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

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

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

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32 37-181-1. This chapter shall be known and may be cited as
33 "The Equal Opportunity for Mississippi Students Act."
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35 SECTION 2. Section 37-181-3, Mississippi Code of 1972, is
36 amended as follows:
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38 37-181-3. The terms used in this chapter shall have the
39 meanings ascribed herein, unless the context clearly indicates
40 otherwise:
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42 (a) "Program" means a program to implement the
43 Education Scholarship Account (ESA) program created in this
44 chapter.
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46 (b) "Eligible student" means any student who is a
47 resident of the state and meets at least one (1) of the following:
48
49 (i) Was enrolled in and attended a Mississippi
50 public school during the prior academic year;
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52 (ii) Is eligible to enroll in Kindergarten or
53 First Grade at a Mississippi primary public school;
54
55 (iii) Has had an active Individual Education
56 Program (IEP) within the past five (5) years;
57
58 (iv) Is a child of a parent who is a member of the
59 Armed Forces of the United States and who is on active duty or was
60 killed in the line of duty;
61
62 (v) Is in the foster care system and who is
63 residing with a prospective permanent placement or who has
64 achieved permanency through adoption or permanent guardianship; or
(vi) Is the sibling of a current recipient of ESA program funds.

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

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

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

(f) "Eligible school" means a nonpublic school that has enrolled a participating student. An eligible school must be accredited by or possess a provisional letter of accreditation from a state or regional accrediting agency from a list developed by the office to include, but not be limited to, AdvanceED/Southern Association of Colleges and Schools, Mississippi Association of Independent Schools, Association of Christian Schools International, Southern Association of Independent Schools, National Catholic Educational Association, Middle States Association of Colleges and Schools, Tennessee Department of Education, and Mississippi Department of Education.

(g) "Tutor" means tutoring services provided by a tutor or tutoring facility that is accredited or certified by a state, regional, or national accrediting or certifying organization; or tutoring services provided by a person who is or
has been a teacher licensed in any state, or who has taught at a
postsecondary institution, or who is a subject-matter expert, or
who is approved by the office.

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

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

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

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

(a) To provide an organized, appropriate educational
program with measurable annual goals to their participating
student and, to the extent reasonably deemed appropriate by the
parent, to provide an education for the qualified student in at
least the subjects of reading, grammar, mathematics, social
studies and science;

* * *

(b) Not to enroll their participating student
full time in a public school while participating in the ESA
program;
( * * *c) Not to file for their participating student a certificate of enrollment indicating participation in a home instruction program under Section 37-13-91, Mississippi Code of 1972; and

( * * *d) Not to participate in the Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program or the Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program while participating in the ESA program.

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

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

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

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

- (i) Tuition and/or fees at an eligible school;
- (ii) Textbooks;
- (iii) Payment to a tutor;
- (iv) Payment for purchase of curriculum, including any supplemental materials required by the curriculum;
- (v) No more than One Thousand Dollars ($1,000.00) annually for fees for transportation to and from an educational service provider paid to a fee-for-service transportation provider;
- (vi) Tuition and/or fees for online learning programs or courses;
- (vii) Fees for nationally standardized norm-referenced achievement tests, including alternate assessments; and fees for Advanced Placement examinations or similar courses and any examinations related to college or university admission;
- (viii) Costs directly associated with obtaining a nationally recognized industry certification;
Contracted services provided by a public school, including individual classes and extracurricular programs;

Tuition and fees at a postsecondary institution;

Textbooks related to coursework at a postsecondary institution;

Educational services or therapies from a licensed or certified practitioner or provider, including licensed or certified paraprofessionals or educational aides;

No more than One Hundred Dollars ($100.00) in annual consumable school supplies necessary for educational services and therapies, daily classroom activities, and tutoring;

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

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

(* * *5) Neither a participating student, nor anyone on the student's behalf, may receive cash or cash-equivalent items, such as gift cards or store credit, from any refunds or rebates from any provider of services or products in this program. Any refunds or rebates shall be credited directly to the participating student's ESA. The funds in an ESA may only be used for education-related purposes. Eligible schools, postsecondary institutions and educational service providers that serve participating students shall provide parents with a receipt for all qualifying expenses.

