

By: Representative Moore

To: Education; Revenue and  
Expenditure General Bills

HOUSE BILL NO. 1042

1 AN ACT TO AMEND SECTION 37-28-23, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE OPEN ENROLLMENT IN CHARTER SCHOOLS; TO AMEND SECTION  
3 37-28-45, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING  
4 PROVISIONS; TO AMEND SECTION 37-28-35, MISSISSIPPI CODE OF 1972,  
5 TO REQUIRE UNSPENT GOVERNMENT FUNDS TO REVERT TO THOSE SCHOOL  
6 DISTRICTS IN WHICH STUDENTS ATTENDING A CHARTER SCHOOL RESIDE IF  
7 THE CHARTER SCHOOL CLOSES; TO AMEND SECTION 37-28-53, MISSISSIPPI  
8 CODE OF 1972, TO REQUIRE CHARTER SCHOOLS TO CERTIFY TO EACH LOCAL  
9 SCHOOL DISTRICT IN WHICH STUDENTS ENROLLED IN THE CHARTER SCHOOL  
10 RESIDE THE NUMBER OF CHARTER SCHOOL STUDENTS RESIDING IN THAT  
11 DISTRICT; TO AMEND SECTION 37-28-55, MISSISSIPPI CODE OF 1972, TO  
12 REVISE THE MANNER BY WHICH THE STATE DEPARTMENT OF EDUCATION  
13 DETERMINES THE AMOUNT OF ADEQUATE EDUCATION PROGRAM FUNDS WHICH IS  
14 TO BE PAID TO A CHARTER SCHOOL TO REFLECT THAT A CHARTER SCHOOL'S  
15 STUDENTS MAY RESIDE IN SCHOOL DISTRICTS OTHER THAN THAT IN WHICH  
16 THE CHARTER SCHOOL IS LOCATED, AND TO REQUIRE EACH SCHOOL DISTRICT  
17 IN WHICH CHARTER SCHOOL STUDENTS RESIDE TO MAKE LOCAL CONTRIBUTION  
18 PAYMENTS TO THE CHARTER SCHOOL; TO AMEND SECTION 37-151-7,  
19 MISSISSIPPI CODE OF 1972, TO REVISE THE FORMULA FOR CALCULATING A  
20 CHARTER SCHOOL'S LOCAL CONTRIBUTION TO THE ADEQUATE EDUCATION  
21 PROGRAM TO REFLECT THAT THE CHARTER SCHOOL'S STUDENTS MAY RESIDE  
22 IN SCHOOL DISTRICTS OTHER THAN THAT IN WHICH THE CHARTER SCHOOL IS  
23 LOCATED; TO AMEND SECTION 37-57-107, MISSISSIPPI CODE OF 1972, TO  
24 REQUIRE EACH SCHOOL DISTRICT IN WHICH STUDENTS ENROLLED IN A  
25 CHARTER SCHOOL RESIDE TO MAKE AD VALOREM TAX RECEIPTS PAYMENTS TO  
26 THE CHARTER SCHOOL; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** Section 37-28-23, Mississippi Code of 1972, is  
29 amended as follows:



30 37-28-23. (1) A charter school must be open to any student  
31 residing in the \* \* \* state.

32 (2) A school district may not require any student enrolled  
33 in the school district to attend a charter school.

34 (3) Except as otherwise provided under subsection (8)(d) of  
35 this section, a charter school may not limit admission based on  
36 ethnicity, national origin, religion, gender, income level,  
37 disabling condition, proficiency in the English language, or  
38 academic or athletic ability.

39 (4) A charter school may limit admission to students within  
40 a given age group or grade level, including pre-kindergarten  
41 students, and may be organized around a special emphasis, theme or  
42 concept as stated in the school's application.

43 (5) The underserved student composition of a charter  
44 school's enrollment collectively must reflect that of students of  
45 all ages attending the school district in which the charter school  
46 is located, to be defined for the purposes of this chapter as  
47 being at least eighty percent (80%) of that population. If the  
48 underserved student composition of an applicant's or charter  
49 school's enrollment is less than eighty percent (80%) of the  
50 enrollment of students of all ages in the school district in which  
51 the charter school is located, despite the school's best efforts,  
52 the authorizer must consider the applicant's or charter school's  
53 recruitment efforts and the underserved student composition of the  
54 applicant pool in determining whether the applicant or charter



55 school is operating in a nondiscriminatory manner. A finding by  
56 the authorizer that a charter school is operating in a  
57 discriminatory manner justifies the revocation of a charter.

58 (6) A charter school must enroll all students who wish to  
59 attend the school unless the number of students exceeds the  
60 capacity of a program, class, grade level or building.

61 (7) If capacity is insufficient to enroll all students who  
62 wish to attend the school based on initial application, the  
63 charter school must select students through a lottery.

64 (8) (a) Any noncharter public school or part of a  
65 noncharter public school converting to a charter school shall  
66 adopt and maintain a policy giving an enrollment preference to  
67 students who reside within the former attendance area of that  
68 public school. If the charter school has excess capacity after  
69 enrolling students residing within the former attendance area of  
70 the school, students outside of the former attendance area of the  
71 school \* \* \* are eligible for enrollment. If the number of  
72 students applying for admission exceeds the capacity of a program,  
73 class, grade level or building of the charter school, the charter  
74 school must admit students on the basis of a lottery.

75 (b) A charter school must give an enrollment preference  
76 to students enrolled in the charter school during the preceding  
77 school year and to siblings of students already enrolled in the  
78 charter school. An enrollment preference for returning students  
79 excludes those students from entering into a lottery.



