be made available to all
131 parents or guardians of students enrolled in a public school that
132 is chronically Low-Performing, At-Risk of Failing or Failing, as
133 determined by the State Department of Education, with a copy of
134 the proposed conversion plan attached to the petition for their
135 inspection and signing;

136 (b) The petition and conversion plan must be approved
137 by more than fifty percent (50%) of the families of the students
138 enrolled in a chronically under-performing public school during



139 the third consecutive year in which the school has been designated
140 as Low-Performing, At-Risk of Failing or Failing, as determined by
141 the State Department of Education. The family of a student
142 enrolled in a chronically under-performing public school proposed
143 to be converted to conversion charter school status shall be
144 entitled to one (1) vote per family without regard to the number
145 of children a family may have enrolled as students at the school.
146 The group of parents or guardians submitting or having the
147 petition submitted on their behalf shall be considered the sponsor
148 of the conversion charter school;

149 (c) The sponsor shall prepare and submit the petition
150 and the conversion plan for conversion charter school status
151 approved by the parents or guardians of students enrolled in a
152 chronically under-performing public school to the State Board of
153 Education upon forms prescribed by or in a format specified by the
154 board;

155 (d) Before the petition for conversion granting a
156 public school conversion charter school status is submitted to the
157 State Board of Education for approval, the sponsor shall conduct a
158 public hearing in the local school district in which the school
159 proposed for conversion is located to allow the parents or
160 guardians of students enrolled in the chronically under-performing
161 public school affected by the conversion to be informed of the
162 conversion process and to address any concerns relating to the
163 process and subsequent operation of the conversion charter school;
164 and

165 (e) After the State Board of Education approves a
166 petition for conversion charter school status, the parents or
167 guardians of the students enrolled in the conversion charter
168 school shall select members to serve on the conversion charter
169 school's local management board, which members shall be selected
170 in accordance with the rules and regulations promulgated by the



171 State Board of Education for the selection of conversion charter
172 school local management board members.

173 (5) The conversion plan to be attached to the petition must
174 include the following:

175 (a) A description of the plan for school improvement
176 that addresses how the school proposes to work toward improving
177 student learning and achieving a Successful rating or higher under
178 the State Accountability Model;

179 (b) An outline of proposed academic or vocational, or
180 both, performance criteria to be used during the initial period of
181 the contract to measure progress of the school in improving
182 student learning and achieving a Successful rating or higher under
183 the State Accountability Model requiring that:

184 (i) Academic performance criteria must include
185 specific and measureable benchmarks of academic performance on
186 state assessments; and

187 (ii) Academic performance criteria include a
188 requirement that conversion charter schools not miss adequate
189 yearly progress for any two (2) consecutive years, as defined by
190 the No Child Left Behind Act of 2001, or other future federal
191 school accountability requirements;

192 (c) A provision requiring the conversion charter school
193 to comply with all rules, regulations, policies and procedures of
194 the State Board of Education and the local school board and the
195 provisions of the Mississippi Code of 1972 relating to the
196 elementary and secondary education of students, except those
197 rules, regulations, policies or procedures from which the
198 conversion charter school specifically requests to be exempted and
199 which have been agreed upon by the State Board of Education as
200 specified in the school's contract. Conversion charter schools
201 must comply with general health and safety standards, state test
202 assessments and accountability requirements, financial
203 accountability and auditing requirements, and all reporting and



204 data collecting requirements in the same manner as public schools
205 in the local school district;

206 (d) The local management board shall not directly or
207 indirectly communicate to a parent or guardian that the conversion
208 charter school is unable to meet the needs of a child, but shall
209 provide a free and public education to every student in the
210 attendance zone;

211 (e) Conversion charter schools may not be exempted from
212 the following statutes:

213 (i) Section 37-9-75, which relates to teacher
214 strikes;

215 (ii) Section 37-11-20, which prohibits acts of
216 intimidation intended to keep a student from attending school;

217 (iii) Section 37-11-21, which prohibits abuse of
218 school staff;

219 (iv) Section 37-11-23, which prohibits the willful
220 disruption of school and school meetings;

221 (v) Sections 37-11-29 and 37-11-31, which relate
222 to reporting requirements regarding unlawful or violent acts on
223 school property;

224 (vi) Section 37-151-107, which prohibits false
225 reporting of student counts by school officials;

226 (vii) Applicable State Department of Health
227 regulations;

228 (viii) Applicable federal No Child Left Behind
229 requirements and any additional federal education programs; and

230 (ix) Applicable federal and state requirements for
231 special education, gifted education and vocational education
232 programs;

233 (f) A detailed budget and a clear business plan,
234 including any projected costs that extend beyond the regular
235 operational costs of the conversion charter school;



236 (g) A plan of governance and the process by which the
237 members of the local management board of the conversion charter
238 school shall be selected to serve as the governing administrative
239 authority, provided that:

240 (i) The local management board shall be composed
241 of parents or guardians of students enrolled in and in attendance
242 at the conversion charter school, selected by other parents or
243 guardians of students enrolled in and in attendance at that
244 school;

245 (ii) Members of the local management board may
246 serve a term of three (3) years; however, a member's term of
247 service on the local management board is contingent upon that
248 member having a child continuously enrolled as a student at the
249 conversion charter school during each school year that the member
250 serves on the board. If a student no longer attends the
251 conversion charter school and the board member has no other child
252 enrolled in and attending the school, the term of the
253 member-parent or guardian shall expire immediately and a new
254 member selected. If a student is promoted and the board member
255 has no other child enrolled in and attending the conversion
256 charter school, the term of the member-parent or guardian shall
257 expire immediately and a new member selected, unless the
258 member-parent or guardian has another child who will be enrolled
259 in the conversion charter school in the next succeeding scholastic
260 year;

261 (iii) Members of the local management board shall
262 serve without compensation;

263 (iv) No member of the local school board of any
264 public or private school district may serve on the local
265 management board of a conversion charter school;

266 (v) Procedures for the subsequent selection of
267 members and filling vacancies that occur on the local management
268 board are included; and



269 (vi) The selection of members to the local
270 management board of conversion charter schools shall be performed
271 in accordance with the rules and regulations promulgated by the
272 State Board of Education for the selection of conversion charter
273 school local management board members;

274 (h) An agreement to provide an annual academic
275 achievement report to parents, the local school board of any
276 school district from which the conversion charter school draws
277 students and the State Board of Education, which indicates the
278 progress made by the conversion charter school during the previous
279 year in meeting its academic or vocational performance objectives.
280 The report shall include, but not be limited to, the following
281 information:

282 (i) Student progress concerning academic
283 achievement;

284 (ii) Student attendance;

285 (iii) Student grades and scores on assessment
286 instruments;

287 (iv) Incidents involving student discipline;

288 (v) Student socioeconomic data; and

289 (vi) Parent satisfaction with the schools;

290 (i) An agreement to provide a yearly financial report
291 to parents, the local school board of any school district from
292 which the conversion charter school draws students and the State
293 Board of Education, which discloses all public and private funds
294 received by the conversion charter school, and how those funds
295 were expended;

296 (j) An agreement requiring all student records,
297 financial documentation, and all other pertinent records of
298 student and school data shall be accessible by the local school
299 board;

300 (k) An agreement requiring members of the local
301 management board of a conversion charter school to attend the



302 training required under Section 37-3-4, provided by the
303 Mississippi School Boards Association for local school board
304 members and public school superintendents of this state, in order
305 for those individuals to carry out their duties more effectively.
306 Members of the local management board shall be reimbursed for the
307 necessary expenses and mileage in attending any required training
308 and shall be paid a per diem for each day in attendance at the
309 training by the local school district in the amount authorized by
310 Section 37-6-13 for members of the local school board;

311 (l) A transcript of the public hearing required under
312 subsection (4) (d) of this section; and

313 (m) A description of the discipline policy to be
314 adopted by the local management board, or alternatively, an
315 agreement that the local management board shall adhere to the
316 discipline policy implemented for the school district by the local
317 school board.

