

## REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MR. PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1530: School attendance and absenteeism; standardize for compulsory attendance law & ADA calculations under MAEP.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

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

10           **SECTION 1.** Section 37-13-91, Mississippi Code of 1972, is  
11 amended as follows:

12           37-13-91. (1) This section shall be referred to as the  
13 "Mississippi Compulsory School Attendance Law."

14           (2) The following terms as used in this section are defined  
15 as follows:

16                   (a) "Parent" means the father or mother to whom a child  
17 has been born, or the father or mother by whom a child has been  
18 legally adopted.

19                   (b) "Guardian" means a guardian of the person of a  
20 child, other than a parent, who is legally appointed by a court of  
21 competent jurisdiction.



22                   (c) "Custodian" means any person having the present  
23 care or custody of a child, other than a parent or guardian of the  
24 child.

25                   (d) "School day" means not less than five (5) and not  
26 more than eight (8) hours of actual teaching in which both  
27 teachers and pupils are in regular attendance for scheduled  
28 schoolwork.

29                   (e) "School" means any public school in this state or  
30 any nonpublic school in this state which is in session each school  
31 year for at least one hundred eighty (180) school days, except  
32 that the "nonpublic" school term shall be the number of days that  
33 each school shall require for promotion from grade to grade.

34                   (f) "Compulsory-school-age child" means a child who has  
35 attained or will attain the age of six (6) years on or before  
36 September 1 of the calendar year and who has not attained the age  
37 of seventeen (17) years on or before September 1 of the calendar  
38 year; and shall include any child who has attained or will attain  
39 the age of five (5) years on or before September 1 and has  
40 enrolled in a full-day public school kindergarten program.  
41 Provided, however, that the parent or guardian of any child  
42 enrolled in a full-day public school kindergarten program shall be  
43 allowed to disenroll the child from the program on a one-time  
44 basis, and such child shall not be deemed a compulsory-school-age  
45 child until the child attains the age of six (6) years.



46 (g) "School attendance officer" means a person employed  
47 by the State Department of Education pursuant to Section 37-13-89.

48 (h) "Appropriate school official" means the  
49 superintendent of the school district, or his designee, or, in the  
50 case of a nonpublic school, the principal or the headmaster.

51 (i) "Nonpublic school" means an institution for the  
52 teaching of children, consisting of a physical plant, whether  
53 owned or leased, including a home, instructional staff members and  
54 students, and which is in session each school year. This  
55 definition shall include, but not be limited to, private, church,  
56 parochial and home instruction programs.

57 (3) A parent, guardian or custodian of a  
58 compulsory-school-age child in this state shall cause the child to  
59 enroll in and attend a public school or legitimate nonpublic  
60 school for the period of time that the child is of compulsory  
61 school age, except under the following circumstances:

62 (a) When a compulsory-school-age child is physically,  
63 mentally or emotionally incapable of attending school as  
64 determined by the appropriate school official based upon  
65 sufficient medical documentation.

66 (b) When a compulsory-school-age child is enrolled in  
67 and pursuing a course of special education, remedial education or  
68 education for handicapped or physically or mentally disadvantaged  
69 children.



70 (c) When a compulsory-school-age child is being  
71 educated in a legitimate home instruction program.

72 The parent, guardian or custodian of a compulsory-school-age  
73 child described in this subsection, or the parent, guardian or  
74 custodian of a compulsory-school-age child attending any nonpublic  
75 school, or the appropriate school official for any or all children  
76 attending a nonpublic school shall complete a "certificate of  
77 enrollment" in order to facilitate the administration of this  
78 section.

79 The form of the certificate of enrollment shall be prepared  
80 by the Office of Compulsory School Attendance Enforcement of the  
81 State Department of Education and shall be designed to obtain the  
82 following information only:

83 (i) The name, address, telephone number and date  
84 of birth of the compulsory-school-age child;

85 (ii) The name, address and telephone number of the  
86 parent, guardian or custodian of the compulsory-school-age child;

87 (iii) A simple description of the type of  
88 education the compulsory-school-age child is receiving and, if the  
89 child is enrolled in a nonpublic school, the name and address of  
90 the school; and

91 (iv) The signature of the parent, guardian or  
92 custodian of the compulsory-school-age child or, for any or all  
93 compulsory-school-age child or children attending a nonpublic



94 school, the signature of the appropriate school official and the  
95 date signed.

96 The certificate of enrollment shall be returned to the school  
97 attendance officer where the child resides on or before September  
98 15 of each year. Any parent, guardian or custodian found by the  
99 school attendance officer to be in noncompliance with this section  
100 shall comply, after written notice of the noncompliance by the  
101 school attendance officer, with this subsection within ten (10)  
102 days after the notice or be in violation of this section.

