

By: Senator(s) Tollison

To: Education

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2623

1 AN ACT TO AMEND SECTIONS 37-181-1 THROUGH 37-181-19, CODIFY
2 SECTION 37-181-20 AND BRING FORWARD SECTION 37-181-21, MISSISSIPPI
3 CODE OF 1972, WHICH IS THE "EQUAL OPPORTUNITY FOR MISSISSIPPI
4 STUDENTS WITH SPECIAL NEEDS ACT" PROVIDING EDUCATION SCHOLARSHIP
5 ACCOUNT (ESA) FUNDS FOR ELIGIBLE STUDENTS, TO REVISE CERTAIN
6 DEFINITIONS, TO ESTABLISH THE OFFICE OF EDUCATIONAL CHOICE WITHIN
7 THE STATE DEPARTMENT OF EDUCATION TO ADMINISTER THE ESA PROGRAM,
8 TO CLARIFY PARENTAL OBLIGATIONS TO QUALIFY ELIGIBLE STUDENTS FOR
9 THE PROGRAM, TO CLARIFY THE AUTHORIZED USE OF EDUCATION
10 SCHOLARSHIP FUNDS, TO PRESCRIBE CERTAIN NORM-REFERENCED TESTS FOR
11 PARTICIPATING STUDENTS, TO REVISE THE LIMITATIONS ON ELIGIBLE
12 STUDENT PARTICIPATION IN THE PROGRAM, TO CLARIFY ESA FUNDING
13 AMOUNTS FOR PARTICIPATING STUDENTS, TO CLARIFY PROCEDURES FOR
14 STUDENT APPLICATIONS FOR THE PROGRAM, TO REVISE LIMITS ON
15 ADMINISTRATIVE COSTS, TO CLARIFY REPORTING REQUIREMENTS BY
16 PARTICIPATING SERVICE PROVIDERS, AND TO PROVIDE THAT PROGRAM RULES
17 ARE SUBJECT TO THE REQUIREMENTS OF THE MISSISSIPPI ADMINISTRATIVE
18 PROCEDURES ACT; TO AMEND SECTION 37-3-1, MISSISSIPPI CODE OF 1972,
19 TO ESTABLISH THE OFFICE OF EDUCATIONAL CHOICE WITHIN THE STATE
20 DEPARTMENT OF EDUCATION TO ADMINISTER THE ESA PROGRAM; TO AMEND
21 SECTION 37-13-91, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
22 PROVISIONS OF THE COMPULSORY SCHOOL ATTENDANCE LAW; TO AMEND
23 SECTIONS 37-151-5, 37-151-7 AND 37-151-101 AND TO CODIFY SECTION
24 37-151-86, MISSISSIPPI CODE OF 1972, TO INCLUDE EDUCATION
25 SCHOLARSHIP ACCOUNT (ESA) PROGRAMS AS "ADD-ON PROGRAMS" FUNDED
26 UNDER THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM AND TO PROVIDE
27 FOR THE DISTRIBUTION FROM THE MAEP FUND TO THE SPECIAL ESA FUND;
28 AND FOR RELATED PURPOSES.

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

30 **SECTION 1.** Section 37-181-1, Mississippi Code of 1972, is
31 amended as follows:



32 37-181-1. This chapter shall be known and may be cited as
33 "The Equal Opportunity for Mississippi Students * * *~~with Special~~
34 ~~Needs~~ Act."

35 **SECTION 2.** Section 37-181-3, Mississippi Code of 1972, is
36 amended as follows:

37 37-181-3. The terms used in this chapter shall have the
38 meanings ascribed herein, unless the context clearly indicates
39 otherwise:

40 (a) "Program" means a * * *~~five-year pilot~~ program to
41 implement the Education Scholarship Account (ESA) program created
42 in this chapter.

43 (b) "Eligible student" means any student who is a
44 resident of the state and meets at least one (1) of the following:

45 (i) Was enrolled in and attended a Mississippi
46 public school during the prior academic year;

47 (ii) Is eligible to enroll in Kindergarten or
48 First Grade at a Mississippi primary public school;

49 (iii) Has had an active Individual Education
50 Program (IEP) within the past five (5) years;

51 (iv) Is a child of a parent who is a member of the
52 Armed Forces of the United States and who is on active duty or was
53 killed in the line of duty;

54 (v) Is in the foster care system and who is
55 residing with a prospective permanent placement or who has
56 achieved permanency through adoption or permanent guardianship; or



57 (vi) Is the sibling of a current recipient of ESA
58 program funds.

59 (c) "Parent" means a resident of this state who is a
60 parent, legal guardian, custodian or other person with the
61 authority to act on behalf of the eligible student.

62 (d) " * * * ~~Department~~Office" means the State Department
63 of Education acting through the Office of Educational Choice.

64 (e) "Home school district" means the public school
65 district in which the student resides.

66 (f) "Eligible school" means a nonpublic school that has
67 enrolled a participating student. An eligible school must be
68 accredited by * * * ~~a state or regional accrediting agency~~ or
69 possess a provisional letter of accreditation from a state, or
70 regional accrediting agency * * * ~~or be approved/licensed by the~~
71 State from a list developed by the office to include, but not be
72 limited to, AdvanceED/Southern Association of Colleges and
73 Schools, Mississippi Association of Independent Schools,
74 Association of Christian Schools International, Southern
75 Association of Independent Schools, National Catholic Educational
76 Association, Middle States Association of Colleges and Schools,
77 Tennessee Department of Education, and Mississippi Department of
78 Education. * * * ~~An eligible school does not include a home~~
79 instruction program under Section 37-13-91, Mississippi Code of
80 1972.



81 (g) "Tutor" means * * * ~~a person who is certified or~~
82 ~~licensed by a state, regional, or national certification or~~
83 ~~licensing organization or who has earned a valid teacher's license~~
84 ~~or who has experience teaching at an eligible postsecondary~~
85 institution tutoring services provided by a tutor or tutoring
86 facility that is accredited or certified by a state, regional, or
87 national accrediting or certifying organization; or tutoring
88 services provided by a person who is or has been a teacher
89 licensed in any state, or who has taught at a postsecondary
90 institution, or who is a subject-matter expert, or who is approved
91 by the office.

92 (h) "Postsecondary institution" means a community
93 college, college, or university accredited by a state, regional or
94 national accrediting organization.

95 (i) "Educational service provider" means an eligible
96 school, tutor, or other person or organization that provides
97 education-related services and products to participating students.

98 **SECTION 3.** Section 37-181-5, Mississippi Code of 1972, is
99 amended as follows:

100 37-181-5. (1) An eligible student shall qualify to
101 participate in the Education Scholarship Account (ESA) program if
102 the parent signs an agreement promising:

103 (a) To provide an organized, appropriate educational
104 program with measurable annual goals to their participating
105 student and, to the extent reasonably deemed appropriate by the



106 parent, to provide an education for the qualified student in at
107 least the subjects of reading, grammar, mathematics, social
108 studies and science;

109 * * * ~~_____ (b) To document their participating student's~~
110 ~~disability at intervals and in a manner required under subsection~~
111 ~~(8) of this section;~~

112 (* * * eb) Not to enroll their participating student
113 full time in a public school * * * ~~and to acknowledge as part of~~
114 ~~the agreement that the home school district has provided clear~~
115 ~~notice to the parent that the participating student has no~~
116 ~~individual entitlement to a free appropriate public education~~
117 ~~(FAPE) from their home school district, including special~~
118 ~~education and related services, for as long as the student is~~
119 ~~participating in the program~~ while participating in the ESA
120 program;

121 (* * * ec) Not to file for their participating student
122 a certificate of enrollment indicating participation in a home
123 instruction program under Section 37-13-91, Mississippi Code of
124 1972; and

125 (* * * ed) Not to participate in the Mississippi
126 Dyslexia Therapy Scholarship for Students with Dyslexia Program or
127 the Mississippi Speech-Language Therapy Scholarship for Students
128 with Speech-Language Impairments Program while participating in
129 the ESA program.



130 (2) Students with special needs who participate in the
131 program are parental placements under 20 USC 1412(a)(10)(A) of the
132 Individuals with Disabilities Education Act (IDEA). The Office of
133 Educational Choice in the State Department of Education shall
134 provide all parents of students with special needs with clear and
135 understandable documentation explaining their rights under the
136 program.

137 (3) Signing an agreement pursuant to subsection (1) of this
138 section serves as the participating student's certificate of
139 enrollment under Section 37-13-91, provided that the parents are
140 using ESA funds on one or more of the educational expenses
141 authorized in subsection (3) of this section to provide their
142 participating student an education consistent with subsection
143 (1)(a) of this section.

144 (* * *24) Parents shall use the funds deposited in a
145 participating student's ESA for any of the following qualifying
146 expenses to educate the student using any of the below methods or
147 combination of methods that meet the requirement in subsection
148 (1)(a) of this section:

149 (a) A parent of any student participating in the
150 program may use the ESA funds for:

151 (* * *ai) Tuition and/or fees at an eligible
152 school;

153 (* * *bii) Textbooks;

154 (* * *eiii) Payment to a tutor;



155 (* * * ~~div~~) Payment for purchase of curriculum,
156 including any supplemental materials required by the curriculum;

157 (* * * ~~ev~~) No more than One Thousand Dollars
158 (\$1,000.00) annually for fees for transportation to and from an
159 educational service provider paid to a fee-for-service
160 transportation provider;

161 (* * * ~~fvi~~) Tuition and/or fees for online
162 learning programs or courses;

163 (* * * ~~gvi~~) Fees for nationally standardized
164 norm-referenced achievement tests, including alternate
165 assessments; and fees for Advanced Placement examinations or
166 similar courses and any examinations related to college or
167 university admission;

168 (viii) Costs directly associated with obtaining a
169 nationally recognized industry certification;

170 (* * * ~~ix~~) Contracted services provided by a
171 public school, including individual classes and extracurricular
172 programs;

173 (* * * ~~jx~~) Tuition and fees at a postsecondary
174 institution;

175 (* * * ~~kxi~~) Textbooks related to coursework at a
176 postsecondary institution;

177 (* * * ~~hxii~~) Educational services or therapies
178 from a licensed or certified practitioner or provider, including
179 licensed or certified paraprofessionals or educational aides;



180 (* * * ~~mxiii~~) No more than * * * ~~Fifty Dollars~~
181 ~~(\$50.00)~~ One Hundred Dollars (\$100.00) in annual consumable school
182 supplies necessary for educational services and therapies, daily
183 classroom activities, and tutoring;

184 * * * ~~—————(1) Surety bond payments if required by the~~
185 ~~department;~~

186 (* * * ~~nb~~) A parent of a participating student with
187 special needs who has qualified for the program under Section
188 37-181-3(b) (iii) may also use ESA funds for:

189 Computer hardware and software and other technological
190 devices if an eligible school, licensed or certified tutor,
191 licensed or certified educational service practitioner or
192 provider, or licensed medical professional verifies in writing
193 that these items are essential for the student to meet annual,
194 measurable goals. Once a student is no longer eligible for the
195 program, computer hardware and software and other technological
196 devices purchased with ESA funds may be donated to a library or a
197 nonprofit organization with expertise and training in working with
198 parents to educate children with disabilities or a nonprofit
199 organization with expertise and training in working with disabled
200 adults.