318 (6) If a petition for the conversion of a public school to
319 conversion charter school status is approved, the local management
320 board, subject to the utilization of any available resources, may:

321 (a) Extend the school day or length of the scholastic
322 year;

323 (b) Develop and establish a curriculum that is
324 consistent with the Mississippi Curriculum Framework which
325 provides courses that promote postsecondary education and
326 vocational preparation and/or admission;

327 (c) Select, purchase and use textbooks, literature and
328 other instructional materials that would improve educational
329 attainment by students in the school, subject to the approval of
330 the State Board of Education;

331 (d) Select a person to be employed as the principal of
332 the conversion charter school or may contract with a profit or
333 nonprofit organization which has operated a successful public
334 school in any state or the District of Columbia for the daily



335 administrative management of the conversion charter school,
336 provided that daily administrative management shall not include
337 the authority to employ or terminate conversion charter school
338 administrators, teachers or other personnel, establish curriculum
339 or adopt a budget. The person selected by the local management
340 board to serve as principal of the conversion charter school must
341 attend or must have attended a principal leadership program
342 approved by the State Department of Education. If the local
343 management board contracts with a profit or nonprofit organization
344 for daily administrative management functions, that contract shall
345 not abrogate or preempt any provisions of the contract entered
346 into between the local management board and the State Board of
347 Education for the conversion of the public school to conversion
348 charter school status; and

349 (e) Select licensed teachers who are highly qualified
350 under the No Child Left Behind Act for employment in the
351 conversion charter school and determine the salaries of those
352 teachers employed. The minimum salaries for licensed teachers
353 employed in the conversion charter school shall be in accordance
354 with the scale for teachers' salaries provided under the Teacher
355 Opportunity Program, as established under Section 37-19-7.

356 (7) (a) All functions and decisions of the local management
357 board impacting the academic curriculum, student progress and
358 assessment, and the accountability standards of a conversion
359 charter school shall be subject to the reviewing and approval
360 authority of the State Board of Education.

361 (b) All administrative functions and decisions of the
362 local management board impacting the financial or any other
363 managerial or operational functions of a conversion charter school
364 shall be subject to the reviewing and approval authority of the
365 local school board.



366 (8) Meetings of the local management board shall be subject
367 to the requirements of Sections 25-41-1 through 25-41-17 governing
368 open meetings.

369 (9) Nothing in this chapter prohibits conversion charter
370 schools from offering virtual service pursuant to state law and
371 regulations defining virtual schools, as provided in subsection
372 (10) of this section and the Mississippi Digital Learning NOW Act.

373 (10) A charter school must amend its charter or submit a new
374 application pursuant to this subsection (10) to become a virtual
375 charter school. A virtual charter school is subject to the
376 requirements of this section. For the establishment of a virtual
377 charter school, documents are required that the applicant has
378 contracted with a provider of virtual instruction services
379 pursuant to Section 37-161-3. In order to provide students with
380 access to diverse instructional delivery models, to facilitate the
381 integration of technology within traditional classroom
382 instruction, and to provide students with the skills they need to
383 compete in the 21st Century economy, the Legislature encourages
384 instructional methods for blended learning courses consisting of
385 both traditional classroom and online instructional techniques.
386 Charter schools may implement blended learning courses which
387 combine traditional classroom instruction and virtual instruction.
388 Students in a blended learning course must be full-time students
389 of the charter school and receive the online instruction in a
390 classroom setting at the charter school. Instructional personnel
391 who provide virtual instruction for blended learning courses may
392 be employees of the charter school or may be under contract to
393 provide instructional services to charter school students. At a
394 minimum, such instructional personnel must hold an active state or
395 school district certification for the subject area of the blended
396 learning course. The funding and performance accountability
397 requirements for blended learning courses are the same as those
398 for traditional courses. Funding for a virtual charter school



399 shall be as provided in Section 37-151-7. The sponsor of a
400 virtual charter school may withhold a fee of up to five percent
401 (5%). The funds shall be used to cover the cost of services
402 provided and for the school district's local instructional
403 improvement system or other technological tools that are required
404 to access electronic and digital instructional materials.

405 **SECTION 3.** Section 37-151-7, Mississippi Code of 1972, is
406 amended as follows:

407 37-151-7. The annual allocation to each school district for
408 the operation of the adequate education program shall be
409 determined as follows:

410 (1) **Computation of the basic amount to be included for**
411 **current operation in the adequate education program.** The
412 following procedure shall be followed in determining the annual
413 allocation to each school district:

414 (a) **Determination of average daily attendance.**
415 Effective with fiscal year 2011, the State Department of Education
416 shall determine the percentage change from the prior year of each
417 year of each school district's average of months two (2) and three
418 (3) average daily attendance (ADA) for the three (3) immediately
419 preceding school years of the year for which funds are being
420 appropriated. For any school district that experiences a positive
421 growth in the average of months two (2) and three (3) ADA each
422 year of the three (3) years, the average percentage growth over
423 the three-year period shall be multiplied times the school
424 district's average of months two (2) and three (3) ADA for the
425 year immediately preceding the year for which MAEP funds are being
426 appropriated. The resulting amount shall be added to the school
427 district's average of months two (2) and three (3) ADA for the
428 year immediately preceding the year for which MAEP funds are being
429 appropriated to arrive at the ADA to be used in determining a
430 school district's MAEP allocation. Otherwise, months two (2) and
431 three (3) ADA for the year immediately preceding the year for



432 which MAEP funds are being appropriated will be used in
433 determining a school district's MAEP allocation. In any fiscal
434 year prior to 2010 in which the MAEP formula is not fully funded,
435 for those districts that do not demonstrate a three-year positive
436 growth in months two (2) and three (3) ADA, months one (1) through
437 nine (9) ADA of the second preceding year for which funds are
438 being appropriated or months two (2) and three (3) ADA of the
439 preceding year for which funds are being appropriated, whichever
440 is greater, shall be used to calculate the district's MAEP
441 allocation. The district's average daily attendance shall be
442 computed and currently maintained in accordance with regulations
443 promulgated by the State Board of Education.