103 However, in the event the child has been enrolled in a public  
104 school within fifteen (15) calendar days after the first day of  
105 the school year as required in subsection (6), the parent or  
106 custodian may, at a later date, enroll the child in a legitimate  
107 nonpublic school or legitimate home instruction program and send  
108 the certificate of enrollment to the school attendance officer and  
109 be in compliance with this subsection.

110 For the purposes of this subsection, a legitimate nonpublic  
111 school or legitimate home instruction program shall be those not  
112 operated or instituted for the purpose of avoiding or  
113 circumventing the compulsory attendance law.

114 (4) An "unlawful absence" is an absence for an entire school  
115 day or during part of a school day by a compulsory-school-age  
116 child, which absence is not due to a valid excuse for temporary  
117 nonattendance. For purposes of reporting absenteeism under  
118 subsection (6) of this section, if a compulsory-school-age child



119 has an absence that is more than thirty-seven percent (37%) of the  
120 instructional day, as fixed by the school board for the school at  
121 which the compulsory-school-age child is enrolled, the child must  
122 be considered absent the entire school day. Days missed from  
123 school due to disciplinary suspension shall not be considered an  
124 "excused" absence under this section. This subsection shall not  
125 apply to children enrolled in a nonpublic school.

126 Each of the following shall constitute a valid excuse for  
127 temporary nonattendance of a compulsory-school-age child enrolled  
128 in a public school, provided satisfactory evidence of the excuse  
129 is provided to the superintendent of the school district, or his  
130 designee:

131 (a) An absence is excused when the absence results from  
132 the compulsory-school-age child's attendance at an authorized  
133 school activity with the prior approval of the superintendent of  
134 the school district, or his designee. These activities may  
135 include field trips, athletic contests, student conventions,  
136 musical festivals and any similar activity.

137 (b) An absence is excused when the absence results from  
138 illness or injury which prevents the compulsory-school-age child  
139 from being physically able to attend school.

140 (c) An absence is excused when isolation of a  
141 compulsory-school-age child is ordered by the county health  
142 officer, by the State Board of Health or appropriate school  
143 official.



144 (d) An absence is excused when it results from the  
145 death or serious illness of a member of the immediate family of a  
146 compulsory-school-age child. The immediate family members of a  
147 compulsory-school-age child shall include children, spouse,  
148 grandparents, parents, brothers and sisters, including  
149 stepbrothers and stepsisters.

150 (e) An absence is excused when it results from a  
151 medical or dental appointment of a compulsory-school-age child.

152 (f) An absence is excused when it results from the  
153 attendance of a compulsory-school-age child at the proceedings of  
154 a court or an administrative tribunal if the child is a party to  
155 the action or under subpoena as a witness.

156 (g) An absence may be excused if the religion to which  
157 the compulsory-school-age child or the child's parents adheres,  
158 requires or suggests the observance of a religious event. The  
159 approval of the absence is within the discretion of the  
160 superintendent of the school district, or his designee, but  
161 approval should be granted unless the religion's observance is of  
162 such duration as to interfere with the education of the child.

163 (h) An absence may be excused when it is demonstrated  
164 to the satisfaction of the superintendent of the school district,  
165 or his designee, that the purpose of the absence is to take  
166 advantage of a valid educational opportunity such as travel,  
167 including vacations or other family travel. Approval of the  
168 absence must be gained from the superintendent of the school



169 district, or his designee, before the absence, but the approval  
170 shall not be unreasonably withheld.

171 (i) An absence may be excused when it is demonstrated  
172 to the satisfaction of the superintendent of the school district,  
173 or his designee, that conditions are sufficient to warrant the  
174 compulsory-school-age child's nonattendance. However, no absences  
175 shall be excused by the school district superintendent, or his  
176 designee, when any student suspensions or expulsions circumvent  
177 the intent and spirit of the compulsory attendance law.

178 (5) Any parent, guardian or custodian of a  
179 compulsory-school-age child subject to this section who refuses or  
180 willfully fails to perform any of the duties imposed upon him or  
181 her under this section or who intentionally falsifies any  
182 information required to be contained in a certificate of  
183 enrollment, shall be guilty of contributing to the neglect of a  
184 child and, upon conviction, shall be punished in accordance with  
185 Section 97-5-39.