80 (c) A charter school may give an enrollment preference  
81 to children of the charter school's applicant, governing board  
82 members and full-time employees, so long as those children  
83 constitute no more than ten percent (10%) of the charter school's  
84 total student population.

85 (d) This section does not preclude the formation of a  
86 charter school whose mission is focused on serving students with  
87 disabilities, students of the same gender, students who pose such  
88 severe disciplinary problems that they warrant a specific  
89 educational program, or students who are at risk of academic  
90 failure. If capacity is insufficient to enroll all students who  
91 wish to attend the school, the charter school must select students  
92 through a lottery.

93 **SECTION 2.** Section 37-28-45, Mississippi Code of 1972, is  
94 amended as follows:

95 37-28-45. (1) Charter schools are subject to the same civil  
96 rights, health and safety requirements applicable to noncharter  
97 public schools in the state, except as otherwise specifically  
98 provided in this chapter.

99 (2) Charter schools are subject to the student assessment  
100 and accountability requirements applicable to noncharter public  
101 schools in the state; however, this requirement does not preclude  
102 a charter school from establishing additional student assessment  
103 measures that go beyond state requirements if the authorizer  
104 approves those measures.



105           (3) Although a charter school is geographically located  
106 within the boundaries of a particular school district \* \* \*, the  
107 charter school may not be considered a school within that district  
108 under the purview of the school district's school board. The  
109 rules, regulations, policies and procedures established by the  
110 school board for the noncharter public schools that are in the  
111 school district in which the charter school is geographically  
112 located do not apply to the charter school unless otherwise  
113 required under the charter contract or any contract entered into  
114 between the charter school governing board and the local school  
115 board.

116           (4) Whenever the provisions of Title 37, Mississippi Code of  
117 1972, relating to the elementary and secondary education of public  
118 school students establish a requirement for or grant authority to  
119 local school districts, their school boards and the schools within  
120 the respective school districts, the language "school districts,"  
121 "school boards," "boards of trustees," "the schools within a  
122 school district," or any other similar phraseology does not  
123 include a charter school and the governing board of a charter  
124 school unless the statute specifically is made applicable to  
125 charter schools as well as noncharter public schools.

126           (5) A charter school is not subject to any rule, regulation,  
127 policy or procedure adopted by the State Board of Education or the  
128 State Department of Education unless otherwise required by the  
129 authorizer or in the charter contract.



130 (6) Charter schools are not exempt from the following  
131 statutes:

132 (a) Chapter 41, Title 25, Mississippi Code of 1972,  
133 which relate to open meetings of public bodies.

134 (b) Chapter 61, Title 25, Mississippi Code of 1972,  
135 which relate to public access to public records.

136 (c) Section 37-3-51, which requires notice by the  
137 district attorney of licensed school employees who are convicted  
138 of certain sex offenses.

139 (d) Section 37-3-53, which requires publication of the  
140 Mississippi Report Card by the State Board of Education.

141 (e) Section 37-11-18, which requires the automatic  
142 expulsion of a student possessing a weapon or controlled substance  
143 on educational property.

144 (f) Section 37-11-18.1, which requires expulsion of  
145 certain habitually disruptive students.

146 (g) Section 37-11-19, which requires suspension or  
147 expulsion of a student who damages school property.

148 (h) Section 37-11-20, which prohibits acts of  
149 intimidation intended to keep a student from attending school.

150 (i) Section 37-11-21, which prohibits parental abuse of  
151 school staff.

152 (j) Section 37-11-23, which prohibits the willful  
153 disruption of school and school meetings.



154           (k) Sections 37-11-29 and 37-11-31, which relate to  
155 reporting requirements regarding unlawful or violent acts on  
156 school property.

157           (l) Section 37-11-67, which prohibits bullying or  
158 harassing behavior in public schools.

159           (m) Section 37-13-3, which prohibits doctrinal,  
160 sectarian or denominational teaching in public schools.

161           (n) Sections 37-13-5 and 37-13-6, which require the  
162 flags of the United States and the State of Mississippi to be  
163 displayed near the school building.

164           (o) Section 37-13-63(1), which prescribes the minimum  
165 number of days which public schools must be kept in session during  
166 a scholastic year.

167           (p) Section 37-13-91, which is the Mississippi  
168 Compulsory School Attendance Law.

169           (q) Section 37-13-171(2) and (4), which requires any  
170 course containing sex-related education to include instruction in  
171 abstinence-only or abstinence-plus education.

172           (r) Section 37-13-173, which requires notice to parents  
173 before instruction on human sexuality is provided in public  
174 classrooms.

175           (s) Section 37-13-193, which relates to civil rights  
176 and human rights education in the public schools.



177 (t) Sections 37-15-1 and 37-15-3, which relate to the  
178 maintenance and transfer of permanent student records in public  
179 schools.

180 (u) Section 37-15-6, which requires the State  
181 Department of Education to maintain a record of expulsions from  
182 the public schools.

183 (v) Section 37-15-9, which establishes minimum age  
184 requirements for kindergarten and first grade enrollment in public  
185 schools.

186 (w) Section 37-15-11, which requires a parent, legal  
187 guardian or custodian to accompany a child seeking enrollment in a  
188 public school.

189 (x) Sections 37-16-1, 37-16-3, 37-16-4 and 37-16-9,  
190 which relate to the statewide assessment testing program.

191 (y) Section 37-18-1, which establishes the  
192 Superior-Performing Schools Program and Exemplary Schools Program  
193 to recognize public schools that improve.