444 (b) **Determination of base student cost.** Effective with
445 fiscal year 2011 and every fourth fiscal year thereafter, the
446 State Board of Education, on or before August 1, with adjusted
447 estimate no later than January 2, shall submit to the Legislative
448 Budget Office and the Governor a proposed base student cost
449 adequate to provide the following cost components of educating a
450 pupil in a successful school district: (i) Instructional Cost;
451 (ii) Administrative Cost; (iii) Operation and Maintenance of
452 Plant; and (iv) Ancillary Support Cost. For purposes of these
453 calculations, the Department of Education shall utilize financial
454 data from the second preceding year of the year for which funds
455 are being appropriated.

456 For the instructional cost component, the Department of
457 Education shall select districts that have been identified as
458 instructionally successful and have a ratio of a number of
459 teachers per one thousand (1,000) students that is between one (1)
460 standard deviation above the mean and two (2) standard deviations
461 below the mean of the statewide average of teachers per one
462 thousand (1,000) students. The instructional cost component shall
463 be calculated by dividing the latest available months one (1)
464 through nine (9) ADA into the instructional expenditures of these



465 selected districts. For the purpose of this calculation, the
466 Department of Education shall use the following funds, functions
467 and objects:

468 Fund 1120 Functions 1110-1199 Objects 100-999, Functions
469 1210, 1220, 2150-2159 Objects 210 and 215;

470 Fund 1130 All Functions, Object Code 210 and 215;

471 Fund 2001 Functions 1110-1199 Objects 100-999;

472 Fund 2070 Functions 1110-1199 Objects 100-999;

473 Fund 2420 Functions 1110-1199 Objects 100-999;

474 Fund 2711 All Functions, Object Code 210 and 215.

475 Prior to the calculation of the instructional cost component,
476 there shall be subtracted from the above expenditures any revenue
477 received for Chickasaw Cession payments, Master Teacher
478 Certification payments and the district's portion of state revenue
479 received from the MAEP at-risk allocation.

480 For the administrative cost component, the Department of
481 Education shall select districts that have been identified as
482 instructionally successful and have a ratio of an administrative
483 staff to nonadministrative staff between one (1) standard
484 deviation above the mean and two (2) standard deviations below the
485 mean of the statewide average administrative staff to
486 nonadministrative staff. The administrative cost component shall
487 be calculated by dividing the latest available months one (1)
488 through nine (9) ADA of the selected districts into the
489 administrative expenditures of these selected districts. For the
490 purpose of this calculation, the Department of Education shall use
491 the following funds, functions and objects:

492 Fund 1120 Functions 2300-2599, Functions 2800-2899,
493 Objects 100-999;

494 Fund 2711 Functions 2300-2599, Functions 2800-2899,
495 Objects 100-999.

496 For the plant and maintenance cost component, the Department
497 of Education shall select districts that have been identified as



498 instructionally successful and have a ratio of plant and
499 maintenance expenditures per one hundred thousand (100,000) square
500 feet of building space and a ratio of maintenance workers per one
501 hundred thousand (100,000) square feet of building space that are
502 both between one (1) standard deviation above the mean and two (2)
503 standard deviations below the mean of the statewide average. The
504 plant and maintenance cost component shall be calculated by
505 dividing the latest available months one (1) through nine (9) ADA
506 of the selected districts into the plant and maintenance
507 expenditures of these selected districts. For the purpose of this
508 calculation, the Department of Education shall use the following
509 funds, functions and objects:

510 Fund 1120 Functions 2600-2699, Objects 100-699
511 and Objects 800-999;
512 Fund 2711 Functions 2600-2699, Objects 100-699
513 and Objects 800-999;
514 Fund 2430 Functions 2600-2699, Objects 100-699
515 and Objects 800-999.

516 For the ancillary support cost component, the Department of
517 Education shall select districts that have been identified as
518 instructionally successful and have a ratio of a number of
519 librarians, media specialists, guidance counselors and
520 psychologists per one thousand (1,000) students that is between
521 one (1) standard deviation above the mean and two (2) standard
522 deviations below the mean of the statewide average of librarians,
523 media specialists, guidance counselors and psychologists per one
524 thousand (1,000) students. The ancillary cost component shall be
525 calculated by dividing the latest available months one (1) through
526 nine (9) ADA into the ancillary expenditures instructional
527 expenditures of these selected districts. For the purpose of this
528 calculation, the Department of Education shall use the following
529 funds, functions and objects:

530 Fund 1120 Functions 2110-2129, Objects 100-999;



531 Fund 1120 Functions 2140-2149, Objects 100-999;
532 Fund 1120 Functions 2220-2229, Objects 100-999;
533 Fund 2001 Functions 2100-2129, Objects 100-999;
534 Fund 2001 Functions 2140-2149, Objects 100-999;
535 Fund 2001 Functions 2220-2229, Objects 100-999.

536 The total base cost for each year shall be the sum of the
537 instructional cost component, administrative cost component, plant
538 and maintenance cost component and ancillary support cost
539 component, and any estimated adjustments for additional state
540 requirements as determined by the State Board of Education.
541 Provided, however, that the base student cost in fiscal year 1998
542 shall be Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).

543 For each of the fiscal years between the recalculation of the
544 base student cost under the provisions of this paragraph (b), the
545 base student cost shall be increased by an amount equal to forty
546 percent (40%) of the base student cost for the previous fiscal
547 year, multiplied by the latest annual rate of inflation for the
548 State of Mississippi as determined by the State Economist, plus
549 any adjustments for additional state requirements such as, but not
550 limited to, teacher pay raises and health insurance premium
551 increases.

552 (c) **Determination of the basic adequate education**
553 **program cost.** The basic amount for current operation to be
554 included in the Mississippi Adequate Education Program for each
555 school district shall be computed as follows:

556 Multiply the average daily attendance of the district by the
557 base student cost as established by the Legislature, which yields
558 the total base program cost for each school district.

559 (d) **Adjustment to the base student cost for at-risk**
560 **pupils.** The amount to be included for at-risk pupil programs for
561 each school district shall be computed as follows: Multiply the
562 base student cost for the appropriate fiscal year as determined
563 under paragraph (b) by five percent (5%), and multiply that



564 product by the number of pupils participating in the federal free
565 school lunch program in such school district, which yields the
566 total adjustment for at-risk pupil programs for such school
567 district.

568 (e) **Add-on program cost.** The amount to be allocated to
569 school districts in addition to the adequate education program
570 cost for add-on programs for each school district shall be
571 computed as follows:

572 (i) Transportation cost shall be the amount
573 allocated to such school district for the operational support of
574 the district transportation system from state funds.

575 (ii) Vocational or technical education program
576 cost shall be the amount allocated to such school district from
577 state funds for the operational support of such programs.

578 (iii) Special education program cost shall be the
579 amount allocated to such school district from state funds for the
580 operational support of such programs.

581 (iv) Gifted education program cost shall be the
582 amount allocated to such school district from state funds for the
583 operational support of such programs.

584 (v) Alternative school program cost shall be the
585 amount allocated to such school district from state funds for the
586 operational support of such programs.

587 (vi) Extended school year programs shall be the
588 amount allocated to school districts for those programs authorized
589 by law which extend beyond the normal school year.

590 (vii) University-based programs shall be the
591 amount allocated to school districts for those university-based
592 programs for handicapped children as defined and provided for in
593 Section 37-23-131 et seq., Mississippi Code of 1972.