186 Upon prosecution of a parent, guardian or custodian of a  
187 compulsory-school-age child for violation of this section, the  
188 presentation of evidence by the prosecutor that shows that the  
189 child has not been enrolled in school within eighteen (18)  
190 calendar days after the first day of the school year of the public  
191 school which the child is eligible to attend, or that the child  
192 has accumulated twelve (12) unlawful absences during the school  
193 year at the public school in which the child has been enrolled,



194 shall establish a prima facie case that the child's parent,  
195 guardian or custodian is responsible for the absences and has  
196 refused or willfully failed to perform the duties imposed upon him  
197 or her under this section. However, no proceedings under this  
198 section shall be brought against a parent, guardian or custodian  
199 of a compulsory-school-age child unless the school attendance  
200 officer has contacted promptly the home of the child and has  
201 provided written notice to the parent, guardian or custodian of  
202 the requirement for the child's enrollment or attendance.

203 (6) If a compulsory-school-age child has not been enrolled  
204 in a school within fifteen (15) calendar days after the first day  
205 of the school year of the school which the child is eligible to  
206 attend or the child has accumulated five (5) unlawful absences  
207 during the school year of the public school in which the child is  
208 enrolled, the school district superintendent or his designee shall  
209 report, within two (2) school days or within five (5) calendar  
210 days, whichever is less, the absences to the school attendance  
211 officer. The State Department of Education shall prescribe a  
212 uniform method for schools to utilize in reporting the unlawful  
213 absences to the school attendance officer. The superintendent or  
214 his designee, also shall report any student suspensions or student  
215 expulsions to the school attendance officer when they occur.

216 (7) When a school attendance officer has made all attempts  
217 to secure enrollment and/or attendance of a compulsory-school-age  
218 child and is unable to effect the enrollment and/or attendance,



219 the attendance officer shall file a petition with the youth court  
220 under Section 43-21-451 or shall file a petition in a court of  
221 competent jurisdiction as it pertains to parent or child.  
222 Sheriffs, deputy sheriffs and municipal law enforcement officers  
223 shall be fully authorized to investigate all cases of  
224 nonattendance and unlawful absences by compulsory-school-age  
225 children, and shall be authorized to file a petition with the  
226 youth court under Section 43-21-451 or file a petition or  
227 information in the court of competent jurisdiction as it pertains  
228 to parent or child for violation of this section. The youth court  
229 shall expedite a hearing to make an appropriate adjudication and a  
230 disposition to ensure compliance with the Compulsory School  
231 Attendance Law, and may order the child to enroll or re-enroll in  
232 school. The superintendent of the school district to which the  
233 child is ordered may assign, in his discretion, the child to the  
234 alternative school program of the school established pursuant to  
235 Section 37-13-92.

236 (8) The State Board of Education shall adopt rules and  
237 regulations for the purpose of reprimanding any school  
238 superintendents who fail to timely report unexcused absences under  
239 the provisions of this section.

240 (9) Notwithstanding any provision or implication herein to  
241 the contrary, it is not the intention of this section to impair  
242 the primary right and the obligation of the parent or parents, or  
243 person or persons in loco parentis to a child, to choose the



proper education and training for such child, and nothing in this section shall ever be construed to grant, by implication or otherwise, to the State of Mississippi, any of its officers, agencies or subdivisions any right or authority to control, manage, supervise or make any suggestion as to the control, management or supervision of any private or parochial school or institution for the education or training of children, of any kind whatsoever that is not a public school according to the laws of this state; and this section shall never be construed so as to grant, by implication or otherwise, any right or authority to any state agency or other entity to control, manage, supervise, provide for or affect the operation, management, program, curriculum, admissions policy or discipline of any such school or home instruction program.

**SECTION 2.** Section 37-151-5, Mississippi Code of 1972, is amended as follows:

37-151-5. As used in Sections 37-151-5 and 37-151-7:

(a) "Adequate program" or "adequate education program" or "Mississippi Adequate Education Program (MAEP)" shall mean the program to establish adequate current operation funding levels necessary for the programs of such school district to meet at least a successful Level III rating of the accreditation system as established by the State Board of Education using current statistically relevant state assessment data.



268 (b) "Educational programs or elements of programs not  
269 included in the adequate education program calculations, but which  
270 may be included in appropriations and transfers to school  
271 districts" shall mean:

272 (i) "Capital outlay" shall mean those funds used  
273 for the constructing, improving, equipping, renovating or major  
274 repairing of school buildings or other school facilities, or the  
275 cost of acquisition of land whereon to construct or establish such  
276 school facilities.

277 (ii) "Pilot programs" shall mean programs of a  
278 pilot or experimental nature usually designed for special purposes  
279 and for a specified period of time other than those included in  
280 the adequate education program.