201 (* * * ~~35~~) Neither a participating student, nor anyone on
202 the student's behalf, may receive cash or cash-equivalent items,
203 such as gift cards or store credit, from any refunds or rebates
204 from any provider of services or products in this program. Any



205 refunds or rebates shall be credited directly to the participating
206 student's ESA. The funds in an ESA may only be used for
207 education-related purposes. Eligible schools, postsecondary
208 institutions and educational service providers that serve
209 participating students shall provide parents with a receipt for
210 all qualifying expenses.

211 (* * *46) Payment for educational services through an ESA
212 shall not preclude parents from paying for educational services
213 using non-ESA funds.

214 (* * *57) ESA funds may not be used to attend an eligible
215 school that maintains its primary location in a state other than
216 Mississippi unless that school is approved for the Educable Child
217 Program; or unless the parent verifies in writing that their child
218 cannot reasonably obtain appropriate * * *~~special education and~~
219 ~~related~~ services in Mississippi at a location within thirty (30)
220 miles of their legal residence.

221 (* * *68) For purposes of continuity of educational
222 attainment, students who enroll in the program shall remain * * *
223 ~~eligible to receive quarterly ESA payments until the participating~~
224 ~~students~~ * * *~~returns~~ until returning to * * *~~a public~~
225 ~~school,~~ * * *~~completes~~ completing high school, * * *~~completes~~
226 ~~the school year in which the student reaches~~ or reaching the age
227 of twenty-one (21), * * *~~or does not have eligibility verified by~~
228 ~~a parent as required under subsection (8) of this section,~~
229 whichever occurs first.



230 (9) Any funds remaining unused in a participating student's
231 Education Scholarship Account may rollover to be used the next
232 year.

233 (* * *710) Any funds remaining in a student's Education
234 Scholarship Account upon completion of high school shall be
235 returned to the state's * * *~~General Fund~~ Special ESA Fund
236 pursuant to subsection (4)(2)(a) of this section.

237 * * *~~— (8) Every three (3) years after initial enrollment in~~
238 ~~the program, a parent of a participating student, except a student~~
239 ~~diagnosed as being a person with a permanent disability, shall~~
240 ~~document that the student continues to be identified by the school~~
241 ~~district, a federal or state government agency, or a licensed~~
242 ~~physician or psychometrist as a child with a disability, as~~
243 ~~defined by the federal Individuals with Disabilities Education Act~~
244 ~~(20 USCS Section 1401(3)).~~

245 (* * *911) A participating student shall be allowed to
246 return to his home school district at any time after enrolling in
247 the program * * *, ~~in compliance with regulations adopted by the~~
248 ~~department providing for the least disruptive process for doing~~
249 ~~so.~~ Upon a participating student's return to his home school
250 district, that student's Education Scholarship Account shall be
251 closed and any remaining funds shall be * * *~~returned to the~~
252 ~~state's General Fund~~ transferred to the student's home school
253 district.



254 (* * *1012) * * *—~~The department shall begin accepting~~
255 ~~applications for the program on July 1, 2015~~ In Grades 3 through
256 8 parents shall ensure their participating student is administered
257 a national norm-referenced achievement test that measures learning
258 in mathematics and language arts. In Grade 11 parents shall
259 ensure their participating student takes a test used for
260 undergraduate college admissions.

261 (a) The results of these tests shall be reported to
262 parents.

263 (b) Students with special needs meeting the definition
264 of "eligible student" as prescribed under Section 37-181-3(b) (iii)
265 may be exempt from this requirement.

266 **SECTION 4.** Section 37-181-7, Mississippi Code of 1972, is
267 amended as follows:

268 37-181-7. (1) * * *—~~The ESA program created in this chapter~~
269 ~~shall be limited to five hundred (500) students in the school year~~
270 ~~2015-2016, with new enrollment limited to five hundred (500)~~
271 ~~additional students each year thereafter. Subject to~~
272 ~~appropriation from the General Fund, each student's ESA shall be~~
273 ~~funded at Six Thousand Five Hundred Dollars (\$6,500.00) for school~~
274 ~~year 2015-2016. For each subsequent year, this amount shall~~
275 ~~increase or decrease by the same proportion as the base student~~
276 ~~cost under Section 37-151-7(1) (b) is increased or decreased.~~
277 Beginning with the 2018-2019 school year, the ESA program created
278 in this chapter shall be limited to the equivalent of one-half of



279 one percent (.5%) of the estimated statewide total public school
280 enrollment in the preceding school year, with new enrollment
281 limited to an additional one percent (1%) of the statewide public
282 school enrollment each year thereafter.

283 (2) * * * ~~Subject to appropriation, eligible students shall~~
284 ~~be approved for participation in the program as follows:~~

285 ~~_____ (a) * * * Until participation in the program reaches~~
286 ~~fifty percent (50%) of the annual enrollment limits in subsection~~
287 ~~(1) of this section, students shall be approved on a first-come,~~
288 ~~first-served basis, with applications being reviewed on a rolling~~
289 ~~basis; There is created a Special ESA Fund in the State Treasury~~
290 to pay for the Education Scholarship Accounts established in this
291 chapter. Payments made to this fund shall be an "add-on program
292 cost" as defined in Sections 37-151-5(e) and 37-151-7(1)(e) and
293 shall be included in the Mississippi Adequate Education Program
294 (MAEP) annual appropriation outside of the program calculations.
295 Payments made to this fund shall be made on a quarterly basis and
296 in the same manner as Mississippi Adequate Education Program
297 (MAEP) payments are made to school districts under Sections
298 37-151-101 and 37-151-103. Each October 1, the office shall
299 calculate the cost of new Education Scholarship Accounts for the
300 following fiscal year by multiplying fifty percent (50%) of
301 accounts allowed by annual enrollment limits as defined in Section
302 37-181-7(1) by the amount for students prescribed in Section
303 37-181-7(3)(a) and fifty percent (50%) by the amount for special



304 needs students prescribed in Section 37-181-7(3)(b) and adding the
305 amounts together. This amount shall be added to the amount of
306 current awards and included as the add-on program cost for the
307 Special ESA Fund in the annual Mississippi Adequate Education
308 Program (MAEP) budget request by the State Department of
309 Education. The State Department of Education shall also report to
310 the Legislature the number of eligible applicants and funding
311 amounts as prescribed in Section 37-181-7(3) on January 15 each
312 year and again on March 15 and may revise its budget request to
313 the Legislature for the Special ESA Fund based upon the revised
314 number of eligible applicants. Any funds not associated with an
315 active Education Scholarship Account shall lapse into the State
316 General Fund at the end of the fiscal year.

317 (b) * * * ~~After participation reaches fifty percent~~
318 ~~(50%) of the annual enrollment limits in subsection (1) of this~~
319 ~~section, the department shall set annual application deadlines for~~
320 ~~the remaining number of available ESAs and begin to maintain a~~
321 ~~waiting list of eligible students. If the number of eligible~~
322 ~~students who apply for the program exceeds the remaining number of~~
323 ~~ESAs available, the department shall fill the available spaces~~
324 ~~using a random selection process that gives preference to students~~
325 ~~with an active Individualized Education Program (IEP); and From~~
326 and after July 1, 2018, there shall be an Office of Educational
327 Choice (office) within the State Department of Education to
328 administer the Education Scholarship Account (ESA) program created



329 in Section 37-181-1 et seq. The Office of Educational Choice
330 shall administer and implement the requirements of the ESA program
331 as prescribed in said sections and shall be authorized to expend
332 and distribute ESA program payments to parents of participating
333 students in amounts appropriated by the Legislature and specified
334 for use for the ESA program.

335 ~~* * * (c) Participating students who remain eligible for~~
336 ~~the program are automatically approved for participation for the~~
337 ~~following year and are not subject to the random selection~~
338 ~~process.~~

339 (3) ~~* * * No funds for an ESA may be expended from the~~
340 ~~Mississippi Adequate Education Program, nor shall any school~~
341 ~~district be required to provide funding for an ESA. Each~~
342 student's ESA shall be funded at one of the following amounts for
343 the 2018-2019 school year and shall increase or decrease each
344 subsequent year by the same proportion as the base student cost
345 under Section 37-151-7(1) (b) :

346 (a) For students with special needs meeting the
347 definition of "eligible student" as prescribed under Section
348 37-181-3(b) (iii) and (iv), the amount shall be Six Thousand Five
349 Hundred Dollars (\$6,500.00) ;

350 (b) For all other participating students, the amount
351 shall be ninety-five percent (95%) of the base student cost.

352 (4) The office shall process applications between July 1 and
353 June 30. On January 15 and again on March 15, or the nearest



354 business day, the office shall accept and issue an award letter to
355 eligible applicants for the following school year whose
356 applications were received not later than thirty (30) days prior.
357 For the 2018-2019 school year only, the office may extend
358 application and notification deadlines.