594 (viii) Bus driver training programs shall be the
595 amount provided for those driver training programs as provided for
596 in Section 37-41-1, Mississippi Code of 1972.



597 The sum of the items listed above (i) transportation, (ii)
598 vocational or technical education, (iii) special education, (iv)
599 gifted education, (v) alternative school, (vi) extended school
600 year, (vii) university-based, and (viii) bus driver training shall
601 yield the add-on cost for each school district.

602 (f) **The Mississippi Virtual School.** Funding for the
603 Mississippi Virtual School shall be provided as follows:

604 (i) 1. For a student in Grades 9 through 12, a
605 "full-time equivalent student" is one (1) student who has
606 successfully completed six (6) full-credit courses that shall
607 count toward the minimum number of credits required for high
608 school graduation. A student who completes fewer than six (6)
609 full-credit courses is a fraction of a full-time equivalent
610 student. Half-credit course completions shall be included in
611 determining a full-time equivalent student. Credits completed by
612 a student in excess of the minimum required for that student for
613 high school graduation is not eligible for funding.

614 2. For a student in Kindergarten through
615 Grade 8, a "full-time equivalent student" is one (1) student who
616 has successfully completed six (6) courses or the prescribed level
617 of content that counts toward promotion to the next grade. A
618 student who completes fewer than six (6) courses or the prescribed
619 level of content shall be a fraction of a full-time equivalent
620 student.

621 3. Beginning in the 2014-2015 fiscal year,
622 when Section 37-163-3 is implemented, the reported full-time
623 equivalent students and associated funding of students enrolled in
624 courses requiring passage of an end-of-course assessment shall be
625 adjusted after the student completes the end-of-course assessment.
626 However, no adjustment shall be made for home education program
627 students who choose not to take an end-of-course assessment.

628 (ii) 1. The Mississippi Virtual School may
629 provide full-time instruction for students in Kindergarten through



630 Grade 12 and part-time instruction for students in Grades 4
631 through 12. To receive full-time instruction in Grades 2 through
632 5, a student must meet at least one (1) of the eligibility
633 criteria in Section 37-161-3. Part-time instruction for Grades 4
634 and 5 may be provided only to public school students taking Grades
635 6 through 8 courses.

636 2. For students receiving part-time
637 instruction in Grades 4 and 5 and students receiving full-time
638 instruction in Kindergarten through Grade 12 from the Mississippi
639 Virtual School, the combined total of all FTE reported by both the
640 school district and the Mississippi Virtual School may not exceed
641 1.0 FTE.

642 (iii) Each elementary school principal must notify
643 the parent of each student who scores at Level 4 or Level 5 on
644 MCAT Reading or MCAT Mathematics of the option for the student to
645 take accelerated courses through the Mississippi Virtual School.

646 (iv) 1. Public school students receiving
647 full-time instruction in Kindergarten through Grade 12 by the
648 Mississippi Virtual School must take all statewide assessments
649 required pursuant to Section 37-16-7.

650 2. Public school students receiving part-time
651 instruction by the Mississippi Virtual School in courses requiring
652 statewide end-of-course assessments must take all statewide
653 end-of-course assessments required pursuant to Section 37-16-7.

654 3. All statewide assessments must be taken
655 within the school district in which the student resides. A school
656 district must provide the student with access to the district's
657 testing facilities.

658 (v) The Mississippi Virtual School shall receive a
659 school grade pursuant to Section 37-16-7 for students receiving
660 full-time instruction.

661 (g) **Total projected adequate education program cost.**

662 The total Mississippi Adequate Education Program cost shall be the



663 sum of the total basic adequate education program cost (paragraph
664 (c)), and the adjustment to the base student cost for at-risk
665 pupils (paragraph (d)) for each school district and the adjustment
666 for the Mississippi Virtual School. In any year in which the MAEP
667 is not fully funded, the Legislature shall direct the Department
668 of Education in the K-12 appropriation bill as to how to allocate
669 MAEP funds to school districts for that year.

670 (h) The State Auditor shall annually verify the State
671 Board of Education's estimated calculations for the Mississippi
672 Adequate Education Program that are submitted each year to the
673 Legislative Budget Office on August 1 and the final calculation
674 that is submitted on January 2.

675 (2) **Computation of the required local revenue in support of**
676 **the adequate education program.** The amount that each district
677 shall provide toward the cost of the adequate education program
678 shall be calculated as follows:

679 (a) The State Department of Education shall certify to
680 each school district that twenty-eight (28) mills, less the
681 estimated amount of the yield of the School Ad Valorem Tax
682 Reduction Fund grants as determined by the State Department of
683 Education, is the millage rate required to provide the district
684 required local effort for that year, or twenty-seven percent (27%)
685 of the basic adequate education program cost for such school
686 district as determined under paragraph (c), whichever is a lesser
687 amount. In the case of an agricultural high school, the millage
688 requirement shall be set at a level which generates an equitable
689 amount per pupil to be determined by the State Board of Education.

690 (b) The State Department of Education shall determine
691 (i) the total assessed valuation of nonexempt property for school
692 purposes in each school district; (ii) assessed value of exempt
693 property owned by homeowners aged sixty-five (65) or older or
694 disabled as defined in Section 27-33-67(2), Mississippi Code of
695 1972; (iii) the school district's tax loss from exemptions



696 provided to applicants under the age of sixty-five (65) and not
697 disabled as defined in Section 27-33-67(1), Mississippi Code of
698 1972; and (iv) the school district's homestead reimbursement
699 revenues.

700 (c) The amount of the total adequate education program
701 funding which shall be contributed by each school district shall
702 be the sum of the ad valorem receipts generated by the millage
703 required under this subsection plus the following local revenue
704 sources for the appropriate fiscal year which are or may be
705 available for current expenditure by the school district:

706 One hundred percent (100%) of Grand Gulf income as prescribed
707 in Section 27-35-309.

708 One hundred percent (100%) of any fees in lieu of taxes as
709 prescribed in Section 27-31-104.

710 (3) **Computation of the required state effort in support of**
711 **the adequate education program.**

712 (a) The required state effort in support of the
713 adequate education program shall be determined by subtracting the
714 sum of the required local tax effort as set forth in subsection
715 (2)(a) of this section and the other local revenue sources as set
716 forth in subsection (2)(c) of this section in an amount not to
717 exceed twenty-seven percent (27%) of the total projected adequate
718 education program cost as set forth in subsection (1)(f) of this
719 section from the total projected adequate education program cost
720 as set forth in subsection (1)(f) of this section.

721 (b) Provided, however, that in fiscal year 1998 and in
722 the fiscal year in which the adequate education program is fully
723 funded by the Legislature, any increase in the said state
724 contribution to any district calculated under this section shall
725 be not less than eight percent (8%) in excess of the amount
726 received by said district from state funds for the fiscal year
727 immediately preceding. For purposes of this paragraph (b), state
728 funds shall include minimum program funds less the add-on



729 programs, State Uniform Millage Assistance Grant Funds, Education
730 Enhancement Funds appropriated for Uniform Millage Assistance
731 Grants and state textbook allocations, and State General Funds
732 allocated for textbooks.