281 (iii) "Adult education" shall mean public  
282 education dealing primarily with students above eighteen (18)  
283 years of age not enrolled as full-time public school students and  
284 not classified as students of technical schools, colleges or  
285 universities of the state.

286 (iv) "Food service programs" shall mean those  
287 programs dealing directly with the nutritional welfare of the  
288 student, such as the school lunch and school breakfast programs.

289 (c) "Base student" shall mean that student  
290 classification that represents the most economically educated  
291 pupil in a school system meeting the definition of successful, as  
292 determined by the State Board of Education.



293 (d) "Base student cost" shall mean the funding level  
294 necessary for providing an adequate education program for one (1)  
295 base student, subject to any minimum amounts prescribed in Section  
296 37-151-7(1).

297 (e) "Add-on program costs" shall mean those items which  
298 are included in the adequate education program appropriations and  
299 are outside of the program calculations:

300 (i) "Transportation" shall mean transportation to  
301 and from public schools for the students of Mississippi's public  
302 schools provided for under law and funded from state funds.

303 (ii) "Vocational or technical education program"  
304 shall mean a secondary vocational or technical program approved by  
305 the State Department of Education and provided for from state  
306 funds.

307 (iii) "Special education program" shall mean a  
308 program for exceptional children as defined and authorized by  
309 Sections 37-23-1 through 37-23-9, and approved by the State  
310 Department of Education and provided from state funds.

311 (iv) "Gifted education program" shall mean those  
312 programs for the instruction of intellectually or academically  
313 gifted children as defined and provided for in Section 37-23-175  
314 et seq.

315 (v) "Alternative school program" shall mean those  
316 programs for certain compulsory-school-age students as defined and  
317 provided for in Sections 37-13-92 and 37-19-22.



(vi) "Extended school year programs" shall mean those programs authorized by law which extend beyond the normal school year.

(vii) "University-based programs" shall mean those university-based programs for handicapped children as defined and provided for in Section 37-23-131 et seq.

(viii) "Bus driver training" programs shall mean those driver training programs as provided for in Section 37-41-1.

(f) "Teacher" shall include any employee of a local school who is required by law to obtain a teacher's license from the State Board of Education and who is assigned to an instructional area of work as defined by the State Department of Education.

(g) "Principal" shall mean the head of an attendance center or division thereof.

(h) "Superintendent" shall mean the head of a school district.

(i) "School district" shall mean any type of school district in the State of Mississippi, and shall include agricultural high schools.

(j) "Minimum school term" shall mean a term of at least one hundred eighty (180) days of school in which both teachers and pupils are in regular attendance for scheduled classroom instruction for not less than \* \* \* sixty-three percent (63%) of the \* \* \* instructional day, as fixed by the local school board



343 for each school in the school district. It is the intent of the  
344 Legislature that any tax levies generated to produce additional  
345 local funds required by any school district to operate school  
346 terms in excess of one hundred seventy-five (175) days shall not  
347 be construed to constitute a new program for the purposes of  
348 exemption from the limitation on tax revenues as allowed under  
349 Sections 27-39-321 and 37-57-107 for new programs mandated by the  
350 Legislature.

351 (k) The term "transportation density" shall mean the  
352 number of transported children in average daily attendance per  
353 square mile of area served in a school district, as determined by  
354 the State Department of Education.

355 (l) The term "transported children" shall mean children  
356 being transported to school who live within legal limits for  
357 transportation and who are otherwise qualified for being  
358 transported to school at public expense as fixed by Mississippi  
359 state law.

360 (m) The term "year of teaching experience" shall mean  
361 nine (9) months of actual teaching in the public or private  
362 schools. In no case shall more than one (1) year of teaching  
363 experience be given for all services in one (1) calendar or school  
364 year. In determining a teacher's experience, no deduction shall  
365 be made because of the temporary absence of the teacher because of  
366 illness or other good cause, and the teacher shall be given credit  
367 therefor. Beginning with the 2003-2004 school year, the State