359 (5) The office shall require parents to confirm or deny
360 their student's participation in the program not later than
361 fifteen (15) business days upon receipt of notification.

362 (6) If the office receives more applications than are
363 available positions by thirty (30) days before January 15 or March
364 15 notification deadlines, as provided for in subsection (1) of
365 this section, the office shall conduct an annual random selection
366 process that gives first preference to students eligible under
367 Section 37-181-3(b) (iii) and second preference to students within
368 a household with a household income not greater than two hundred
369 fifty percent (250%) of the federal poverty level.

370 (7) The office shall notify parents who have submitted
371 applications after enrollment limits have been reached as
372 prescribed under subsection (1) of this section that such
373 application will be placed on a waiting list until the office
374 begins enrolling new students for the following year.

375 (8) When scholarship accounts have not been awarded or are
376 denied or unclaimed, the office shall continue to enroll eligible
377 applicants from a waiting list (a) in the order applications were
378 received with a process that gives first preference to students



379 eligible under Section 37-181-3(b)(iii) and second preference to
380 students within a household with a household income not greater
381 than two hundred fifty percent (250%) of the federal poverty
382 level, or (b) in the order generated by the annual random
383 selection process in a year in which it occurs.

384 (9) The office shall require parents of participating
385 students to confirm or deny their student's participation when no
386 scholarship funds are spent in two (2) consecutive quarters.

387 (10) Participating students are automatically approved for
388 participation for the following year and are not subject to the
389 random selection process.

390 (11) The State Department of Child Protection Services shall
391 upon request by the office certify eligibility of ESA program
392 applicants not later than two (2) weeks after the request is made.

393 **SECTION 5.** Section 37-181-9, Mississippi Code of 1972, is
394 amended as follows:

395 37-181-9. (1) The ~~***department~~ Office of Educational
396 Choice in the State Department of Education shall create a
397 standard form that parents of students submit to establish their
398 student's eligibility for an Education Scholarship Account.
399 The ~~***department~~ office shall ensure that the application is
400 readily available to interested families through various
401 sources ~~***, including the department's website and the copy of~~
402 ~~procedural safeguards annually given to parents.~~



403 (2) The ~~***-department~~ office shall provide parents of
404 participating students with a written explanation of the allowable
405 uses of Education Scholarship Accounts, the responsibilities of
406 parents and the duties of the ~~***-department~~ office. This
407 information shall also be made available on the ~~***-department~~
408 office's website.

409 (3) The ~~***-department~~ office shall annually notify all
410 students with an IEP of the existence of the program and shall
411 ensure that lower-income families are made aware of their
412 potential eligibility.

413 (4) For three (3) years of the program's operation,
414 the ~~***-department~~ office may deduct an amount up to a limit of
415 six percent (6%) from appropriations used to fund Education
416 Scholarship Accounts to cover the costs of overseeing the funds
417 and administering the program. In subsequent years, the office
418 may deduct an amount up to a limit of four percent (4%) from
419 appropriations used to fund Education Scholarship Accounts for
420 administrative costs.

421 ~~*** (5) *** (a) The department shall make a~~
422 ~~determination of eligibility, and shall approve the application,~~
423 ~~within twenty-one (21) business days of receiving an application~~
424 ~~for participation in the program, subject to the provisions of~~
425 ~~Section 37-181-3(b).~~

426 ~~(b) The department shall provide for a procedure that~~
427 ~~children with a ruling of hearing impairment or children suspected~~



428 ~~of a hearing loss shall receive a comprehensive educational~~
429 ~~assessment which may include the areas of cognitive development,~~
430 ~~language/speech, audiological and academic achievement from the~~
431 ~~state-funded Mississippi Assistance Center for Hearing Loss.~~

432 ~~Children with a ruling of visual impairment or children suspected~~
433 ~~of a visual impairment shall receive a comprehensive low vision~~
434 ~~evaluation from the state-funded Low Vision Clinic.~~

435 (* * *~~65~~) The home school district shall provide the parent
436 of a participating student with a complete copy of the student's
437 school records, while complying with the Family Educational Rights
438 and Privacy Act of 1974 (20 USCS Section 1232(g)). The record
439 shall be provided no later than thirty (30) days after a parent
440 signs an agreement to participate in the program.

441 * * * ~~— (7) The State Board of Education may contract with a~~
442 ~~qualified nonprofit organization with expertise and training in~~
443 ~~working with parents to educate children with disabilities to~~
444 ~~administer the program.~~

445 **SECTION 6.** Section 37-181-11, Mississippi Code of 1972, is
446 amended as follows:

447 37-181-11. (1) To ensure that funds are spent
448 appropriately, the State * * * ~~Board of~~ Department of Education
449 shall adopt rules and policies necessary for the administration of
450 the program, including the auditing of Education Scholarship
451 Accounts, and shall conduct or contract for random audits
452 throughout the year.



453 (2) (a) The ~~*** department or qualified nonprofit~~ Office
454 of Educational Choice in the State Department of Education
455 shall ~~*** develop~~ use a system for payment of benefits ~~***,~~
456 ~~including~~ that includes, but is not limited to, allowing
457 educational service providers to invoice the ~~*** department or~~
458 ~~designated nonprofit~~ office for qualified expenses consistent with
459 Section 37-181-5(2), or allowing parents to seek preapproval or
460 reimbursement for qualified expenses consistent with Section
461 37-181-5(2). The system for payment of benefits must be
462 parent-friendly, automated and reduce administrative costs. The
463 office shall enter into a competitively bid contract with a
464 third-party vendor to administer the payment system. Thirty (30)
465 business days before entering into a competitively bid contract
466 for the system or expending any funds to develop its own system,
467 the office shall provide a cost-benefit analysis to the Governor
468 and the Chairmen of the House and Senate Education Committees
469 demonstrating how the system will be parent friendly, automated
470 and reduce administrative costs.

471 (b) The ~~*** department or qualified nonprofit~~ office
472 may make payments to educational service providers or
473 reimbursement to parents via check or warrant or electronic funds
474 transfer or any other means of payment deemed to be commercially
475 viable or cost-effective.

476 (c) The ~~*** department~~ office may also establish by
477 rule that some payments to educational service providers will be



478 made on a quarterly basis, rather than an annual basis, if the
479 educational services will be rendered over an extended period of
480 time.

481 (d) The office shall not adopt a system that limits
482 parents to being reimbursed for out-of-pocket expenses.

483 (3) The * * * ~~department~~ office shall adopt a process for
484 removing educational service providers that defraud parents and
485 for referring cases of fraud to law enforcement.

486 (4) The * * * ~~department~~ office shall establish or contract
487 for the establishment of an online anonymous fraud reporting
488 service.

489 (5) The * * * ~~department~~ office shall establish or contract
490 for the establishment of an anonymous telephone hotline for fraud
491 reporting.

492 (6) The office shall implement a system for parents of
493 participating students to rate, review, and share information
494 about educational service providers, ideally as part of the same
495 system that facilitates payments in order to create a one-stop
496 shop for parents.

497 **SECTION 7.** Section 37-181-13, Mississippi Code of 1972, is
498 amended as follows:

499 37-181-13. (1) The Joint Legislative Committee on
500 Performance Evaluation and Expenditure Review (PEER) shall prepare
501 a * * * ~~biannual~~ report every three (3) years, * * * beginning in
502 ~~2018 and every two (2) years thereafter,~~ assessing the sufficiency



503 of funding for Education Scholarship Accounts and recommending any
504 suggested changes in state law or policy necessary to improve the
505 program.

506 (2) The report shall assess:

507 (a) The level of participating students' satisfaction
508 with the program;

509 (b) The level of parental satisfaction with the
510 program;

511 ~~* * * (c) Student performance on nationally standardized~~
512 ~~norm-referenced achievement tests for those participating students~~
513 ~~whose parents have requested participation in such tests;~~

514 ~~(d) Student performance on Advanced Placement~~
515 ~~examinations or similar courses and any examinations related to~~
516 ~~college or university admission;~~

517 (* * * ec) The high school graduation rates and college
518 acceptance rates of participating students;

519 (* * * fd) The percentage of funds used for each
520 qualifying expense identified in Section 37-181-5(2);

521 (* * * ge) The fiscal impact to the state and home
522 school districts of the program, which must consider both the
523 impact on revenue and the impact on expenses. Furthermore, the
524 fiscal savings associated with students departing public schools
525 must be explicitly quantified, even if the public school losing
526 the student(s) does not reduce its spending accordingly * * * ;

527 and



528 (f) The academic outcomes of participating students as
529 reported by schools pursuant to Section 37-181-17(1)(d) with
530 consideration for students' length of time in the program and the
531 types of tests administered.

532 (3) The report shall:

533 (a) Apply appropriate analytical and behavioral science
534 methodologies to ensure public confidence in the study; and

535 (b) Protect the identity of participating students and
536 schools by, among other things, keeping anonymous all
537 disaggregated data.

538 (4) PEER may accept grants to assist in funding the study.

539 (5) PEER shall provide the Legislature with a final copy of
540 the evaluation of the program before December 31, * * *~~2018~~ 2021
541 and every three (3) years thereafter. At the same time, the study
542 shall also be placed in a prominent location on the PEER website.

543 (6) PEER must make its data and methodology available for
544 public review while complying with the requirements of the Family
545 Educational Rights and Privacy Act (20 USCS Section 1232(g)).

546 **SECTION 8.** Section 37-181-15, Mississippi Code of 1972, is
547 amended as follows:

548 37-181-15. To ensure that students are treated fairly and
549 kept safe, all eligible schools shall:

550 (a) Comply with the nondiscrimination policies set
551 forth in 42 USCS 1981;



552 (b) Prior to a participating student's application for
553 enrollment, provide parents with details of the school's programs,
554 qualifications, experience, and capacities to serve students with
555 special needs if they have such capacity;

556 (c) Comply with all health and safety laws or codes
557 that apply to nonpublic schools;

558 (d) Hold a valid occupancy permit if required by their
559 municipality;

560 (e) Have no public record of fraud or malfeasance;

561 * * * ~~(f) Offer participating students the option of~~
562 ~~taking a nationally standardized norm-referenced achievement test;~~

563 (* * * g) Conduct criminal background checks on
564 employees. The eligible school then shall:

565 (i) Exclude from employment any person not
566 permitted by state law to work in a nonpublic school; and

567 (ii) Exclude from employment any person who might
568 reasonably pose a threat to the safety of students.