733 (c) If the school board of any school district shall
734 determine that it is not economically feasible or practicable to
735 operate any school within the district for the full one hundred
736 eighty (180) days required for a school term of a scholastic year
737 as required in Section 37-13-63, Mississippi Code of 1972, due to
738 an enemy attack, a man-made, technological or natural disaster in
739 which the Governor has declared a disaster emergency under the
740 laws of this state or the President of the United States has
741 declared an emergency or major disaster to exist in this state,
742 said school board may notify the State Department of Education of
743 such disaster and submit a plan for altering the school term. If
744 the State Board of Education finds such disaster to be the cause
745 of the school not operating for the contemplated school term and
746 that such school was in a school district covered by the
747 Governor's or President's disaster declaration, it may permit said
748 school board to operate the schools in its district for less than
749 one hundred eighty (180) days and, in such case, the State
750 Department of Education shall not reduce the state contributions
751 to the adequate education program allotment for such district,
752 because of the failure to operate said schools for one hundred
753 eighty (180) days.

754 (4) The Interim School District Capital Expenditure Fund is
755 hereby established in the State Treasury which shall be used to
756 distribute any funds specifically appropriated by the Legislature
757 to such fund to school districts entitled to increased allocations
758 of state funds under the adequate education program funding
759 formula prescribed in Sections 37-151-3 through 37-151-7,
760 Mississippi Code of 1972, until such time as the said adequate
761 education program is fully funded by the Legislature. The



762 following percentages of the total state cost of increased
763 allocations of funds under the adequate education program funding
764 formula shall be appropriated by the Legislature into the Interim
765 School District Capital Expenditure Fund to be distributed to all
766 school districts under the formula: Nine and two-tenths percent
767 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
768 (20%) shall be appropriated in fiscal year 1999, forty percent
769 (40%) shall be appropriated in fiscal year 2000, sixty percent
770 (60%) shall be appropriated in fiscal year 2001, eighty percent
771 (80%) shall be appropriated in fiscal year 2002, and one hundred
772 percent (100%) shall be appropriated in fiscal year 2003 into the
773 State Adequate Education Program Fund. Until July 1, 2002, such
774 money shall be used by school districts for the following
775 purposes:

776 (a) Purchasing, erecting, repairing, equipping,
777 remodeling and enlarging school buildings and related facilities,
778 including gymnasiums, auditoriums, lunchrooms, vocational training
779 buildings, libraries, school barns and garages for transportation
780 vehicles, school athletic fields and necessary facilities
781 connected therewith, and purchasing land therefor. Any such
782 capital improvement project by a school district shall be approved
783 by the State Board of Education, and based on an approved
784 long-range plan. The State Board of Education shall promulgate
785 minimum requirements for the approval of school district capital
786 expenditure plans.

787 (b) Providing necessary water, light, heating, air
788 conditioning, and sewerage facilities for school buildings, and
789 purchasing land therefor.

790 (c) Paying debt service on existing capital improvement
791 debt of the district or refinancing outstanding debt of a district
792 if such refinancing will result in an interest cost savings to the
793 district.



794 (d) From and after October 1, 1997, through June 30,
795 1998, pursuant to a school district capital expenditure plan
796 approved by the State Department of Education, a school district
797 may pledge such funds until July 1, 2002, plus funds provided for
798 in paragraph (e) of this subsection (4) that are not otherwise
799 permanently pledged under such paragraph (e) to pay all or a
800 portion of the debt service on debt issued by the school district
801 under Sections 37-59-1 through 37-59-45, 37-59-101 through
802 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
803 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
804 issued by boards of supervisors for agricultural high schools
805 pursuant to Section 37-27-65, Mississippi Code of 1972, or
806 lease-purchase contracts entered into pursuant to Section 31-7-13,
807 Mississippi Code of 1972, or to retire or refinance outstanding
808 debt of a district, if such pledge is accomplished pursuant to a
809 written contract or resolution approved and spread upon the
810 minutes of an official meeting of the district's school board or
811 board of supervisors. It is the intent of this provision to allow
812 school districts to irrevocably pledge their Interim School
813 District Capital Expenditure Fund allotments as a constant stream
814 of revenue to secure a debt issued under the foregoing code
815 sections. To allow school districts to make such an irrevocable
816 pledge, the state shall take all action necessary to ensure that
817 the amount of a district's Interim School District Capital
818 Expenditure Fund allotments shall not be reduced below the amount
819 certified by the department or the district's total allotment
820 under the Interim Capital Expenditure Fund if fully funded, so
821 long as such debt remains outstanding.

822 (e) [Repealed]

823 (f) [Repealed]

824 (g) The State Board of Education may authorize the
825 school district to expend not more than twenty percent (20%) of
826 its annual allotment of such funds or Twenty Thousand Dollars



827 (\$20,000.00), whichever is greater, for technology needs of the
828 school district, including computers, software,
829 telecommunications, cable television, interactive video, film,
830 low-power television, satellite communications, microwave
831 communications, technology-based equipment installation and
832 maintenance, and the training of staff in the use of such
833 technology-based instruction. Any such technology expenditure
834 shall be reflected in the local district technology plan approved
835 by the State Board of Education under Section 37-151-17,
836 Mississippi Code of 1972.

837 (h) To the extent a school district has not utilized
838 twenty percent (20%) of its annual allotment for technology
839 purposes under paragraph (g), a school district may expend not
840 more than twenty percent (20%) of its annual allotment or Twenty
841 Thousand Dollars (\$20,000.00), whichever is greater, for
842 instructional purposes. The State Board of Education may
843 authorize a school district to expend more than said twenty
844 percent (20%) of its annual allotment for instructional purposes
845 if it determines that such expenditures are needed for
846 accreditation purposes.

847 (i) The State Department of Education or the State
848 Board of Education may require that any project commenced under
849 this section with an estimated project cost of not less than Five
850 Million Dollars (\$5,000,000.00) shall be done only pursuant to
851 program management of the process with respect to design and
852 construction. Any individuals, partnerships, companies or other
853 entities acting as a program manager on behalf of a local school
854 district and performing program management services for projects
855 covered under this subsection shall be approved by the State
856 Department of Education.

857 Any interest accruing on any unexpended balance in the
858 Interim School District Capital Expenditure Fund shall be invested



859 by the State Treasurer and placed to the credit of each school
860 district participating in such fund in its proportionate share.

861 The provisions of this subsection (4) shall be cumulative and
862 supplemental to any existing funding programs or other authority
863 conferred upon school districts or school boards.

864 **SECTION 4.** Section 37-161-3, Mississippi Code of 1972, is
865 amended as follows:

866 37-161-3. (1) The Legislature finds and declares the
867 following:

868 (a) Meeting the educational needs of children in our
869 state's schools is of the greatest importance to the future
870 welfare of the State of Mississippi;

871 (b) Closing the achievement gap between high-performing
872 students, including the achievement gap among at-risk students, is
873 a significant and present challenge;

874 (c) Providing a broader range of educational options to
875 parents and utilizing existing resources, along with technology,
876 may help students in the state improve their academic achievement;
877 and

878 (d) Many of the state's school districts currently lack
879 the capacity to provide other public school choices for students
880 whose schools are low performing.