194 **SECTION 3.** Section 37-28-35, Mississippi Code of 1972, is  
195 amended as follows:

196 37-28-35. (1) Before implementing a charter school closure  
197 decision, the authorizer must develop a charter school closure  
198 protocol to ensure timely notification to parents, orderly  
199 transition of students and student records to new schools, and  
200 proper disposition of school funds, property and assets in  
201 accordance with the requirements of this chapter. The protocol





202 must specify tasks, timelines and responsible parties, including  
203 delineating the respective duties of the school and the  
204 authorizer. If a charter school is to be closed for any reason,  
205 the authorizer shall oversee and work with the closing school to  
206 ensure a smooth and orderly closure and transition for students  
207 and parents, as guided by the closure protocol.

208 (2) If a charter school closes, all unspent government  
209 funds, unspent earnings from those funds and assets purchased with  
210 government funds must revert to the local school districts in  
211 which students enrolled in the charter school \* \* \* reside, in  
212 such amounts that are proportionate to the number of students  
213 enrolled in the charter school from each school district to the  
214 charter school's total enrollment. Unless otherwise provided for  
215 in the charter or a debt instrument, unspent funds from  
216 nongovernmental sources, unspent earnings from those funds, assets  
217 purchased with those funds and debts of the school must revert to  
218 the nonprofit entity created to operate the school and may be  
219 disposed of according to applicable laws for nonprofit  
220 corporations.

221 **SECTION 4.** Section 37-28-53, Mississippi Code of 1972, is  
222 amended as follows:

223 37-28-53. (1) Each charter school shall certify annually to  
224 the State Department of Education its student enrollment, average  
225 daily attendance and student participation in the national school  
226 lunch program, special education, vocational education, gifted



227 education, alternative school program and federal programs in the  
228 same manner as school districts.

229 (2) Each charter school shall certify annually to the school  
230 board of \* \* \* a school district in which \* \* \* a charter school  
231 student resides the total number of enrolled charter school  
232 students residing in \* \* \* that school district.

233 **SECTION 5.** Section 37-28-55, Mississippi Code of 1972, is  
234 amended as follows:

235 37-28-55. (1) (a) The State Department of Education shall  
236 make payments to charter schools for each student in average daily  
237 attendance at the charter school in an amount equal to the state  
238 share of the adequate education program payments for each student  
239 in average daily attendance at the respective school district in  
240 which \* \* \* a particular charter school \* \* \* student resides.

241 The total payment from the department to a charter school shall be  
242 calculated by adding together, for each school district in which a  
243 student enrolled in the charter school resides, an amount equal to  
244 the state's share, per student, of the adequate education program  
245 payments to that school district multiplied by the total number of  
246 students enrolled in the charter school from that school district.

247 In calculating the local contribution for purposes of determining  
248 the state share of the adequate education program payments, the  
249 department shall deduct the pro rata local contribution of the  
250 school district in which the student resides, to be determined as  
251 provided in Section 37-151-7(2) (a).



252 (b) Payments made pursuant to this subsection by the  
253 State Department of Education must be made at the same time and in  
254 the same manner as adequate education program payments are made to  
255 school districts under Sections 37-151-101 and 37-151-103.  
256 Amounts payable to a charter school must be determined by the  
257 State Department of Education. Amounts payable to a charter  
258 school over its charter term must be based on the enrollment  
259 projections set forth over the term of the charter contract. Such  
260 projections must be reconciled with the average daily attendance  
261 at the end of each year of operation, and any necessary  
262 adjustments must be made to payments during the school's following  
263 year of operation.

264 (2) The school district in which a charter school \* \* \*  
265 student resides shall pay directly to the charter school \* \* \*,  
266 for each student residing in that school district who is enrolled  
267 in the charter school, an amount equal to the ad valorem tax  
268 receipts and in-lieu payments received per pupil for the support  
269 of the local school district in which the student resides. The  
270 pro rata ad valorem receipts and in-lieu receipts to be  
271 transferred to the charter school shall include all levies for the  
272 support of the local school district under Sections 37-57-1 (local  
273 contribution to the adequate education program) and 37-57-105  
274 (school district operational levy) and may not include any taxes  
275 levied for the retirement of the local school district's bonded  
276 indebtedness or short-term notes or any taxes levied for the



277 support of vocational-technical education programs. The amount of  
278 funds payable to the charter school by the school district must be  
279 based on the previous year's enrollment data and ad valorem  
280 receipts and in-lieu receipts of the local school district in  
281 which the student resides. The pro rata amount must be calculated  
282 by dividing the local school district's months one (1) through  
283 nine (9) average daily \* \* \* attendance into the total amount of  
284 ad valorem receipts and in-lieu receipts, as reported to the State  
285 Department of Education by the local school district. The local  
286 school district shall pay an amount equal to this pro rata amount  
287 multiplied by the number of students enrolled in the charter  
288 school, based on the charter school's end of first month  
289 enrollment for the current school year. The amount must be paid  
290 by the school district to the charter school before January 16 of  
291 the current fiscal year. If the local school district does not  
292 pay the required amount to the charter school before January 16,  
293 the State Department of Education shall reduce the local school  
294 district's January transfer of Mississippi Adequate Education  
295 Program funds by the amount owed to the charter school and shall  
296 redirect that amount to the charter school. Any such payments  
297 made under this subsection (2) by the State Department of  
298 Education to a charter school must be made at the same time and in  
299 the same manner as adequate education program payments are made to  
300 school districts under Sections 37-151-101 and 37-151-103.