569 **SECTION 9.** Section 37-181-17, Mississippi Code of 1972, is
570 amended as follows:

571 37-181-17. (1) An eligible nonpublic school is autonomous
572 and not an agent of the state or federal government and therefore:

573 (a) The * * * ~~State Department of Education or any~~
574 ~~other government agency~~ Office of Educational Choice in the State
575 Department of Education shall not in any way regulate the
576 educational program of a nonpublic school, postsecondary



577 institution or educational service provider that accepts funds
578 from the parent of a participating student;

579 (b) The creation of the Education Scholarship Account
580 program does not expand the regulatory authority of the state, its
581 officers, or any school district to impose any additional
582 regulation of nonpublic schools, postsecondary institutions or
583 educational service providers beyond those necessary to enforce
584 the requirements of the program; * * *~~and~~

585 (c) Eligible schools, postsecondary institutions and
586 educational service providers shall be given the maximum freedom
587 to provide for the educational needs of their students without
588 governmental control. No eligible school, postsecondary
589 institution or educational service provider shall be required to
590 alter its creed, practices, admission policies or curriculum in
591 order to accept participating students * * *~~;~~ and

592 (d) Eligible schools, postsecondary institutions and
593 educational service providers shall not be required to report data
594 to the office or any other entity in order to prevent an undue
595 administrative burden, except in cases where eligible schools that
596 administer tests as prescribed in Section 37-181-5(12) and have
597 thirty (30) or more participating students enrolled full time
598 shall make available to the Joint Legislative Committee on
599 Performance Evaluation and Expenditure Review (PEER) upon request
600 the aggregate test scores of all participating students tested
601 pursuant to Section 37-181-5(12).



602 (2) In any legal proceeding challenging the application of
603 this chapter to an eligible school, postsecondary institution or
604 educational service provider the state bears the burden of
605 establishing that the law is necessary and does not impose any
606 undue burden on the eligible school, postsecondary institution or
607 educational service provider.

608 **SECTION 10.** Section 37-181-19, Mississippi Code of 1972, is
609 amended as follows:

610 37-181-19. The Office of Educational Choice in the State
611 Department of Education may receive and expend contributions from
612 any public or private source to fund ESAs for participating
613 students.

614 **SECTION 11.** The following shall be codified as Section
615 37-181-20, Mississippi Code of 1972:

616 37-181-20. The provisions of this article requiring the
617 Office of Educational Choice in the State Department of Education
618 to promulgate rules and regulations and to develop procedures,
619 forms and any other policies for the administration of the
620 provisions contained herein are subject to the Mississippi
621 Administrative Procedures Act.

622 **SECTION 12.** Section 37-181-21, Mississippi Code of 1972, is
623 brought forward as follows:

624 37-181-21. If any provision of this law or its application
625 is held invalid, the invalidity does not affect other provisions
626 or applications of this law which can be given effect without the



627 invalid provision or application and to this end the provisions of
628 this law are severable.

629 **SECTION 13.** Section 37-3-1, Mississippi Code of 1972, is
630 amended as follows:

631 37-3-1. (1) Until July 1, 1983, there shall be a State
632 Department of Education, which shall consist of a State
633 Superintendent of Public Education, an Assistant State
634 Superintendent of Public Education, a Director of the Division of
635 Finance and Administration, a Director of the Division of
636 Instruction, a Director of the Division of School Building and
637 Transportation Services, a Director of Vocational Education, a
638 Director of the Division of Vocational Rehabilitation, a Director
639 of the Division of Junior Colleges, and such supervisors,
640 assistants or employees as may be necessary for the proper
641 functioning of the above-named divisions.

642 (2) From and after July 1, 1983, and until July 1, 1984,
643 there shall be a State Department of Education, which shall
644 consist of a State Superintendent of Public Education, a director
645 of the division of finance and administration, a director of the
646 division of instruction, a director of the division of school
647 building and transportation services, a director of the division
648 of vocational and technical education, who shall be an associate
649 state superintendent of public education, the director of the
650 division of vocational rehabilitation, a director of the division
651 of junior colleges and such supervisors, assistants or employees



652 as may be necessary for the proper functioning of the above-named
653 divisions.

654 (3) From and after July 1, 1984, there shall be a State
655 Department of Education which shall be under the direction and
656 supervision of the State Superintendent of Public Education. The
657 State Department of Education shall be organized into functional
658 divisions as established by the State Board of Education,
659 including any divisions established by law and prescribing the
660 duties of the directors of such divisions.

661 (4) From and after July 1, 2018, there shall be an Office of
662 Educational Choice established by the State Board of Education in
663 the State Department of Education as an independent division to
664 administer the Education Scholarship Account (ESA) program created
665 in Section 37-181-1 et seq. The Office of Educational Choice
666 shall administer and implement the requirements of the ESA program
667 as prescribed in said sections and shall be authorized to expend
668 and distribute ESA program payments to eligible students in
669 amounts appropriated by the Legislature and specified for use for
670 the ESA program.

671 **SECTION 14.** Section 37-13-91, Mississippi Code of 1972, is
672 amended as follows:

673 37-13-91. (1) This section shall be referred to as the
674 "Mississippi Compulsory School Attendance Law."

675 (2) The following terms as used in this section are defined
676 as follows:



677 (a) "Parent" means the father or mother to whom a child
678 has been born, or the father or mother by whom a child has been
679 legally adopted.

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

683 (c) "Custodian" means any person having the present
684 care or custody of a child, other than a parent or guardian of the
685 child.

686 (d) "School day" means not less than five and one-half
687 (5-1/2) and not more than eight (8) hours of actual teaching in
688 which both teachers and pupils are in regular attendance for
689 scheduled schoolwork.

690 (e) "School" means any public school, including a
691 charter school, in this state or any nonpublic school in this
692 state which is in session each school year for at least one
693 hundred eighty (180) school days, except that the "nonpublic"
694 school term shall be the number of days that each school shall
695 require for promotion from grade to grade.

696 (f) "Compulsory-school-age child" means a child who has
697 attained or will attain the age of six (6) years on or before
698 September 1 of the calendar year and who has not attained the age
699 of seventeen (17) years on or before September 1 of the calendar
700 year; and shall include any child who has attained or will attain



701 the age of five (5) years on or before September 1 and has
702 enrolled in a full-day public school kindergarten program.

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

705 (h) "Appropriate school official" means the
706 superintendent of the school district, or his designee, or, in the
707 case of a nonpublic school, the principal or the headmaster.

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

714 (3) A parent, guardian or custodian of a
715 compulsory-school-age child in this state shall cause the child to
716 enroll in and attend a public school or legitimate nonpublic
717 school for the period of time that the child is of compulsory
718 school age, except under the following circumstances:

719 (a) When a compulsory-school-age child is physically,
720 mentally or emotionally incapable of attending school as
721 determined by the appropriate school official based upon
722 sufficient medical documentation.

723 (b) When a compulsory-school-age child is enrolled in
724 and pursuing a course of special education, remedial education or



725 education for handicapped or physically or mentally disadvantaged
726 children.

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

729 (d) When a compulsory-school-age child is participating
730 in the Education Scholarship Account (ESA) program.

731 The parent, guardian or custodian of a compulsory-school-age
732 child described in this subsection, or the parent, guardian or
733 custodian of a compulsory-school-age child attending any charter
734 school or nonpublic school, or the appropriate school official for
735 any or all children attending a charter school or nonpublic school
736 shall complete a "certificate of enrollment" in order to
737 facilitate the administration of this section. The parent,
738 guardian or custodian of a student participating in the Education
739 Scholarship Account (ESA) program and using ESA funds under
740 Section 37-181-5 et seq., Mississippi Code of 1972, or the
741 appropriate school official for any or all students participating
742 in the ESA program shall complete a "certificate of enrollment" in
743 order to facilitate the administration of this section.

744 The form of the certificate of enrollment shall be prepared
745 by the Office of Compulsory School Attendance Enforcement of the
746 State Department of Education and shall be designed to obtain the
747 following information only:

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



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

752 (iii) A simple description of the type of
753 education the compulsory-school-age child is receiving and, if the
754 child is enrolled in a nonpublic school, the name and address of
755 the school; and

756 (iv) The signature of the parent, guardian or
757 custodian of the compulsory-school-age child or, for any or all
758 compulsory-school-age child or children attending a charter school
759 or nonpublic school, the signature of the appropriate school
760 official and the date signed.

761 The certificate of enrollment shall be returned to the school
762 attendance officer where the child resides on or before September
763 15 of each year. Any parent, guardian or custodian found by the
764 school attendance officer to be in noncompliance with this section
765 shall comply, after written notice of the noncompliance by the
766 school attendance officer, with this subsection within ten (10)
767 days after the notice or be in violation of this section.

768 However, in the event the child has been enrolled in a public
769 school within fifteen (15) calendar days after the first day of
770 the school year as required in subsection (6), the parent or
771 custodian may, at a later date, enroll the child in a legitimate
772 nonpublic school or legitimate home instruction program or
773 Education Scholarship Account (ESA) program and send the



774 certificate of enrollment to the school attendance officer and be
775 in compliance with this subsection.

776 For the purposes of this subsection, a legitimate nonpublic
777 school or legitimate home instruction or Education Scholarship
778 Account (ESA) program shall be those not operated or instituted
779 for the purpose of avoiding or circumventing the Compulsory School
780 Attendance Law.

781 (4) An "unlawful absence" is an absence for an entire school
782 day or during part of a school day by a compulsory-school-age
783 child, which absence is not due to a valid excuse for temporary
784 nonattendance. For purposes of reporting absenteeism under
785 subsection (6) of this section, if a compulsory-school-age child
786 has an absence that is more than thirty-seven percent (37%) of the
787 instructional day, as fixed by the school board for the school at
788 which the compulsory-school-age child is enrolled, the child must
789 be considered absent the entire school day. Days missed from
790 school due to disciplinary suspension shall not be considered an
791 "excused" absence under this section. This subsection shall not
792 apply to children enrolled in a nonpublic school.