881 (2) There is created the Mississippi Virtual Public School
882 Program, which is the responsibility of the State Department of
883 Education. It is the intent of the Legislature that the
884 Mississippi Virtual Public School established under this section
885 provides Mississippi families with an alternative choice to access
886 additional educational resources in an effort to improve academic
887 achievement. The Mississippi Virtual Public School must be
888 recognized as a public school and provide equitable treatment and
889 resources as are other public schools in the state. Private
890 providers, overseen by the State Department of Education, may be
891 selected by the State Board of Education to administer, manage or



892 operate virtual school programs in this state, including the total
893 operation of the Mississippi Virtual Public School Program as
894 provided in subsections (6) through (19) of this section. Any
895 private provider chosen to provide services under the provisions
896 of this subsection shall be chosen through a competitive RFP
897 process.

898 (3) Nothing in this section may be interpreted as precluding
899 the use of computer- and Internet-based instruction for students
900 in a virtual or remote setting utilizing the Mississippi Virtual
901 Public School.

902 (4) As used in this section, the following words and phrases
903 have the meanings respectively ascribed unless the context clearly
904 requires otherwise:

905 (a) "Mississippi Virtual Public School" means a public
906 school in which the state uses technology in order to deliver
907 instruction to students via the Internet in a virtual or remote
908 setting.

909 (b) "Sponsor" means the public school district is
910 responsible for the academic process for each student including,
911 but not limited to, enrollment, awarding of credit and monitoring
912 progress.

913 (5) * * * The State Board of Education shall establish the
914 Mississippi Virtual Public School beginning in school year
915 2006-2007, and effective with school year 2012-2013, the
916 Mississippi Virtual Public School Program shall include the
917 standards prescribed in subsections (6) through (19) of this
918 section.

919 * * *

920 (6) (a) Beginning with the 2012-2013 school year, the term
921 "virtual instruction program" means a program of instruction
922 provided in an interactive learning environment created through
923 technology in which students are separated from their teachers by
924 time or space, or both.



925 (b) Beginning with the 2012-2013 school year, each
926 school district that is rated on Academic Watch or lower shall
927 provide all enrolled public school students within its boundaries
928 the option of participating in part-time and full-time virtual
929 instruction programs. Each school district that is rated as
930 successful or higher shall provide at least three (3) options for
931 part-time and full-time virtual instruction. All school districts
932 must provide parents with timely written notification of an open
933 enrollment period for full-time students of at least ninety (90)
934 days that ends no later than thirty (30) days prior to the first
935 day of the school year. The purpose of the program is to make
936 quality virtual instruction available to students using online and
937 distance learning technology in the nontraditional classroom. A
938 virtual instruction program shall provide the following:

939 (i) Full-time virtual instruction for students
940 enrolled in Kindergarten through Grade 12.

941 (ii) Part-time virtual instruction for students
942 enrolled in Grades 9 through 12 courses that are measured pursuant
943 to subsection (16) (a) (ii) of this section.

944 (iii) Full-time or part-time virtual instruction
945 for students enrolled in dropout prevention and academic
946 intervention programs, Juvenile Justice education programs,
947 core-curricula courses to meet class size requirements, or
948 community colleges under this section.

949 (7) To provide students with the option of participating in
950 virtual instruction programs as required by subsection (6) of this
951 section, a school district may:

952 (a) Contract with the Mississippi Virtual School or
953 establish a franchise of the Mississippi Virtual School for the
954 provision of a program under subsection (6) of this section.

955 (b) Contract with an approved provider under subsection
956 (10) of this section for the provision of a full-time program or a
957 part-time program.



958 (c) Enter into an agreement with other school districts
959 to allow the participation of its students in an approved virtual
960 instruction program provided by the other school district. The
961 agreement must indicate a process for the transfer of funds.

962 (d) Establish school district operated part-time or
963 full-time Kindergarten through Grade 12 virtual instruction
964 programs under subsection (6) of this section for students
965 enrolled in the school district.

966 (e) Enter into an agreement with a virtual charter
967 school authorized by the school district under Section
968 37-165-7(10). Contracts under paragraph (a) or paragraph (b) of
969 this subsection may include multidistrict contractual arrangements
970 that may be executed by a regional consortium for its member
971 districts. A multidistrict contractual arrangement or an
972 agreement under paragraph (c) of this subsection does not require
973 the participating school districts to be contiguous. These
974 arrangements may be used to fulfill the requirements of subsection
975 (6) of this section.

976 (8) A virtual charter school may provide full-time virtual
977 instruction for students in Kindergarten through Grade 12 if the
978 virtual charter school has a charter approved pursuant to Section
979 37-165-7(10) authorizing full-time virtual instruction. A virtual
980 charter school may:

981 (a) Contract with the Mississippi Virtual School.

982 (b) Contract with an approved provider under subsection
983 (10) of this section.

984 (c) Enter into an agreement with a school district to
985 allow the participation of the virtual charter school's students
986 in the school district's virtual instruction program. The
987 agreement must indicate a process for reporting of student
988 enrollment and the transfer of funds required by subsection
989 (15)(f) of this section.

990 (9) Each school district shall:



991 (a) Provide to the department by October 1, 2012, and
992 by each October 1 thereafter, a copy of each contract and the
993 amounts paid per unweighted full-time equivalent student for
994 services procured pursuant to subsection (7) (a) and (b) of this
995 section.

996 (b) Expend the difference in funds provided for a
997 student participating in the virtual instruction program pursuant
998 to subsection (7) of this section and the price paid for
999 contracted services procured pursuant to subsection (7) (a) and (b)
1000 of this section for the district's local instructional improvement
1001 system or other technological tools that are required to access
1002 electronic and digital instructional materials.

1003 (c) At the end of each fiscal year, but no later than
1004 September 1, report to the department an itemized list of the
1005 technological tools purchased with these funds.

1006 (10) **Provider qualifications.** (a) The department shall
1007 annually publish online a list of providers approved to offer
1008 virtual instruction programs. To be approved by the department, a
1009 provider must document that it:

1010 (i) Is nonsectarian in its programs, admission
1011 policies, employment practices, and operations;

1012 (ii) Complies with antidiscrimination provisions;

1013 (iii) Locates an administrative office or offices
1014 in this state, requires its administrative staff to be state
1015 residents, requires all instructional staff to be
1016 Mississippi-certified teachers, and conducts background screenings
1017 for all employees or contracted personnel using state and national
1018 criminal history records;

1019 (iv) Possesses prior, successful experience
1020 offering online courses to elementary, middle, or high school
1021 students as demonstrated by quantified student learning gains in
1022 each subject area and grade level provided for consideration as an
1023 instructional program option;



1024 (v) Is accredited by a regional accrediting
1025 association as defined by State Board of Education rule, or the
1026 Southern Association of Colleges and Schools Council on
1027 Accreditation and School Improvement;

1028 (vi) Ensures instructional and curricular quality
1029 through a detailed curriculum and student performance
1030 accountability plan that addresses every subject and grade level
1031 it intends to provide through contract with the school district,
1032 including:

1033 1. Courses and programs that meet the
1034 standards of the International Association for K-12 Online
1035 Learning and the Southern Regional Education Board.