301           (3)   (a)   The State Department of Education shall direct the  
302 proportionate share of monies generated under federal and state  
303 categorical aid programs, including special education, vocational,  
304 gifted and alternative school programs, to charter schools serving  
305 students eligible for such aid. The department shall ensure that  
306 charter schools with rapidly expanding enrollments are treated  
307 equitably in the calculation and disbursement of all federal and  
308 state categorical aid program dollars. Each charter school that  
309 serves students who may be eligible to receive services provided  
310 through such programs shall comply with all reporting requirements  
311 to receive the aid.

312                   (b)   A charter school shall pay to a local school  
313 district any federal or state aid attributable to a student with a  
314 disability attending the charter school in proportion to the level  
315 of services for that student which the local school district  
316 provides directly or indirectly.

317                   (c)   Subject to the approval of the authorizer, a  
318 charter school and a local school district may negotiate and enter  
319 into a contract for the provision of and payment for special  
320 education services, including, but not necessarily limited to, a  
321 reasonable reserve not to exceed five percent (5%) of the local  
322 school district's total budget for providing special education  
323 services. The reserve may be used by the local school district  
324 only to offset excess costs of providing services to students with  
325 disabilities enrolled in the charter school.



326 (4) (a) The State Department of Education shall disburse  
327 state transportation funding to a charter school on the same basis  
328 and in the same manner as it is paid to school districts under the  
329 adequate education program.

330 (b) A charter school may enter into a contract with a  
331 school district or private provider to provide transportation to  
332 the school's students.

333 **SECTION 6.** Section 37-151-7, Mississippi Code of 1972, is  
334 amended as follows:

335 37-151-7. The annual allocation to each school district for  
336 the operation of the adequate education program shall be  
337 determined as follows:

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

342 (a) **Determination of average daily attendance.**  
343 Effective with fiscal year 2011, the State Department of Education  
344 shall determine the percentage change from the prior year of each  
345 year of each school district's average of months two (2) and three  
346 (3) average daily attendance (ADA) for the three (3) immediately  
347 preceding school years of the year for which funds are being  
348 appropriated. For any school district that experiences a positive  
349 growth in the average of months two (2) and three (3) ADA each  
350 year of the three (3) years, the average percentage growth over



351 the three-year period shall be multiplied times the school  
352 district's average of months two (2) and three (3) ADA for the  
353 year immediately preceding the year for which MAEP funds are being  
354 appropriated. The resulting amount shall be added to the school  
355 district's average of months two (2) and three (3) ADA for the  
356 year immediately preceding the year for which MAEP funds are being  
357 appropriated to arrive at the ADA to be used in determining a  
358 school district's MAEP allocation. Otherwise, months two (2) and  
359 three (3) ADA for the year immediately preceding the year for  
360 which MAEP funds are being appropriated will be used in  
361 determining a school district's MAEP allocation. In any fiscal  
362 year prior to 2010 in which the MAEP formula is not fully funded,  
363 for those districts that do not demonstrate a three-year positive  
364 growth in months two (2) and three (3) ADA, months one (1) through  
365 nine (9) ADA of the second preceding year for which funds are  
366 being appropriated or months two (2) and three (3) ADA of the  
367 preceding year for which funds are being appropriated, whichever  
368 is greater, shall be used to calculate the district's MAEP  
369 allocation. The district's average daily attendance shall be  
370 computed and currently maintained in accordance with regulations  
371 promulgated by the State Board of Education. The district's  
372 average daily attendance shall include any student enrolled in a  
373 Dual Enrollment-Dual Credit Program as defined and provided in  
374 Section 37-15-38(19). The State Department of Education shall  
375 make payments for Dual Enrollment-Dual Credit Programs to the home



376 school in which the student is enrolled, in accordance with  
377 regulations promulgated by the State Board of Education. The  
378 community college providing services to students in a Dual  
379 Enrollment-Dual Credit Program shall require payment from the home  
380 school district for services provided to such students at a rate  
381 of one hundred percent (100%) of ADA. All MAEP/state funding  
382 shall cease upon completion of high school graduation  
383 requirements.

384           (b) **Determination of base student cost.** Effective with  
385 fiscal year 2011 and every fourth fiscal year thereafter, the  
386 State Board of Education, on or before August 1, with adjusted  
387 estimate no later than January 2, shall submit to the Legislative  
388 Budget Office and the Governor a proposed base student cost  
389 adequate to provide the following cost components of educating a  
390 pupil in a successful school district: (i) instructional cost;  
391 (ii) administrative cost; (iii) operation and maintenance of  
392 plant; and (iv) ancillary support cost. For purposes of these  
393 calculations, the Department of Education shall utilize financial  
394 data from the second preceding year of the year for which funds  
395 are being appropriated.

396           For the instructional cost component, the Department of  
397 Education shall select districts that have been identified as  
398 instructionally successful and have a ratio of a number of  
399 teachers per one thousand (1,000) students that is between one (1)  
400 standard deviation above the mean and two (2) standard deviations





401 below the mean of the statewide average of teachers per one  
402 thousand (1,000) students. The instructional cost component shall  
403 be calculated by dividing the latest available months one (1)  
404 through nine (9) ADA into the instructional expenditures of these  
405 selected districts. For the purpose of this calculation, the  
406 Department of Education shall use the following funds, functions  
407 and objects:

408 Fund 1120 Functions 1110-1199 Objects 100-999, Functions  
409 1210, 1220, 2150-2159 Objects 210 and 215;

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

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

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

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

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

415 Prior to the calculation of the instructional cost component,  
416 there shall be subtracted from the above expenditures any revenue  
417 received for Chickasaw Cession payments, Master Teacher  
418 Certification payments and the district's portion of state revenue  
419 received from the MAEP at-risk allocation.