793 Each of the following shall constitute a valid excuse for
794 temporary nonattendance of a compulsory-school-age child enrolled
795 in a noncharter public school, provided satisfactory evidence of
796 the excuse is provided to the superintendent of the school
797 district, or his designee:



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

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

807 (c) An absence is excused when isolation of a
808 compulsory-school-age child is ordered by the county health
809 officer, by the State Board of Health or appropriate school
810 official.

811 (d) An absence is excused when it results from the
812 death or serious illness of a member of the immediate family of a
813 compulsory-school-age child. The immediate family members of a
814 compulsory-school-age child shall include children, spouse,
815 grandparents, parents, brothers and sisters, including
816 stepbrothers and stepsisters.

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

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



823 (g) An absence may be excused if the religion to which
824 the compulsory-school-age child or the child's parents adheres,
825 requires or suggests the observance of a religious event. The
826 approval of the absence is within the discretion of the
827 superintendent of the school district, or his designee, but
828 approval should be granted unless the religion's observance is of
829 such duration as to interfere with the education of the child.

830 (h) An absence may be excused when it is demonstrated
831 to the satisfaction of the superintendent of the school district,
832 or his designee, that the purpose of the absence is to take
833 advantage of a valid educational opportunity such as travel,
834 including vacations or other family travel. Approval of the
835 absence must be gained from the superintendent of the school
836 district, or his designee, before the absence, but the approval
837 shall not be unreasonably withheld.

838 (i) An absence may be excused when it is demonstrated
839 to the satisfaction of the superintendent of the school district,
840 or his designee, that conditions are sufficient to warrant the
841 compulsory-school-age child's nonattendance. However, no absences
842 shall be excused by the school district superintendent, or his
843 designee, when any student suspensions or expulsions circumvent
844 the intent and spirit of the Compulsory School Attendance Law.

845 (j) An absence is excused when it results from the
846 attendance of a compulsory-school-age child participating in
847 official organized events sponsored by the 4-H or Future Farmers



848 of America (FFA). The excuse for the 4-H or FFA event must be
849 provided in writing to the appropriate school superintendent by
850 the Extension Agent or High School Agricultural Instructor/FFA
851 Advisor.

852 (k) An absence is excused when it results from the
853 compulsory-school-age child officially being employed to serve as
854 a page at the State Capitol for the Mississippi House of
855 Representatives or Senate.

856 (5) Any parent, guardian or custodian of a
857 compulsory-school-age child subject to this section who refuses or
858 willfully fails to perform any of the duties imposed upon him or
859 her under this section or who intentionally falsifies any
860 information required to be contained in a certificate of
861 enrollment, shall be guilty of contributing to the neglect of a
862 child and, upon conviction, shall be punished in accordance with
863 Section 97-5-39.

864 Upon prosecution of a parent, guardian or custodian of a
865 compulsory-school-age child for violation of this section, the
866 presentation of evidence by the prosecutor that shows that the
867 child has not been enrolled in school within eighteen (18)
868 calendar days after the first day of the school year of the public
869 school which the child is eligible to attend, or that the child
870 has accumulated twelve (12) unlawful absences during the school
871 year at the public school in which the child has been enrolled,
872 shall establish a prima facie case that the child's parent,



873 guardian or custodian is responsible for the absences and has
874 refused or willfully failed to perform the duties imposed upon him
875 or her under this section. However, no proceedings under this
876 section shall be brought against a parent, guardian or custodian
877 of a compulsory-school-age child unless the school attendance
878 officer has contacted promptly the home of the child and has
879 provided written notice to the parent, guardian or custodian of
880 the requirement for the child's enrollment or attendance.

881 (6) If a compulsory-school-age child has not been enrolled
882 in a school within fifteen (15) calendar days after the first day
883 of the school year of the school which the child is eligible to
884 attend or the child has accumulated five (5) unlawful absences
885 during the school year of the public school in which the child is
886 enrolled, the school district superintendent, or his designee,
887 shall report, within two (2) school days or within five (5)
888 calendar days, whichever is less, the absences to the school
889 attendance officer. The State Department of Education shall
890 prescribe a uniform method for schools to utilize in reporting the
891 unlawful absences to the school attendance officer. The
892 superintendent, or his designee, also shall report any student
893 suspensions or student expulsions to the school attendance officer
894 when they occur.

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



898 the attendance officer shall file a petition with the youth court
899 under Section 43-21-451 or shall file a petition in a court of
900 competent jurisdiction as it pertains to parent or child.
901 Sheriffs, deputy sheriffs and municipal law enforcement officers
902 shall be fully authorized to investigate all cases of
903 nonattendance and unlawful absences by compulsory-school-age
904 children, and shall be authorized to file a petition with the
905 youth court under Section 43-21-451 or file a petition or
906 information in the court of competent jurisdiction as it pertains
907 to parent or child for violation of this section. The youth court
908 shall expedite a hearing to make an appropriate adjudication and a
909 disposition to ensure compliance with the Compulsory School
910 Attendance Law, and may order the child to enroll or re-enroll in
911 school. The superintendent of the school district to which the
912 child is ordered may assign, in his discretion, the child to the
913 alternative school program of the school established pursuant to
914 Section 37-13-92.

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

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



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

937 **SECTION 15.** Section 37-151-5, Mississippi Code of 1972, is
938 amended as follows:

939 37-151-5. As used in Sections 37-151-5 and 37-151-7:

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



947 (b) "Educational programs or elements of programs not
948 included in the adequate education program calculations, but which
949 may be included in appropriations and transfers to school
950 districts" shall mean:

951 (i) "Capital outlay" shall mean those funds used
952 for the constructing, improving, equipping, renovating or major
953 repairing of school buildings or other school facilities, or the
954 cost of acquisition of land whereon to construct or establish such
955 school facilities.

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

960 (iii) "Adult education" shall mean public
961 education dealing primarily with students above eighteen (18)
962 years of age not enrolled as full-time public school students and
963 not classified as students of technical schools, colleges or
964 universities of the state.

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

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



972 (d) "Base student cost" shall mean the funding level
973 necessary for providing an adequate education program for one (1)
974 base student, subject to any minimum amounts prescribed in Section
975 37-151-7(1).

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

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

982 (ii) "Vocational or technical education program"
983 shall mean a secondary vocational or technical program approved by
984 the State Department of Education and provided for from state
985 funds.

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

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

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



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

1000 (vii) "University-based programs" shall mean those
1001 university-based programs for handicapped children as defined and
1002 provided for in Section 37-23-131 et seq.

1003 (viii) "Bus driver training" programs shall mean
1004 those driver training programs as provided for in Section 37-41-1.

1005 (ix) "Education Scholarship Account (ESA) programs
1006 shall mean those ESA programs for eligible students as provided
1007 for in Sections 37-181-1 through 37-181-21.

1008 (f) "Teacher" shall include any employee of a local
1009 school who is required by law to obtain a teacher's license from
1010 the State Board of Education and who is assigned to an
1011 instructional area of work as defined by the State Department of
1012 Education.

1013 (g) "Principal" shall mean the head of an attendance
1014 center or division thereof.

1015 (h) "Superintendent" shall mean the head of a school
1016 district.

1017 (i) "School district" shall mean any type of school
1018 district in the State of Mississippi, and shall include
1019 agricultural high schools.

1020 (j) "Minimum school term" shall mean a term of at least
1021 one hundred eighty (180) days of school in which both teachers and



1022 pupils are in regular attendance for scheduled classroom
1023 instruction for not less than sixty-three percent (63%) of the
1024 instructional day, as fixed by the local school board for each
1025 school in the school district. It is the intent of the
1026 Legislature that any tax levies generated to produce additional
1027 local funds required by any school district to operate school
1028 terms in excess of one hundred seventy-five (175) days shall not
1029 be construed to constitute a new program for the purposes of
1030 exemption from the limitation on tax revenues as allowed under
1031 Sections 27-39-321 and 37-57-107 for new programs mandated by the
1032 Legislature.

1033 (k) The term "transportation density" shall mean the
1034 number of transported children in average daily attendance per
1035 square mile of area served in a school district, as determined by
1036 the State Department of Education.

1037 (l) The term "transported children" shall mean children
1038 being transported to school who live within legal limits for
1039 transportation and who are otherwise qualified for being
1040 transported to school at public expense as fixed by Mississippi
1041 state law.

1042 (m) The term "year of teaching experience" shall mean
1043 nine (9) months of actual teaching in the public or private
1044 elementary and secondary schools and shall also include nine (9)
1045 months of actual teaching at postsecondary institutions accredited
1046 by the Southern Association of Colleges and Schools (SACS) or



1047 equivalent regional accrediting body for degree-granting
1048 postsecondary institutions. In no case shall more than one (1)
1049 year of teaching experience be given for all services in one (1)
1050 calendar or school year. In determining a teacher's experience,
1051 no deduction shall be made because of the temporary absence of the
1052 teacher because of illness or other good cause, and the teacher
1053 shall be given credit therefor. Beginning with the 2003-2004
1054 school year, the State Board of Education shall fix a number of
1055 days, not to exceed forty-five (45) consecutive school days,
1056 during which a teacher may not be under contract of employment
1057 during any school year and still be considered to have been in
1058 full-time employment for a regular scholastic term. If a teacher
1059 exceeds the number of days established by the State Board of
1060 Education that a teacher may not be under contract but may still
1061 be employed, that teacher shall not be credited with a year of
1062 teaching experience. In determining the experience of school
1063 librarians, each complete year of continuous, full-time employment
1064 as a professional librarian in a public library in this or some
1065 other state shall be considered a year of teaching experience. If
1066 a full-time school administrator returns to actual teaching in the
1067 public schools, the term "year of teaching experience" shall
1068 include the period of time he or she served as a school
1069 administrator. In determining the salaries of teachers who have
1070 experience in any branch of the military, the term "year of
1071 teaching experience" shall include each complete year of actual



1072 classroom instruction while serving in the military. In
1073 determining the experience of speech-language pathologists and
1074 audiologists, each complete year of continuous full-time post
1075 master's degree employment in an educational setting in this or
1076 some other state shall be considered a year of teaching
1077 experience. Provided, however, that school districts are
1078 authorized, in their discretion, to negotiate the salary levels
1079 applicable to certificated employees employed after July 1, 2009,
1080 who are receiving retirement benefits from the retirement system
1081 of another state, and the annual experience increment provided in
1082 Section 37-19-7 shall not be applicable to any such retired
1083 certificated employee.