368 Board of Education shall fix a number of days, not to exceed  
369 forty-five (45) consecutive school days, during which a teacher  
370 may not be under contract of employment during any school year and  
371 still be considered to have been in full-time employment for a  
372 regular scholastic term. If a teacher exceeds the number of days  
373 established by the State Board of Education that a teacher may not  
374 be under contract but may still be employed, that teacher shall  
375 not be credited with a year of teaching experience. In  
376 determining the experience of school librarians, each complete  
377 year of continuous, full-time employment as a professional  
378 librarian in a public library in this or some other state shall be  
379 considered a year of teaching experience. If a full-time school  
380 administrator returns to actual teaching in the public schools,  
381 the term "year of teaching experience" shall include the period of  
382 time he or she served as a school administrator. In determining  
383 the salaries of teachers who have experience in any branch of the  
384 military, the term "year of teaching experience" shall include  
385 each complete year of actual classroom instruction while serving  
386 in the military. In determining the experience of speech-language  
387 pathologists and audiologists, each complete year of continuous  
388 full-time post master's degree employment in an educational  
389 setting in this or some other state shall be considered a year of  
390 teaching experience. Provided, however, that school districts are  
391 authorized, in their discretion, to negotiate the salary levels  
392 applicable to certificated employees employed after July 1, 2009,



who are receiving retirement benefits from the retirement system of another state, and the annual experience increment provided in Section 37-19-7 shall not be applicable to any such retired certificated employee.

(n) (i) The term "average daily attendance" shall be the figure which results when the total aggregate full-day attendance during the period or months counted is divided by the number of days during the period or months counted upon which both teachers and pupils are in regular attendance for scheduled classroom instruction, unless a pupil's absence is excused due to participation in an activity authorized by the State Board of Education under subparagraph (ii) of this paragraph, less the average daily attendance for self-contained special education classes \* \* \*. For purposes of determining and reporting attendance, a pupil must be present for at least sixty-three percent (63%) of the instructional day, as fixed by the local school board for each school in the school district, in order to be considered in full-day attendance. Prior to full implementation of the adequate education program the department shall deduct the average daily attendance for the alternative school program provided for in Section 37-19-22.

(ii) The State Board of Education shall define those activities necessitating a pupil's absence that, for purposes of determining and reporting attendance for average daily attendance purposes, must be considered an excused absence. Such



activities include, but are not limited to: official organized events sponsored by the 4-H or Future Farmers of America (FFA); official organized junior livestock shows and rodeo events; official employment as a page at the State Capitol for the Mississippi House of Representatives or Senate; subject-matter field trips; athletic contests; student conventions; music festivals or contests; and any similar school-related activity designated by the State Board of Education. The State Board of Education shall prescribe the means by which a pupil's absence due to participation in an activity authorized by the board pursuant to this subparagraph must be verified. This subparagraph (ii) shall stand repealed on July 1, 2016.

(o) The term "local supplement" shall mean the amount paid to an individual teacher over and above the adequate education program salary schedule for regular teaching duties.

(p) The term "aggregate amount of support from ad valorem taxation" shall mean the amounts produced by the district's total tax levies for operations.

(q) The term "adequate education program funds" shall mean all funds, both state and local, constituting the requirements for meeting the cost of the adequate program as provided for in Section 37-151-7.

(r) "Department" shall mean the State Department of Education.



442           (s) "Commission" shall mean the Mississippi Commission  
443 on School Accreditation created under Section 37-17-3.

444           (t) The term "successful school district" shall mean a  
445 Level III school district as designated by the State Board of  
446 Education using current statistically relevant state assessment  
447 data.

448           (u) "Dual enrollment-dual credit programs" shall mean  
449 programs for potential or recent high school student dropouts to  
450 dually enroll in their home high school and a local community  
451 college in a dual credit program consisting of high school  
452 completion coursework and a credential, certificate or degree  
453 program at the community college, as provided in Section  
454 37-15-38(19).

455       **SECTION 3.** This act shall take effect and be in force from  
456 and after July 1, 2013.

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

1       AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT A COMPULSORY-SCHOOL-AGE CHILD WHO IS ABSENT MORE  
3 THAN 37% OF THE INSTRUCTIONAL DAY MUST BE CONSIDERED ABSENT THE  
4 ENTIRE DAY; TO AMEND SECTION 37-151-5, MISSISSIPPI CODE OF 1972,  
5 TO REVISE THE DEFINITION OF THE TERMS "MINIMUM SCHOOL TERM" AND  
6 "AVERAGE DAILY ATTENDANCE" AS SUCH TERMS ARE USED FOR DETERMINING  
7 ALLOCATIONS TO SCHOOL DISTRICTS UNDER THE ADEQUATE EDUCATION  
8 PROGRAM; AND FOR RELATED PURPOSES.



CONFEREES FOR THE HOUSE

X (SIGNED)  
Frierson

X (SIGNED)  
Moore

(NOT SIGNED)  
Dickson

CONFEREES FOR THE SENATE

X (SIGNED)  
Clarke

X (SIGNED)  
Burton

(NOT SIGNED)  
Tollison