420 For the administrative cost component, the Department of  
421 Education shall select districts that have been identified as  
422 instructionally successful and have a ratio of an administrative  
423 staff to nonadministrative staff between one (1) standard  
424 deviation above the mean and two (2) standard deviations below the  
425 mean of the statewide average administrative staff to



426 nonadministrative staff. The administrative cost component shall  
427 be calculated by dividing the latest available months one (1)  
428 through nine (9) ADA of the selected districts into the  
429 administrative expenditures of these selected districts. For the  
430 purpose of this calculation, the Department of Education shall use  
431 the following funds, functions and objects:

432 Fund 1120 Functions 2300-2599, Functions 2800-2899,  
433 Objects 100-999;

434 Fund 2711 Functions 2300-2599, Functions 2800-2899,  
435 Objects 100-999.

436 For the plant and maintenance cost component, the Department  
437 of Education shall select districts that have been identified as  
438 instructionally successful and have a ratio of plant and  
439 maintenance expenditures per one hundred thousand (100,000) square  
440 feet of building space and a ratio of maintenance workers per one  
441 hundred thousand (100,000) square feet of building space that are  
442 both between one (1) standard deviation above the mean and two (2)  
443 standard deviations below the mean of the statewide average. The  
444 plant and maintenance cost component shall be calculated by  
445 dividing the latest available months one (1) through nine (9) ADA  
446 of the selected districts into the plant and maintenance  
447 expenditures of these selected districts. For the purpose of this  
448 calculation, the Department of Education shall use the following  
449 funds, functions and objects:

450 Fund 1120 Functions 2600-2699, Objects 100-699



451                   and Objects 800-999;  
452           Fund 2711 Functions 2600-2699, Objects 100-699  
453                   and Objects 800-999;  
454           Fund 2430 Functions 2600-2699, Objects 100-699  
455                   and Objects 800-999.

456           For the ancillary support 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 librarians, media specialists, guidance counselors and  
460 psychologists per one thousand (1,000) students that is between  
461 one (1) standard deviation above the mean and two (2) standard  
462 deviations below the mean of the statewide average of librarians,  
463 media specialists, guidance counselors and psychologists per one  
464 thousand (1,000) students. The ancillary cost component shall be  
465 calculated by dividing the latest available months one (1) through  
466 nine (9) ADA into the ancillary expenditures instructional  
467 expenditures of these selected districts. For the purpose of this  
468 calculation, the Department of Education shall use the following  
469 funds, functions and objects:

470           Fund 1120 Functions 2110-2129, Objects 100-999;  
471           Fund 1120 Functions 2140-2149, Objects 100-999;  
472           Fund 1120 Functions 2220-2229, Objects 100-999;  
473           Fund 2001 Functions 2100-2129, Objects 100-999;  
474           Fund 2001 Functions 2140-2149, Objects 100-999;  
475           Fund 2001 Functions 2220-2229, Objects 100-999.



476           The total base cost for each year shall be the sum of the  
477 instructional cost component, administrative cost component, plant  
478 and maintenance cost component and ancillary support cost  
479 component, and any estimated adjustments for additional state  
480 requirements as determined by the State Board of Education.

481       Provided, however, that the base student cost in fiscal year 1998  
482 shall be Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).

483           For each of the fiscal years between the recalculation of the  
484 base student cost under the provisions of this paragraph (b), the  
485 base student cost shall be increased by an amount equal to forty  
486 percent (40%) of the base student cost for the previous fiscal  
487 year, multiplied by the latest annual rate of inflation for the  
488 State of Mississippi as determined by the State Economist, plus  
489 any adjustments for additional state requirements such as, but not  
490 limited to, teacher pay raises and health insurance premium  
491 increases.

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

496           Multiply the average daily attendance of the district by the  
497 base student cost as established by the Legislature, which yields  
498 the total base program cost for each school district.

499           (d)   **Adjustment to the base student cost for at-risk**  
500 **pupils.**   The amount to be included for at-risk pupil programs for



501 each school district shall be computed as follows: Multiply the  
502 base student cost for the appropriate fiscal year as determined  
503 under paragraph (b) by five percent (5%), and multiply that  
504 product by the number of pupils participating in the federal free  
505 school lunch program in such school district, which yields the  
506 total adjustment for at-risk pupil programs for such school  
507 district.

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

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

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

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

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



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

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

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

534 (viii) Bus driver training programs shall be the  
535 amount provided for those driver training programs as provided for  
536 in Section 37-41-1 \* \* \*.

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

542 (f) **Total projected adequate education program cost.**

543 The total Mississippi Adequate Education Program cost shall be the  
544 sum of the total basic adequate education program cost (paragraph  
545 (c)), and the adjustment to the base student cost for at-risk  
546 pupils (paragraph (d)) for each school district. In any year in  
547 which the MAEP is not fully funded, the Legislature shall direct



548 the Department of Education in the K-12 appropriation bill as to  
549 how to allocate MAEP funds to school districts for that year.

550 (g) The State Auditor shall annually verify the State  
551 Board of Education's estimated calculations for the Mississippi  
552 Adequate Education Program that are submitted each year to the  
553 Legislative Budget Office on August 1 and the final calculation  
554 that is submitted on January 2.