1084 (n) * * * ~~(i)~~ The term "average daily attendance"
1085 shall be the figure which results when the total aggregate
1086 full-day attendance during the period or months counted is divided
1087 by the number of days during the period or months counted upon
1088 which both teachers and pupils are in regular attendance for
1089 scheduled classroom instruction, * * * ~~unless a pupil's absence is~~
1090 ~~excused due to participation in an activity authorized by the~~
1091 ~~State Board of Education under subparagraph (ii) of this~~
1092 ~~paragraph,~~ less the average daily attendance for self-contained
1093 special education classes. For purposes of determining and
1094 reporting attendance, a pupil must be present for at least
1095 sixty-three percent (63%) of the instructional day, as fixed by
1096 the local school board for each school in the school district, in



1097 order to be considered in full-day attendance. Prior to full
1098 implementation of the adequate education program the department
1099 shall deduct the average daily attendance for the alternative
1100 school program provided for in Section 37-19-22.

1101 * * * ~~————— (ii) The State Board of Education shall~~
1102 ~~define those activities necessitating a pupil's absence that, for~~
1103 ~~purposes of determining and reporting attendance for average daily~~
1104 ~~attendance purposes, must be considered an excused absence. Such~~
1105 ~~activities include, but are not limited to: official organized~~
1106 ~~events sponsored by the 4-H or Future Farmers of America (FFA);~~
1107 ~~official organized junior livestock shows and rodeo events;~~
1108 ~~official employment as a page at the State Capitol for the~~
1109 ~~Mississippi House of Representatives or Senate; subject-matter~~
1110 ~~field trips; athletic contests; student conventions; music~~
1111 ~~festivals or contests; and any similar school-related activity~~
1112 ~~designated by the State Board of Education. The State Board of~~
1113 ~~Education shall prescribe the means by which a pupil's absence due~~
1114 ~~to participation in an activity authorized by the board pursuant~~
1115 ~~to this subparagraph must be verified. This subparagraph (ii)~~
1116 ~~shall stand repealed on July 1, 2016.~~

1117 (o) The term "local supplement" shall mean the amount
1118 paid to an individual teacher over and above the adequate
1119 education program salary schedule for regular teaching duties.



1120 (p) The term "aggregate amount of support from ad
1121 valorem taxation" shall mean the amounts produced by the
1122 district's total tax levies for operations.

1123 (q) The term "adequate education program funds" shall
1124 mean all funds, both state and local, constituting the
1125 requirements for meeting the cost of the adequate program as
1126 provided for in Section 37-151-7.

1127 (r) "Department" shall mean the State Department of
1128 Education.

1129 (s) "Commission" shall mean the Mississippi Commission
1130 on School Accreditation created under Section 37-17-3.

1131 (t) The term "successful school district" shall mean a
1132 Level III school district as designated by the State Board of
1133 Education using current statistically relevant state assessment
1134 data.

1135 (u) "Dual enrollment-dual credit programs" shall mean
1136 programs for potential or recent high school student dropouts to
1137 dually enroll in their home high school and a local community
1138 college in a dual credit program consisting of high school
1139 completion coursework and a credential, certificate or degree
1140 program at the community college, as provided in Section
1141 37-15-38(19).

1142 (v) "Charter school" means a public school that is
1143 established and operating under the terms of a charter contract



1144 between the school's governing board and the Mississippi Charter
1145 School Authorizer Board.

1146 **SECTION 16.** Section 37-151-7, Mississippi Code of 1972, is
1147 amended as follows:

1148 37-151-7. The annual allocation to each school district for
1149 the operation of the adequate education program shall be
1150 determined as follows:

1151 (1) **Computation of the basic amount to be included for**
1152 **current operation in the adequate education program.** The
1153 following procedure shall be followed in determining the annual
1154 allocation to each school district:

1155 (a) **Determination of average daily attendance.**
1156 Effective with fiscal year 2011, the State Department of Education
1157 shall determine the percentage change from the prior year of each
1158 year of each school district's average of months two (2) and three
1159 (3) average daily attendance (ADA) for the three (3) immediately
1160 preceding school years of the year for which funds are being
1161 appropriated. For any school district that experiences a positive
1162 growth in the average of months two (2) and three (3) ADA each
1163 year of the three (3) years, the average percentage growth over
1164 the three-year period shall be multiplied times the school
1165 district's average of months two (2) and three (3) ADA for the
1166 year immediately preceding the year for which MAEP funds are being
1167 appropriated. The resulting amount shall be added to the school
1168 district's average of months two (2) and three (3) ADA for the



1169 year immediately preceding the year for which MAEP funds are being
1170 appropriated to arrive at the ADA to be used in determining a
1171 school district's MAEP allocation. Otherwise, months two (2) and
1172 three (3) ADA for the year immediately preceding the year for
1173 which MAEP funds are being appropriated will be used in
1174 determining a school district's MAEP allocation. In any fiscal
1175 year prior to 2010 in which the MAEP formula is not fully funded,
1176 for those districts that do not demonstrate a three-year positive
1177 growth in months two (2) and three (3) ADA, months one (1) through
1178 nine (9) ADA of the second preceding year for which funds are
1179 being appropriated or months two (2) and three (3) ADA of the
1180 preceding year for which funds are being appropriated, whichever
1181 is greater, shall be used to calculate the district's MAEP
1182 allocation. The district's average daily attendance shall be
1183 computed and currently maintained in accordance with regulations
1184 promulgated by the State Board of Education. The district's
1185 average daily attendance shall include any student enrolled in a
1186 Dual Enrollment-Dual Credit Program as defined and provided in
1187 Section 37-15-38(19). The State Department of Education shall
1188 make payments for Dual Enrollment-Dual Credit Programs to the home
1189 school in which the student is enrolled, in accordance with
1190 regulations promulgated by the State Board of Education. The
1191 community college providing services to students in a Dual
1192 Enrollment-Dual Credit Program shall require payment from the home
1193 school district for services provided to such students at a rate



1194 of one hundred percent (100%) of ADA. All MAEP/state funding
1195 shall cease upon completion of high school graduation
1196 requirements.

1197 (b) **Determination of base student cost.** Effective with
1198 fiscal year 2011 and every fourth fiscal year thereafter, the
1199 State Board of Education, on or before August 1, with adjusted
1200 estimate no later than January 2, shall submit to the Legislative
1201 Budget Office and the Governor a proposed base student cost
1202 adequate to provide the following cost components of educating a
1203 pupil in a successful school district: (i) instructional cost;
1204 (ii) administrative cost; (iii) operation and maintenance of
1205 plant; and (iv) ancillary support cost. For purposes of these
1206 calculations, the Department of Education shall utilize financial
1207 data from the second preceding year of the year for which funds
1208 are being appropriated.

1209 For the instructional cost component, the Department of
1210 Education shall select districts that have been identified as
1211 instructionally successful and have a ratio of a number of
1212 teachers per one thousand (1,000) students that is between one (1)
1213 standard deviation above the mean and two (2) standard deviations
1214 below the mean of the statewide average of teachers per one
1215 thousand (1,000) students. The instructional cost component shall
1216 be calculated by dividing the latest available months one (1)
1217 through nine (9) ADA into the instructional expenditures of these
1218 selected districts. For the purpose of this calculation, the



1219 Department of Education shall use the following funds, functions
1220 and objects:

1221 Fund 1120 Functions 1110-1199 Objects 100-999, Functions
1222 1210, 1220, 2150-2159 Objects 210 and 215;

1223 Fund 1130 All Functions, Object Code 210 and 215;

1224 Fund 2001 Functions 1110-1199 Objects 100-999;

1225 Fund 2070 Functions 1110-1199 Objects 100-999;

1226 Fund 2420 Functions 1110-1199 Objects 100-999;

1227 Fund 2711 All Functions, Object Code 210 and 215.

1228 Prior to the calculation of the instructional cost component,
1229 there shall be subtracted from the above expenditures any revenue
1230 received for Chickasaw Cession payments, Master Teacher
1231 Certification payments and the district's portion of state revenue
1232 received from the MAEP at-risk allocation.

1233 For the administrative cost component, the Department of
1234 Education shall select districts that have been identified as
1235 instructionally successful and have a ratio of an administrative
1236 staff to nonadministrative staff between one (1) standard
1237 deviation above the mean and two (2) standard deviations below the
1238 mean of the statewide average administrative staff to
1239 nonadministrative staff. The administrative cost component shall
1240 be calculated by dividing the latest available months one (1)
1241 through nine (9) ADA of the selected districts into the
1242 administrative expenditures of these selected districts. For the



1243 purpose of this calculation, the Department of Education shall use
1244 the following funds, functions and objects:

1245 Fund 1120 Functions 2300-2599, Functions 2800-2899,
1246 Objects 100-999;

1247 Fund 2711 Functions 2300-2599, Functions 2800-2899,
1248 Objects 100-999.

1249 For the plant and maintenance cost component, the Department
1250 of Education shall select districts that have been identified as
1251 instructionally successful and have a ratio of plant and
1252 maintenance expenditures per one hundred thousand (100,000) square
1253 feet of building space and a ratio of maintenance workers per one
1254 hundred thousand (100,000) square feet of building space that are
1255 both between one (1) standard deviation above the mean and two (2)
1256 standard deviations below the mean of the statewide average. The
1257 plant and maintenance cost component shall be calculated by
1258 dividing the latest available months one (1) through nine (9) ADA
1259 of the selected districts into the plant and maintenance
1260 expenditures of these selected districts. For the purpose of this
1261 calculation, the Department of Education shall use the following
1262 funds, functions and objects:

1263 Fund 1120 Functions 2600-2699, Objects 100-699
1264 and Objects 800-999;

1265 Fund 2711 Functions 2600-2699, Objects 100-699
1266 and Objects 800-999;

1267 Fund 2430 Functions 2600-2699, Objects 100-699



1268 and Objects 800-999.