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

(* * *7) ESA funds may not be used to attend an eligible school that maintains its primary location in a state other than Mississippi unless that school is approved for the Educable Child Program; or unless the parent verifies in writing that their child cannot reasonably obtain appropriate services in Mississippi at a location within thirty (30) miles of their legal residence.
(8) For purposes of continuity of educational attainment, students who enroll in the program shall remain participating students until returning to public school, completing high school, or reaching the age of twenty-one (21), whichever occurs first.

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

(10) Any funds remaining in a student's Education Scholarship Account upon completion of high school shall be returned to the state's Special ESA Fund pursuant to subsection (4)(2)(a) of this section.

(11) A participating student shall be allowed to return to his home school district at any time after enrolling in the program. Upon a participating student's return to his home school district, that student's Education Scholarship Account shall be closed and any remaining funds shall be transferred to the student's home school district.

(12) In Grades 3 through 8 parents shall ensure their participating student is administered a national norm-referenced achievement test that measures learning in mathematics and language arts. In Grade 11 parents shall ensure their participating student takes a test used for undergraduate college admissions.
(a) The results of these tests shall be reported to parents.

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

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

37-181-7. (1) ** * Beginning with the 2018-2019 school year, the ESA program created in this chapter shall be limited to the equivalent of one-half of one percent (.5%) of the estimated statewide total public school enrollment in the preceding school year, with new enrollment limited to an additional one percent (1%) of the statewide public school enrollment each year thereafter.

(2) ** * (a) ** * There is created a Special ESA Fund in the State Treasury to pay for the Education Scholarship Accounts established in this chapter. Payments made to this fund shall be an "add-on program cost" as defined in Sections 37-151-5(e) and 37-151-7(1)(e) and shall be included in the Mississippi Adequate Education Program (MAEP) annual appropriation outside of the program calculations. Payments made to this fund shall be made on a quarterly basis and in the same manner as Mississippi Adequate Education Program (MAEP) payments are made to school districts under Sections 37-151-101 and 37-151-103. Each October 1, the office shall calculate the cost of new Education Scholarship
Accounts for the following fiscal year by multiplying fifty percent (50%) of accounts allowed by annual enrollment limits as defined in Section 37-181-7(1) by the amount for students prescribed in Section 37-181-7(3)(a) and fifty percent (50%) by the amount for special needs students prescribed in Section 37-181-7(3)(b) and adding the amounts together. This amount shall be added to the amount of current awards and included as the add-on program cost for the Special ESA Fund in the annual Mississippi Adequate Education Program (MAEP) budget request by the State Department of Education. The State Department of Education shall also report to the Legislature the number of eligible applicants and funding amounts as prescribed in Section 37-181-7(3) on January 15 each year and again on March 15 and may revise its budget request to the Legislature for the Special ESA Fund based upon the revised number of eligible applicants. Any funds not associated with an active Education Scholarship Account shall lapse into the State General Fund at the end of the fiscal year.

(b) * * * From and after July 1, 2018, there shall be an Office of Educational Choice (office) within the State Department of Education to administer the Education Scholarship Account (ESA) program created in Section 37-181-1 et seq. The Office of Educational Choice shall administer and implement the requirements of the ESA program as prescribed in said sections and shall be authorized to expend and distribute ESA program payments.
to parents of participating students in amounts appropriated by
the Legislature and specified for use for the ESA program.

* * *
(3) * * * Each student's ESA shall be funded at one of the
following amounts for the 2018-2019 school year and shall increase
or decrease each subsequent year by the same proportion as the
base student cost under Section 37-151-7(1)(b):

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

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

(4) The office shall process applications between July 1 and
June 30. On January 15 and again on March 15, or the nearest
business day, the office shall accept and issue an award letter to
eligible applicants for the following school year whose
applications were received not later than thirty (30) days prior.
For the 2018-2019 school year only, the office may extend
application and notification deadlines.

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

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

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

(8) When scholarship accounts have not been awarded or are denied or unclaimed, the office shall continue to enroll eligible applicants from a waiting list (a) in the order applications were received with a process that gives first preference to students eligible under Section 37-181-3(b)(iii) and second preference to students within a household with a household income not greater than two hundred fifty percent (250%) of the federal poverty level, or (b) in the order generated by the annual random selection process in a year in which it occurs.