555 (2) **Computation of the required local revenue in support of**  
556 **the adequate education program.** The amount that each district  
557 shall provide toward the cost of the adequate education program  
558 shall be calculated as follows:

559 (a) The State Department of Education shall certify to  
560 each school district that twenty-eight (28) mills, less the  
561 estimated amount of the yield of the School Ad Valorem Tax  
562 Reduction Fund grants as determined by the State Department of  
563 Education, is the millage rate required to provide the district  
564 required local effort for that year, or twenty-seven percent (27%)  
565 of the basic adequate education program cost for such school  
566 district as determined under paragraph (c), whichever is a lesser  
567 amount. In the case of an agricultural high school, the millage  
568 requirement shall be set at a level which generates an equitable  
569 amount per pupil to be determined by the State Board of Education.  
570 The local contribution amount for school districts in which \* \* \*  
571 charter school students reside will be calculated using the  
572 following methodology: using the adequate education program



573 twenty-eight (28) mill value, or the twenty-seven percent (27%)  
574 cap amount (whichever is less) for each school district in which  
575 students enrolled in a charter school \* \* \* reside, an average per  
576 pupil amount for that particular school district will be  
577 calculated. This average per pupil amount will be multiplied  
578 times the number of students attending the charter school who  
579 reside in that school district. The sum of all school districts'  
580 products (average per pupil amount multiplied times the number of  
581 students attending the charter school from that district) becomes  
582 the charter school's local contribution to the adequate education  
583 program.

584 (b) The State Department of Education shall determine  
585 the following from the annual assessment information submitted to  
586 the department by the tax assessors of the various counties: (i)  
587 the total assessed valuation of nonexempt property for school  
588 purposes in each school district; (ii) assessed value of exempt  
589 property owned by homeowners aged sixty-five (65) or older or  
590 disabled as defined in Section 27-33-67(2) \* \* \*; (iii) the school  
591 district's tax loss from exemptions provided to applicants under  
592 the age of sixty-five (65) and not disabled as defined in Section  
593 27-33-67(1) \* \* \*; and (iv) the school district's homestead  
594 reimbursement revenues.

595 (c) The amount of the total adequate education program  
596 funding which shall be contributed by each school district shall  
597 be the sum of the ad valorem receipts generated by the millage





598 required under this subsection plus the following local revenue  
599 sources for the appropriate fiscal year which are or may be  
600 available for current expenditure by the school district:

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

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

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

607 (a) The required state effort in support of the  
608 adequate education program shall be determined by subtracting the  
609 sum of the required local tax effort as set forth in subsection  
610 (2)(a) of this section and the other local revenue sources as set  
611 forth in subsection (2)(c) of this section in an amount not to  
612 exceed twenty-seven percent (27%) of the total projected adequate  
613 education program cost as set forth in subsection (1)(f) of this  
614 section from the total projected adequate education program cost  
615 as set forth in subsection (1)(f) of this section.

616 (b) \* \* \* However, \* \* \* in fiscal year 2015, any  
617 increase in the \* \* \* state contribution to any district  
618 calculated under this section shall be not less than six percent  
619 (6%) in excess of the amount received by \* \* \* that district from  
620 state funds for fiscal year 2002; in fiscal year 2016, any  
621 increase in the \* \* \* state contribution to any district  
622 calculated under this section shall be not less than four percent



623 (4%) in excess of the amount received by \* \* \* that district from  
624 state funds for fiscal year 2002; in fiscal year 2017, any  
625 increase in the \* \* \* state contribution to any district  
626 calculated under this section shall be not less than two percent  
627 (2%) in excess of the amount received by \* \* \* that district from  
628 state funds for fiscal year 2002; and in fiscal year 2018 and  
629 thereafter, any increase in the \* \* \* state contribution to any  
630 district calculated under this section shall be zero percent (0%).  
631 For purposes of this paragraph (b), state funds shall include  
632 minimum program funds less the add-on programs, State Uniform  
633 Millage Assistance Grant Funds, Education Enhancement Funds  
634 appropriated for Uniform Millage Assistance Grants and state  
635 textbook allocations, and State General Funds allocated for  
636 textbooks.

637 (c) If the school board of any school district shall  
638 determine that it is not economically feasible or practicable to  
639 operate any school within the district for the full one hundred  
640 eighty (180) days required for a school term of a scholastic year,  
641 as required in Section 37-13-63, \* \* \* due to an enemy attack, a  
642 man-made, technological or natural disaster in which the Governor  
643 has declared a disaster emergency under the laws of this state or  
644 the President of the United States has declared an emergency or  
645 major disaster to exist in this state, \* \* \* the school board may  
646 notify the State Department of Education of such disaster and  
647 submit a plan for altering the school term. If the State Board of



648 Education finds such disaster to be the cause of the school not  
649 operating for the contemplated school term and that such school  
650 was in a school district covered by the Governor's or President's  
651 disaster declaration, it may permit \* \* \* the school board to  
652 operate the schools in its district for less than one hundred  
653 eighty (180) days and, in such case, the State Department of  
654 Education shall not reduce the state contributions to the adequate  
655 education program allotment for such district, because of the  
656 failure to operate \* \* \* the schools for one hundred eighty (180)  
657 days.