1036 2. Instructional content and services that
1037 align with, and measure student attainment of, student proficiency
1038 in the State Department of Education Standards.

1039 3. Mechanisms that determine and ensure that
1040 a student has satisfied requirements for grade level promotion and
1041 high school graduation with a standard diploma, as appropriate;
1042 and

1043 (vii) Publishes for the general public, in
1044 accordance with disclosure requirements adopted in rule by the
1045 State Board of Education, as part of its application as a provider
1046 and in all contracts negotiated pursuant to this section:

1047 1. Information and data about the curriculum
1048 of each full-time and part-time program;

1049 2. School policies and procedures;

1050 3. Certification status and physical location
1051 of all administrative and instructional personnel;

1052 4. Hours and times of availability of
1053 instructional personnel;

1054 5. Student-teacher ratios;

1055 6. Student completion and promotion rates;



1056 7. Student, educator, and school performance
1057 accountability outcomes; and

1058 8. If the provider is a community college,
1059 employs instructors who meet the certification requirements for
1060 instructional staff.

1061 (b) An approved provider shall retain its approved
1062 status during the three (3) school years after the date of the
1063 department's approval under paragraph (a) of this subsection as
1064 long as the provider continues to comply with all requirements of
1065 this section. However, each provider approved by the department
1066 for the 2012-2013 school year must reapply for approval to provide
1067 a part-time program for students in Grades 9 through 12.

1068 (11) **Virtual instruction program requirements.** Each virtual
1069 instruction program under this section must:

1070 (a) Align virtual course curriculum and course content
1071 to the State Department of Education Standards.

1072 (b) Offer instruction that is designed to enable a
1073 student to gain proficiency in each virtually delivered course of
1074 study.

1075 (c) Provide each student enrolled in the program with
1076 all the necessary instructional materials.

1077 (d) Provide each full-time student enrolled in the
1078 program who qualifies for free or reduced price school lunches
1079 under the National School Lunch Act, or who is on the direct
1080 certification list, and who does not have a computer or Internet
1081 access in his or her home with:

1082 (i) All equipment necessary for participants in
1083 the virtual instruction program, including, but not limited to, a
1084 computer, computer monitor, and printer, if a printer is necessary
1085 to participate in the program; and

1086 (ii) Access to or reimbursement for all Internet
1087 services necessary for online delivery of instruction.

1088 (e) Not require tuition or student registration fees.



1089 (12) **Contract requirements.** Each contract with an approved
1090 provider must at minimum:

1091 (a) Set forth a detailed curriculum plan that
1092 illustrates how students will be provided services and be measured
1093 for attainment of proficiency in the State Department of Education
1094 Standards for each grade level and subject.

1095 (b) Provide a method for determining that a student has
1096 satisfied the requirements for graduation in Section 37-16-7 if
1097 the contract is for the provision of a full-time virtual
1098 instruction program to students in Grades 9 through 12.

1099 (c) Specify a method for resolving conflicts among the
1100 parties.

1101 (d) Specify authorized reasons for termination of the
1102 contract.

1103 (e) Require the approved provider to be responsible for
1104 all debts of the virtual instruction program if the contract is
1105 not renewed or is terminated.

1106 (f) Require the approved provider to comply with all
1107 requirements of this section.

1108 (13) **Student eligibility.** A student may enroll in a virtual
1109 instruction program provided by the school district or by a
1110 virtual charter school operated in the district in which he or she
1111 resides if the student meets eligibility requirements for virtual
1112 instruction pursuant to at least one (1) of the following
1113 conditions:

1114 (a) The student has spent the prior school year in
1115 attendance at a public school in this state and was enrolled and
1116 reported by a public school district for funding during the
1117 preceding October and February for purposes of the Mississippi
1118 Average Daily Attendance surveys.

1119 (b) The student is a dependent child of a member of the
1120 United States Armed Forces who was transferred within the last
1121 twelve (12) months to this state from another state or from a



1122 foreign country pursuant to the parent's permanent change of
1123 station orders.

1124 (c) The student was enrolled during the prior school
1125 year in a virtual instruction program under this section.

1126 (d) The student has a sibling who is currently enrolled
1127 in a virtual instruction program and that sibling was enrolled in
1128 such program at the end of the prior school year.

1129 (e) The student is eligible to enter Kindergarten or
1130 First Grade.

1131 (14) **Student participation requirements.** Each student
1132 enrolled in a virtual instruction program or virtual charter
1133 school must:

1134 (a) Comply with the compulsory attendance requirements
1135 of Section 37-13-91. Student attendance must be verified by the
1136 school district.

1137 (b) Take state assessment tests within the school
1138 district in which such student resides, which must provide the
1139 student with access to the district's testing facilities.

1140 (15) **Virtual instruction program and virtual charter school**
1141 **funding.** (a) Students enrolled in a virtual instruction program
1142 or a virtual charter school shall be funded through the
1143 Mississippi Adequate Education Program. However, such funds may
1144 not be provided for the purpose of fulfilling the class size
1145 requirements under MAEP.

1146 (b) For purposes of a virtual instruction program or a
1147 virtual charter school, "full-time equivalent student" has the
1148 same meaning as provided in Section 37-151-7(f).

1149 (c) For a student enrolled part-time in a Grades 6
1150 through 12 program, a "full-time equivalent student" has the same
1151 meaning as provided in Section 37-151-7(f).

1152 (d) A student may not be reported as more than 1.0
1153 full-time equivalent student in any given school year.



1154 (e) Beginning in the 2014-2015 fiscal year, when
1155 Section 37-161-3 is fully implemented, the reported full-time
1156 equivalent students and associated funding of students enrolled in
1157 courses requiring passage of an end-of-course assessment shall be
1158 adjusted after the student completes the end-of-course assessment.

1159 (f) The school district in which the student resides
1160 shall report full-time equivalent students for a virtual
1161 instruction program or a virtual charter school to the department
1162 in a manner prescribed by the department, and funding shall be
1163 provided through the MAEP Program. Funds received by the school
1164 district of residence for a student in a virtual instruction
1165 program provided by another school district under this section
1166 shall be transferred to the school district providing the virtual
1167 instruction program.

1168 (g) A community college provider may not report
1169 students who are served in a virtual instruction program for
1170 funding under the Community College Funding Program.

1171 (16) **Assessment and accountability.** (a) Each approved
1172 provider contracted under this section must:

1173 (i) Participate in the statewide assessment
1174 program under Section 37-16-3 and in the state's education
1175 performance accountability system.

1176 (ii) Receive a school grade under Section 37-16-3
1177 or a school improvement rating, as applicable. The school grade
1178 or school improvement rating received by each approved provider
1179 shall be based upon the aggregated assessment scores of all
1180 students served by the provider statewide. The department shall
1181 publish the school grade or school improvement rating received by
1182 each approved provider on its Internet website. The department
1183 shall develop an evaluation method for providers of part-time
1184 programs which includes the percentage of students making learning
1185 gains, the percentage of students successfully passing any
1186 required end-of-course assessment, the percentage of students



1187 taking Advanced Placement examinations, and the percentage of
1188 students scoring three (3) or higher on an Advanced Placement
1189 examination.