1269 For the ancillary support cost component, the Department of
1270 Education shall select districts that have been identified as
1271 instructionally successful and have a ratio of a number of
1272 librarians, media specialists, guidance counselors and
1273 psychologists per one thousand (1,000) students that is between
1274 one (1) standard deviation above the mean and two (2) standard
1275 deviations below the mean of the statewide average of librarians,
1276 media specialists, guidance counselors and psychologists per one
1277 thousand (1,000) students. The ancillary cost component shall be
1278 calculated by dividing the latest available months one (1) through
1279 nine (9) ADA into the ancillary expenditures instructional
1280 expenditures of these selected districts. For the purpose of this
1281 calculation, the Department of Education shall use the following
1282 funds, functions and objects:

1283 Fund 1120 Functions 2110-2129, Objects 100-999;

1284 Fund 1120 Functions 2140-2149, Objects 100-999;

1285 Fund 1120 Functions 2220-2229, Objects 100-999;

1286 Fund 2001 Functions 2100-2129, Objects 100-999;

1287 Fund 2001 Functions 2140-2149, Objects 100-999;

1288 Fund 2001 Functions 2220-2229, Objects 100-999.

1289 The total base cost for each year shall be the sum of the
1290 instructional cost component, administrative cost component, plant
1291 and maintenance cost component and ancillary support cost
1292 component, and any estimated adjustments for additional state



1293 requirements as determined by the State Board of Education.
1294 Provided, however, that the base student cost in fiscal year 1998
1295 shall be Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).

1296 For each of the fiscal years between the recalculation of the
1297 base student cost under the provisions of this paragraph (b), the
1298 base student cost shall be increased by an amount equal to forty
1299 percent (40%) of the base student cost for the previous fiscal
1300 year, multiplied by the latest annual rate of inflation for the
1301 State of Mississippi as determined by the State Economist, plus
1302 any adjustments for additional state requirements such as, but not
1303 limited to, teacher pay raises and health insurance premium
1304 increases.

1305 (c) **Determination of the basic adequate education**
1306 **program cost.** The basic amount for current operation to be
1307 included in the Mississippi Adequate Education Program for each
1308 school district shall be computed as follows:

1309 Multiply the average daily attendance of the district by the
1310 base student cost as established by the Legislature, which yields
1311 the total base program cost for each school district.

1312 (d) **Adjustment to the base student cost for at-risk**
1313 **pupils.** The amount to be included for at-risk pupil programs for
1314 each school district shall be computed as follows: Multiply the
1315 base student cost for the appropriate fiscal year as determined
1316 under paragraph (b) by five percent (5%), and multiply that
1317 product by the number of pupils participating in the federal free



1318 school lunch program in such school district, which yields the
1319 total adjustment for at-risk pupil programs for such school
1320 district.

1321 (e) **Add-on program cost.** The amount to be allocated to
1322 school districts and to the Special ESA Fund in addition to the
1323 adequate education program cost for add-on programs for each
1324 school district and the Special ESA Fund shall be computed as
1325 follows:

1326 (i) Transportation cost shall be the amount
1327 allocated to such school district for the operational support of
1328 the district transportation system from state funds.

1329 (ii) Vocational or technical education program
1330 cost shall be the amount allocated to such school district from
1331 state funds for the operational support of such programs.

1332 (iii) Special education program cost shall be the
1333 amount allocated to such school district from state funds for the
1334 operational support of such programs.

1335 (iv) Gifted education program cost shall be the
1336 amount allocated to such school district from state funds for the
1337 operational support of such programs.

1338 (v) Alternative school program cost shall be the
1339 amount allocated to such school district from state funds for the
1340 operational support of such programs.



1341 (vi) Extended school year programs shall be the
1342 amount allocated to school districts for those programs authorized
1343 by law which extend beyond the normal school year.

1344 (vii) University-based programs shall be the
1345 amount allocated to school districts for those university-based
1346 programs for handicapped children as defined and provided for in
1347 Section 37-23-131 et seq., Mississippi Code of 1972.

1348 (viii) Bus driver training programs shall be the
1349 amount provided for those driver training programs as provided for
1350 in Section 37-41-1, Mississippi Code of 1972.

1351 (ix) The Education Scholarship Account (ESA)
1352 program shall be the amount provided for those education
1353 scholarship accounts for eligible students provided for in
1354 Sections 37-181-1 through 37-181-21, Mississippi Code of 72.

1355 The sum of the items listed above (i) transportation, (ii)
1356 vocational or technical education, (iii) special education, (iv)
1357 gifted education, (v) alternative school, (vi) extended school
1358 year, (vii) university-based, * * *~~and~~ (viii) bus driver training,
1359 and (ix) Education Scholarship Account (ESA) program, shall yield
1360 the add-on cost for each school district and the Special ESA Fund.

1361 (f) **Total projected adequate education program cost.**

1362 The total Mississippi Adequate Education Program cost shall be the
1363 sum of the total basic adequate education program cost (paragraph
1364 (c)), and the adjustment to the base student cost for at-risk
1365 pupils (paragraph (d)) for each school district. In any year in



1366 which the MAEP is not fully funded, the Legislature shall direct
1367 the Department of Education in the K-12 appropriation bill as to
1368 how to allocate MAEP funds to school districts for that year.

1369 (g) The State Auditor shall annually verify the State
1370 Board of Education's estimated calculations for the Mississippi
1371 Adequate Education Program that are submitted each year to the
1372 Legislative Budget Office on August 1 and the final calculation
1373 that is submitted on January 2.

1374 (2) **Computation of the required local revenue in support of**
1375 **the adequate education program.** The amount that each district
1376 shall provide toward the cost of the adequate education program
1377 shall be calculated as follows:

1378 (a) The State Department of Education shall certify to
1379 each school district that twenty-eight (28) mills, less the
1380 estimated amount of the yield of the School Ad Valorem Tax
1381 Reduction Fund grants as determined by the State Department of
1382 Education, is the millage rate required to provide the district
1383 required local effort for that year, or twenty-seven percent (27%)
1384 of the basic adequate education program cost for such school
1385 district as determined under paragraph (c), whichever is a lesser
1386 amount. In the case of an agricultural high school, the millage
1387 requirement shall be set at a level which generates an equitable
1388 amount per pupil to be determined by the State Board of Education.
1389 The local contribution amount for school districts in which there
1390 is located one or more charter schools will be calculated using



1391 the following methodology: using the adequate education program
1392 twenty-eight (28) mill value, or the twenty-seven percent (27%)
1393 cap amount (whichever is less) for each school district in which a
1394 charter school is located, an average per pupil amount will be
1395 calculated. This average per pupil amount will be multiplied
1396 times the number of students attending the charter school in that
1397 school district. The sum becomes the charter school's local
1398 contribution to the adequate education program.

1399 (b) The State Department of Education shall determine
1400 the following from the annual assessment information submitted to
1401 the department by the tax assessors of the various counties: (i)
1402 the total assessed valuation of nonexempt property for school
1403 purposes in each school district; (ii) assessed value of exempt
1404 property owned by homeowners aged sixty-five (65) or older or
1405 disabled as defined in Section 27-33-67(2), Mississippi Code of
1406 1972; (iii) the school district's tax loss from exemptions
1407 provided to applicants under the age of sixty-five (65) and not
1408 disabled as defined in Section 27-33-67(1), Mississippi Code of
1409 1972; and (iv) the school district's homestead reimbursement
1410 revenues.

1411 (c) The amount of the total adequate education program
1412 funding which shall be contributed by each school district shall
1413 be the sum of the ad valorem receipts generated by the millage
1414 required under this subsection plus the following local revenue



1415 sources for the appropriate fiscal year which are or may be
1416 available for current expenditure by the school district:

1417 One hundred percent (100%) of Grand Gulf income as prescribed
1418 in Section 27-35-309.

1419 One hundred percent (100%) of any fees in lieu of taxes as
1420 prescribed in Section 27-31-104.

1421 (3) **Computation of the required state effort in support of**
1422 **the adequate education program.**

1423 (a) The required state effort in support of the
1424 adequate education program shall be determined by subtracting the
1425 sum of the required local tax effort as set forth in subsection
1426 (2) (a) of this section and the other local revenue sources as set
1427 forth in subsection (2) (c) of this section in an amount not to
1428 exceed twenty-seven percent (27%) of the total projected adequate
1429 education program cost as set forth in subsection (1) (f) of this
1430 section from the total projected adequate education program cost
1431 as set forth in subsection (1) (f) of this section.

1432 (b) Provided, however, that in fiscal year 2015, any
1433 increase in the said state contribution to any district calculated
1434 under this section shall be not less than six percent (6%) in
1435 excess of the amount received by said district from state funds
1436 for fiscal year 2002; in fiscal year 2016, any increase in the
1437 said state contribution to any district calculated under this
1438 section shall be not less than four percent (4%) in excess of the
1439 amount received by said district from state funds for fiscal year



1440 2002; in fiscal year 2017, any increase in the said state
1441 contribution to any district calculated under this section shall
1442 be not less than two percent (2%) in excess of the amount received
1443 by said district from state funds for fiscal year 2002; and in
1444 fiscal year 2018 and thereafter, any increase in the said state
1445 contribution to any district calculated under this section shall
1446 be zero percent (0%). For purposes of this paragraph (b), state
1447 funds shall include minimum program funds less the add-on
1448 programs, State Uniform Millage Assistance Grant Funds, Education
1449 Enhancement Funds appropriated for Uniform Millage Assistance
1450 Grants and state textbook allocations, and State General Funds
1451 allocated for textbooks.