658 (4) The Interim School District Capital Expenditure Fund is  
659 hereby established in the State Treasury which shall be used to  
660 distribute any funds specifically appropriated by the Legislature  
661 to such fund to school districts entitled to increased allocations  
662 of state funds under the adequate education program funding  
663 formula prescribed in Sections 37-151-3 through \* \* \* this section  
664 until such time as the \* \* \* adequate education program is fully  
665 funded by the Legislature. The following percentages of the total  
666 state cost of increased allocations of funds under the adequate  
667 education program funding formula shall be appropriated by the  
668 Legislature into the Interim School District Capital Expenditure  
669 Fund to be distributed to all school districts under the formula:  
670 Nine and two-tenths percent (9.2%) shall be appropriated in fiscal  
671 year 1998, twenty percent (20%) shall be appropriated in fiscal  
672 year 1999, forty percent (40%) shall be appropriated in fiscal



673 year 2000, sixty percent (60%) shall be appropriated in fiscal  
674 year 2001, eighty percent (80%) shall be appropriated in fiscal  
675 year 2002, and one hundred percent (100%) shall be appropriated in  
676 fiscal year 2003 into the State Adequate Education Program Fund.  
677 Until July 1, 2002, such money shall be used by school districts  
678 for the following purposes:

679 (a) Purchasing, erecting, repairing, equipping,  
680 remodeling and enlarging school buildings and related facilities,  
681 including gymnasiums, auditoriums, lunchrooms, vocational training  
682 buildings, libraries, school barns and garages for transportation  
683 vehicles, school athletic fields and necessary facilities  
684 connected therewith, and purchasing land therefor. Any such  
685 capital improvement project by a school district shall be approved  
686 by the State Board of Education, and based on an approved  
687 long-range plan. The State Board of Education shall promulgate  
688 minimum requirements for the approval of school district capital  
689 expenditure plans.

690 (b) Providing necessary water, light, heating,  
691 air-conditioning, and sewerage facilities for school buildings,  
692 and purchasing land therefor.

693 (c) Paying debt service on existing capital improvement  
694 debt of the district or refinancing outstanding debt of a district  
695 if such refinancing will result in an interest cost savings to the  
696 district.



697 (d) From and after October 1, 1997, through June 30,  
698 1998, pursuant to a school district capital expenditure plan  
699 approved by the State Department of Education, a school district  
700 may pledge such funds until July 1, 2002, plus funds provided for  
701 in paragraph (e) of this subsection (4) that are not otherwise  
702 permanently pledged under such paragraph (e) to pay all or a  
703 portion of the debt service on debt issued by the school district  
704 under Sections 37-59-1 through 37-59-45, 37-59-101 through  
705 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,  
706 37-7-301, 37-7-302 and 37-41-81, \* \* \* or debt issued by boards of  
707 supervisors for agricultural high schools pursuant to Section  
708 37-27-65, \* \* \* or lease-purchase contracts entered into pursuant  
709 to Section 31-7-13, \* \* \* or to retire or refinance outstanding  
710 debt of a district, if such pledge is accomplished pursuant to a  
711 written contract or resolution approved and spread upon the  
712 minutes of an official meeting of the district's school board or  
713 board of supervisors. It is the intent of this provision to allow  
714 school districts to irrevocably pledge their Interim School  
715 District Capital Expenditure Fund allotments as a constant stream  
716 of revenue to secure a debt issued under the foregoing code  
717 sections. To allow school districts to make such an irrevocable  
718 pledge, the state shall take all action necessary to ensure that  
719 the amount of a district's Interim School District Capital  
720 Expenditure Fund allotments shall not be reduced below the amount  
721 certified by the department or the district's total allotment



722 under the Interim Capital Expenditure Fund if fully funded, so  
723 long as such debt remains outstanding.

724 (e) [Repealed]

725 (f) [Repealed]

726 (g) The State Board of Education may authorize the  
727 school district to expend not more than twenty percent (20%) of  
728 its annual allotment of such funds or Twenty Thousand Dollars  
729 (\$20,000.00), whichever is greater, for technology needs of the  
730 school district, including computers, software,  
731 telecommunications, cable television, interactive video, film,  
732 low-power television, satellite communications, microwave  
733 communications, technology-based equipment installation and  
734 maintenance, and the training of staff in the use of such  
735 technology-based instruction. Any such technology expenditure  
736 shall be reflected in the local district technology plan approved  
737 by the State Board of Education under Section 37-151-17 \* \* \*.

738 (h) To the extent a school district has not utilized  
739 twenty percent (20%) of its annual allotment for technology  
740 purposes under paragraph (g), a school district may expend not  
741 more than twenty percent (20%) of its annual allotment or Twenty  
742 Thousand Dollars (\$20,000.00), whichever is greater, for  
743 instructional purposes. The State Board of Education may  
744 authorize a school district to expend more than \* \* \* twenty  
745 percent (20%) of its annual allotment for instructional purposes



746 if it determines that such expenditures are needed for  
747 accreditation purposes.

748 (i) The State Department of Education or the State  
749 Board of Education may require that any project commenced under  
750 this section with an estimated project cost of not less than Five  
751 Million Dollars (\$5,000,000.00) shall be done only pursuant to  
752 program management of the process with respect to design and  
753 construction. Any individuals, partnerships, companies or other  
754 entities acting as a program manager on behalf of a local school  
755 district and performing program management services for projects  
756 covered under this subsection shall be approved by the State  
757 Department of Education.

758 Any interest accruing on any unexpended balance in the  
759 Interim School District Capital Expenditure Fund shall be invested  
760 by the State Treasurer and placed to the credit of each school  
761 district participating in such fund in its proportionate share.

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

765 (5) The State Department of Education shall make payments to  
766 charter schools for each student in average daily attendance at  
767 the charter school equal to the state share of the adequate  
768 education program payments for each student in average daily  
769 attendance at the school district in which the \* \* \* respective  
770 charter school \* \* \* student resides. In calculating the local



771 contribution for purposes of determining the state share of the  
772 adequate education program payments, the department shall deduct  
773 the pro rata local contribution of the school district in which  
774 the student resides as determined in subsection (2)(a) of this  
775 section.

