

By: Representative Busby

To: Education; Revenue and
Expenditure General Bills

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1044

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.