1452 (c) If the school board of any school district shall
1453 determine that it is not economically feasible or practicable to
1454 operate any school within the district for the full one hundred
1455 eighty (180) days required for a school term of a scholastic year
1456 as required in Section 37-13-63, Mississippi Code of 1972, due to
1457 an enemy attack, a man-made, technological or natural disaster in
1458 which the Governor has declared a disaster emergency under the
1459 laws of this state or the President of the United States has
1460 declared an emergency or major disaster to exist in this state,
1461 said school board may notify the State Department of Education of
1462 such disaster and submit a plan for altering the school term. If
1463 the State Board of Education finds such disaster to be the cause
1464 of the school not operating for the contemplated school term and



1465 that such school was in a school district covered by the
1466 Governor's or President's disaster declaration, it may permit said
1467 school board to operate the schools in its district for less than
1468 one hundred eighty (180) days and, in such case, the State
1469 Department of Education shall not reduce the state contributions
1470 to the adequate education program allotment for such district,
1471 because of the failure to operate said schools for one hundred
1472 eighty (180) days.

1473 (4) The Interim School District Capital Expenditure Fund is
1474 hereby established in the State Treasury which shall be used to
1475 distribute any funds specifically appropriated by the Legislature
1476 to such fund to school districts entitled to increased allocations
1477 of state funds under the adequate education program funding
1478 formula prescribed in Sections 37-151-3 through 37-151-7,
1479 Mississippi Code of 1972, until such time as the said adequate
1480 education program is fully funded by the Legislature. The
1481 following percentages of the total state cost of increased
1482 allocations of funds under the adequate education program funding
1483 formula shall be appropriated by the Legislature into the Interim
1484 School District Capital Expenditure Fund to be distributed to all
1485 school districts under the formula: Nine and two-tenths percent
1486 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
1487 (20%) shall be appropriated in fiscal year 1999, forty percent
1488 (40%) shall be appropriated in fiscal year 2000, sixty percent
1489 (60%) shall be appropriated in fiscal year 2001, eighty percent



1490 (80%) shall be appropriated in fiscal year 2002, and one hundred
1491 percent (100%) shall be appropriated in fiscal year 2003 into the
1492 State Adequate Education Program Fund. Until July 1, 2002, such
1493 money shall be used by school districts for the following
1494 purposes:

1495 (a) Purchasing, erecting, repairing, equipping,
1496 remodeling and enlarging school buildings and related facilities,
1497 including gymnasiums, auditoriums, lunchrooms, vocational training
1498 buildings, libraries, school barns and garages for transportation
1499 vehicles, school athletic fields and necessary facilities
1500 connected therewith, and purchasing land therefor. Any such
1501 capital improvement project by a school district shall be approved
1502 by the State Board of Education, and based on an approved
1503 long-range plan. The State Board of Education shall promulgate
1504 minimum requirements for the approval of school district capital
1505 expenditure plans.

1506 (b) Providing necessary water, light, heating,
1507 air-conditioning, and sewerage facilities for school buildings,
1508 and purchasing land therefor.

1509 (c) Paying debt service on existing capital improvement
1510 debt of the district or refinancing outstanding debt of a district
1511 if such refinancing will result in an interest cost savings to the
1512 district.

1513 (d) From and after October 1, 1997, through June 30,
1514 1998, pursuant to a school district capital expenditure plan



1515 approved by the State Department of Education, a school district
1516 may pledge such funds until July 1, 2002, plus funds provided for
1517 in paragraph (e) of this subsection (4) that are not otherwise
1518 permanently pledged under such paragraph (e) to pay all or a
1519 portion of the debt service on debt issued by the school district
1520 under Sections 37-59-1 through 37-59-45, 37-59-101 through
1521 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
1522 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
1523 issued by boards of supervisors for agricultural high schools
1524 pursuant to Section 37-27-65, Mississippi Code of 1972, or
1525 lease-purchase contracts entered into pursuant to Section 31-7-13,
1526 Mississippi Code of 1972, or to retire or refinance outstanding
1527 debt of a district, if such pledge is accomplished pursuant to a
1528 written contract or resolution approved and spread upon the
1529 minutes of an official meeting of the district's school board or
1530 board of supervisors. It is the intent of this provision to allow
1531 school districts to irrevocably pledge their Interim School
1532 District Capital Expenditure Fund allotments as a constant stream
1533 of revenue to secure a debt issued under the foregoing code
1534 sections. To allow school districts to make such an irrevocable
1535 pledge, the state shall take all action necessary to ensure that
1536 the amount of a district's Interim School District Capital
1537 Expenditure Fund allotments shall not be reduced below the amount
1538 certified by the department or the district's total allotment



1539 under the Interim Capital Expenditure Fund if fully funded, so
1540 long as such debt remains outstanding.

1541 (e) [Repealed]

1542 (f) [Repealed]

1543 (g) The State Board of Education may authorize the
1544 school district to expend not more than twenty percent (20%) of
1545 its annual allotment of such funds or Twenty Thousand Dollars
1546 (\$20,000.00), whichever is greater, for technology needs of the
1547 school district, including computers, software,
1548 telecommunications, cable television, interactive video, film,
1549 low-power television, satellite communications, microwave
1550 communications, technology-based equipment installation and
1551 maintenance, and the training of staff in the use of such
1552 technology-based instruction. Any such technology expenditure
1553 shall be reflected in the local district technology plan approved
1554 by the State Board of Education under Section 37-151-17,
1555 Mississippi Code of 1972.

1556 (h) To the extent a school district has not utilized
1557 twenty percent (20%) of its annual allotment for technology
1558 purposes under paragraph (g), a school district may expend not
1559 more than twenty percent (20%) of its annual allotment or Twenty
1560 Thousand Dollars (\$20,000.00), whichever is greater, for
1561 instructional purposes. The State Board of Education may
1562 authorize a school district to expend more than said twenty
1563 percent (20%) of its annual allotment for instructional purposes



1564 if it determines that such expenditures are needed for
1565 accreditation purposes.

1566 (i) The State Department of Education or the State
1567 Board of Education may require that any project commenced under
1568 this section with an estimated project cost of not less than Five
1569 Million Dollars (\$5,000,000.00) shall be done only pursuant to
1570 program management of the process with respect to design and
1571 construction. Any individuals, partnerships, companies or other
1572 entities acting as a program manager on behalf of a local school
1573 district and performing program management services for projects
1574 covered under this subsection shall be approved by the State
1575 Department of Education.

1576 Any interest accruing on any unexpended balance in the
1577 Interim School District Capital Expenditure Fund shall be invested
1578 by the State Treasurer and placed to the credit of each school
1579 district participating in such fund in its proportionate share.

1580 The provisions of this subsection (4) shall be cumulative and
1581 supplemental to any existing funding programs or other authority
1582 conferred upon school districts or school boards.

1583 (5) The State Department of Education shall make payments to
1584 charter schools for each student in average daily attendance at
1585 the charter school equal to the state share of the adequate
1586 education program payments for each student in average daily
1587 attendance at the school district in which the public charter
1588 school is located. In calculating the local contribution for



1589 purposes of determining the state share of the adequate education
1590 program payments, the department shall deduct the pro rata local
1591 contribution of the school district in which the student resides
1592 as determined in subsection (2)(a) of this section.

1593 **SECTION 17.** Section 37-151-101, Mississippi Code of 1972, is
1594 amended as follows:

1595 37-151-101. It shall be the duty of the State Department of
1596 Education to file with the State Treasurer and the State Fiscal
1597 Officer such data and information as may be required to enable the
1598 said State Treasurer and State Fiscal Officer to distribute the
1599 common school funds and adequate education program funds by
1600 electronic funds transfer to the several school districts and
1601 charter schools, and adequate education program funds by
1602 electronic funds transfer to the Special ESA Fund at the time
1603 required and provided under the provisions of this chapter. Such
1604 data and information so filed shall show in detail the amount of
1605 funds to which each school district and charter school is entitled
1606 from such common school fund and adequate education program fund.
1607 Such data and information so filed may be revised from time to
1608 time as necessitated by law. At the time provided by law, the
1609 State Treasurer and the State Fiscal Officer shall distribute to
1610 the several school districts and charter schools the amounts to
1611 which they are entitled from the common school fund and shall
1612 distribute to the several school districts, charter schools, and
1613 the Special ESA Fund the amounts to which they are entitled from



1614 the adequate education program fund as provided by this chapter.
1615 Such distribution shall be made by electronic funds transfer to
1616 the depositories of the several school districts * * *~~and,~~
1617 charter schools, and Special ESA Fund designated in writing to the
1618 State Treasurer based upon the data and information supplied by
1619 the State Department of Education for such distribution. In such
1620 instances, the State Treasurer shall submit a request for an
1621 electronic funds transfer to the State Fiscal Officer, which shall
1622 set forth the purpose, amount and payees, and shall be in such
1623 form as may be approved by the State Fiscal Officer so as to
1624 provide the necessary information as would be required for a
1625 requisition and issuance of a warrant. A copy of the record of
1626 said electronic funds transfers shall be transmitted by the school
1627 district and charter school depositories to the Treasurer, who
1628 shall file duplicates, and a duplicate of electronic funds
1629 transfer to the Special ESA Fund with the State Fiscal Officer.
1630 The Treasurer and State Fiscal Officer shall jointly promulgate
1631 regulations for the utilization of electronic funds transfers to
1632 school districts * * *~~and,~~ charter schools, and the Special ESA
1633 Fund.

1634 **SECTION 18.** The following shall be codified as Section
1635 37-151-86, Mississippi Code of 1972:

1636 37-151-86. **Allowance of state funds for education**
1637 **scholarship accounts program.** In addition to other funds provided
1638 for in this chapter, there shall be added a distribution from the



1639 Adequate Education Program Fund to the Special ESA Fund which
1640 shall be paid in the following manner: Two (2) business days
1641 prior to the last working day of July, there shall be paid to the
1642 Special ESA Fund, by electronic funds transfer, one-half (1/2) of
1643 the funds to which the Special ESA Fund is entitled from funds
1644 appropriated for the Adequate Education Program Fund; the
1645 remaining one-half (1/2) of appropriated payments shall be on
1646 December 15 or the next business day after that date.

1647 **SECTION 19.** This act shall take effect and be in force from
1648 and after July 1, 2018.