776         **SECTION 7.** Section 37-57-107, Mississippi Code of 1972, is  
777 amended as follows:

778         37-57-107. (1) Beginning with the tax levy for the 1997  
779 fiscal year and for each fiscal year thereafter, the aggregate  
780 receipts from taxes levied for school district purposes pursuant  
781 to Sections 37-57-105 and 37-57-1 shall not exceed the aggregate  
782 receipts from those sources during any one (1) of the immediately  
783 preceding three (3) fiscal years, as determined by the school  
784 board, plus an increase not to exceed seven percent (7%). For the  
785 purpose of this limitation, the term "aggregate receipts" when  
786 used in connection with the amount of funds generated in a  
787 preceding fiscal year shall not include excess receipts required  
788 by law to be deposited into a special account. However, the term  
789 "aggregate receipts" includes any receipts required by law to be  
790 paid to a charter school. The additional revenue from the ad  
791 valorem tax on any newly constructed properties or any existing  
792 properties added to the tax rolls or any properties previously  
793 exempt which were not assessed in the next preceding year may be  
794 excluded from the seven percent (7%) increase limitation set forth  
795 herein. Taxes levied for payment of principal of and interest on





796 general obligation school bonds issued heretofore or hereafter  
797 shall be excluded from the seven percent (7%) increase limitation  
798 set forth herein. Any additional millage levied to fund any new  
799 program mandated by the Legislature shall be excluded from the  
800 limitation for the first year of the levy and included within such  
801 limitation in any year thereafter. For the purposes of this  
802 section, the term "new program" shall include, but shall not be  
803 limited to, (a) the Early Childhood Education Program required to  
804 commence with the 1986-1987 school year as provided by Section  
805 37-21-7 and any additional millage levied and the revenue  
806 generated therefrom, which is excluded from the limitation for the  
807 first year of the levy, to support the mandated Early Childhood  
808 Education Program shall be specified on the minutes of the school  
809 board and of the governing body making such tax levy; (b) any  
810 additional millage levied and the revenue generated therefrom  
811 which shall be excluded from the limitation for the first year of  
812 the levy, for the purpose of generating additional local  
813 contribution funds required for the adequate education program for  
814 the 2003 fiscal year and for each fiscal year thereafter under  
815 Section 37-151-7(2); and (c) any additional millage levied and the  
816 revenue generated therefrom which shall be excluded from the  
817 limitation for the first year of the levy, for the purpose of  
818 support and maintenance of any agricultural high school which has  
819 been transferred to the control, operation and maintenance of the



820 school board by the board of trustees of the community college  
821 district under provisions of Section 37-29-272.

822 (2) The seven percent (7%) increase limitation prescribed in  
823 this section may be increased an additional amount only when the  
824 school board has determined the need for additional revenues and  
825 has held an election on the question of raising the limitation  
826 prescribed in this section. The limitation may be increased only  
827 if three-fifths (3/5) of those voting in the election shall vote  
828 for the proposed increase. The resolution, notice and manner of  
829 holding the election shall be as prescribed by law for the holding  
830 of elections for the issuance of bonds by the respective school  
831 boards. Revenues collected for the fiscal year in excess of the  
832 seven percent (7%) increase limitation pursuant to an election  
833 shall be included in the tax base for the purpose of determining  
834 aggregate receipts for which the seven percent (7%) increase  
835 limitation applies for subsequent fiscal years.

836 (3) Except as otherwise provided for excess revenues  
837 generated pursuant to an election, if revenues collected as the  
838 result of the taxes levied for the fiscal year pursuant to this  
839 section and Section 37-57-1 exceed the increase limitation, then  
840 it shall be the mandatory duty of the school board of the school  
841 district to deposit such excess receipts over and above the  
842 increase limitation into a special account and credit it to the  
843 fund for which the levy was made. It will be the further duty of  
844 such board to hold said funds and invest the same as authorized by



845 law. Such excess funds shall be calculated in the budgets for the  
846 school districts for the purpose for which such levies were made,  
847 for the succeeding fiscal year. Taxes imposed for the succeeding  
848 year shall be reduced by the amount of excess funds available.  
849 Under no circumstances shall such excess funds be expended during  
850 the fiscal year in which such excess funds are collected.

851 (4) For the purposes of determining ad valorem tax receipts  
852 for a preceding fiscal year under this section, the term "fiscal  
853 year" means the fiscal year beginning October 1 and ending  
854 September 30.

855 (5) Beginning with the \* \* \* 2016-2017 school year, each  
856 school district in which a charter school \* \* \* student resides  
857 shall pay to the charter school an amount for each student  
858 enrolled in the charter school equal to the ad valorem taxes  
859 levied per pupil for the support of the school district in which  
860 the charter school \* \* \* student resides. The pro rata ad valorem  
861 taxes to be transferred to the charter school must include all  
862 levies for the support of the school district under Sections  
863 37-57-1 (local contribution to the adequate education program) and  
864 37-57-105 (school district operational levy) but may not include  
865 any taxes levied for the retirement of school district bonded  
866 indebtedness or short-term notes or any taxes levied for the  
867 support of vocational-technical education programs. Payments made  
868 pursuant to this subsection by a school district to a charter



869 school must be made before the expiration of three (3) business  
870 days after the funds are distributed to the school district.

871           **SECTION 8.** This act shall take effect and be in force from  
872 and after July 1, 2016.