1190 (b) The performance of part-time students in Grades 9
1191 through 12 shall not be included for purposes of school grades or
1192 school improvement ratings under paragraph (a)(ii) of this
1193 subsection; however, their performance shall be included for
1194 school grading or school improvement rating purposes by the
1195 nonvirtual school providing the student's primary instruction.

1196 (c) An approved provider that receives a school grade
1197 of "D" or "F" under Section 37-16-3 or a school improvement rating
1198 of Academic Watch or lower must file a school improvement plan
1199 with the department for consultation to determine the causes for
1200 low performance and to develop a plan for correction and
1201 improvement.

1202 (d) An approved provider's contract must be terminated
1203 if the provider receives a school grade of "D" or "F" under
1204 Section 37-16-3 or a school improvement rating of Academic Watch
1205 or lower for two (2) years during any consecutive four-year period
1206 or has violated any qualification requirement pursuant to
1207 subsection (2) of this section. A provider that has a contract
1208 terminated under this paragraph may not be an approved provider
1209 for a period of at least one (1) year after the date upon which
1210 the contract was terminated and until the department determines
1211 that the provider is in compliance with subsection (2) of this
1212 section and has corrected each cause of the provider's low
1213 performance.

1214 (17) **Exceptions.** A provider of digital or online content or
1215 curriculum that is used to supplement the instruction of students
1216 who are not enrolled in a virtual instruction program under this
1217 section is not required to meet the requirements of this section.

1218 (18) **Marketing.** Each school district shall provide
1219 information to parents and students about the parent's and



1220 student's right to participate in a virtual instruction program
1221 under this section and in courses offered by the Mississippi
1222 Virtual School under Section 37-161-6.

1223 (19) **Rules.** The State Board of Education shall adopt rules
1224 necessary to administer this section.

1225 **SECTION 5.** Section 37-16-7, Mississippi Code of 1972, is
1226 amended as follows:

1227 37-16-7. (1) Each district school board shall establish
1228 standards for graduation from its schools which shall include as a
1229 minimum:

1230 (a) Mastery of minimum academic skills as measured by
1231 assessments developed and administered by the State Board of
1232 Education.

1233 (b) Completion of a minimum number of twenty-four (24)
1234 academic credits, and all other applicable requirements prescribed
1235 by the district school board. The twenty-four (24) credits may be
1236 earned through applied, integrated, and combined courses approved
1237 by the Department of Education. The twenty-four (24) credits
1238 shall be distributed as follows:

1239 Beginning with students entering Grade 9 in the 2012-2013
1240 school year, at least one (1) course within the twenty-four (24)
1241 credits required in this subsection must be completed through
1242 online learning. However, an online course taken during Grades 6
1243 through 8 fulfills this requirement. This requirement shall be
1244 met through an online course offered by the Mississippi Virtual
1245 School, an online course offered by the high school, or an online
1246 dual enrollment course offered pursuant to a district
1247 interinstitutional articulation agreement pursuant to Section
1248 37-161-3. A student who is enrolled in a full-time or part-time
1249 virtual instruction program under Section 37-161-3 meets this
1250 requirement.



1251 (2) A student who meets all requirements prescribed in
1252 subsection (1) of this section shall be awarded a standard diploma
1253 in a form prescribed by the state board.

1254 (3) The State Board of Education may establish student
1255 proficiency standards for promotion to grade levels leading to
1256 graduation.

1257 **SECTION 6.** Section 37-16-3, Mississippi Code of 1972, is
1258 amended as follows:

1259 37-16-3. (1) The State Department of Education is directed
1260 to implement a program of statewide assessment testing which shall
1261 provide for the improvement of the operation and management of the
1262 public schools. The statewide program shall be timed, as far as
1263 possible, so as not to conflict with ongoing district assessment
1264 programs. As part of the program, the department shall:

1265 (a) Establish, with the approval of the State Board of
1266 Education, minimum performance standards related to the goals for
1267 education contained in the state's plan including, but not limited
1268 to, basic skills in reading, writing and mathematics. The minimum
1269 performance standards shall be approved by April 1 in each year
1270 they are established.

1271 (b) Conduct a uniform statewide testing program in
1272 grades deemed appropriate. The program may test skill areas,
1273 basic skills and high school course content.

1274 (c) Monitor the results of the assessment program and,
1275 at any time the composite student performance of a school or basic
1276 program is found to be below the established minimum standards,
1277 notify the district superintendent, the school principal and the
1278 school advisory committee or other existing parent group of the
1279 situation within thirty (30) days of its determination. The
1280 department shall further provide technical assistance to the
1281 district in the identification of the causes of this deficiency
1282 and shall recommend courses of action for its correction.



1283 (d) Provide technical assistance to the school
1284 districts, when requested, in the development of student
1285 performance standards in addition to the established minimum
1286 statewide standards.

1287 (e) Issue security procedure regulations providing for
1288 the security and integrity of the tests that are administered
1289 under the basic skills assessment program.

1290 (2) Uniform basic skills tests shall be completed by each
1291 student in the appropriate grade. These tests shall be
1292 administered in such a manner as to preserve the integrity and
1293 validity of the assessment. In the event of excused or unexcused
1294 student absences, make-up tests shall be given. The school
1295 superintendent of every school district in the state shall
1296 annually certify to the State Department of Education that each
1297 student enrolled in the appropriate grade has completed the
1298 required basic skills assessment test for his or her grade in a
1299 valid test administration.

1300 **(3) Student and statewide assessment program for public**
1301 **schools.** The State Board of Education shall design and implement
1302 a statewide program of educational assessment that provides
1303 information for the improvement of the operation and management of
1304 the public schools, including schools operating for the purpose of
1305 providing educational services to youth in Juvenile Justice
1306 programs. The State Board of Education may enter into contracts
1307 for the continued administration of the assessment, testing and
1308 evaluation programs authorized and funded by the Legislature.
1309 Pursuant to the statewide assessment program, the State Board of
1310 Education shall: Beginning with the 2014-2015 school year, all
1311 statewide end-of-course assessments shall be administered online.

1312 (4) By December 1, 2013, the Department of Education shall
1313 submit a report to the Governor and the Legislature which
1314 identifies and explains the best methods and strategies by which
1315 the department can assist district school boards in acquiring



1316 digital learning at the most reasonable prices possible and
1317 provides a plan under which district school boards may voluntarily
1318 pool their bids for such purchases. The report shall identify
1319 criteria that will enable district school boards to differentiate
1320 between the level of service and pricing based upon factors such
1321 as the level of student support, the frequency of teacher-student
1322 communications, instructional accountability standards, and
1323 academic integrity. The report shall also include ways to
1324 increase student access to digital learning, including
1325 identification and analysis of the best methods and strategies for
1326 implementing part-time virtual education in Kindergarten through
1327 Grade 5.

1328 **SECTION 7.** This act shall take effect and be in force from
1329 and after July 1, 2012.