(9) The office shall require parents of participating students to confirm or deny their student's participation when no scholarship funds are spent in two (2) consecutive quarters.
(10) Participating students are automatically approved for participation for the following year and are not subject to the random selection process.

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

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

37-181-9. (1) The Office of Educational Choice in the State Department of Education shall create a standard form that parents of students submit to establish their student's eligibility for an Education Scholarship Account. The office shall ensure that the application is readily available to interested families through various sources.

(2) The office shall provide parents of participating students with a written explanation of the allowable uses of Education Scholarship Accounts, the responsibilities of parents and the duties of the office. This information shall also be made available on the office's website.

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

(4) For three (3) years of the program's operation, the office may deduct an amount up to a limit of six percent
(6%) from appropriations used to fund Education Scholarship Accounts to cover the costs of overseeing the funds and administering the program. In subsequent years, the office may deduct an amount up to a limit of four percent (4%) from appropriations used to fund Education Scholarship Accounts for administrative costs.

* * *

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

* * *

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

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

(2) (a) The * * * Office of Educational Choice in the State Department of Education shall * * * use a system for payment of benefits * * * that includes, but is not limited to, allowing
educational service providers to invoice the \* \* \* office for qualified expenses consistent with Section 37-181-5(2), or allowing parents to seek preapproval or reimbursement for qualified expenses consistent with Section 37-181-5(2). The system for payment of benefits must be parent-friendly, automated and reduce administrative costs. The office shall enter into a competitively bid contract with a third-party vendor to administer the payment system. Thirty (30) business days before entering into a competitively bid contract for the system or expending any funds to develop its own system, the office shall provide a cost-benefit analysis to the Governor and the Chairmen of the House and Senate Education Committees demonstrating how the system will be parent friendly, automated and reduce administrative costs.

(b) The \* \* \* office may make payments to educational service providers or reimbursement to parents via check or warrant or electronic funds transfer or any other means of payment deemed to be commercially viable or cost-effective.

(c) The \* \* \* office may also establish by rule that some payments to educational service providers will be made on a quarterly basis, rather than an annual basis, if the educational services will be rendered over an extended period of time.

(d) The office shall not adopt a system that limits parents to being reimbursed for out-of-pocket expenses.
(3) The * * * office shall adopt a process for removing educational service providers that defraud parents and for referring cases of fraud to law enforcement.

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

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

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

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

37-181-13. (1) The Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) shall prepare a * * * report every three (3) years, * * * assessing the sufficiency of funding for Education Scholarship Accounts and recommending any suggested changes in state law or policy necessary to improve the program.

(2) The report shall assess:

(a) The level of participating students' satisfaction with the program;
(b) The level of parental satisfaction with the program;

* ***

( ** *c) The high school graduation rates and college acceptance rates of participating students;

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

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

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

(3) The report shall:

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

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

(4) PEER may accept grants to assist in funding the study.
(5) PEER shall provide the Legislature with a final copy of the evaluation of the program before December 31, * * * 2021 and every three (3) years thereafter. At the same time, the study shall also be placed in a prominent location on the PEER website.

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

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

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

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

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

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

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

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

   * * *

   ( * * *f) Conduct criminal background checks on employees. The eligible school then shall:
(i) Exclude from employment any person not permitted by state law to work in a nonpublic school; and

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

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

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

(a) The * * * Office of Educational Choice in the State Department of Education shall not in any way regulate the educational program of a nonpublic school, postsecondary institution or educational service provider that accepts funds from the parent of a participating student;

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

(c) Eligible schools, postsecondary institutions and educational service providers shall be given the maximum freedom to provide for the educational needs of their students without governmental control. No eligible school, postsecondary institution or educational service provider shall be required to
alter its creed, practices, admission policies or curriculum in
order to accept participating students * * *; and
(d) Eligible schools, postsecondary institutions and
educational service providers shall not be required to report data
to the office or any other entity in order to prevent an undue
administrative burden, except in cases where eligible schools that
administer tests as prescribed in Section 37-181-5(12) and have
thirty (30) or more participating students enrolled full time
shall make available to the Joint Legislative Committee on
Performance Evaluation and Expenditure Review (PEER) upon request
the aggregate test scores of all participating students tested
pursuant to Section 37-181-5(12).
(2) In any legal proceeding challenging the application of
this chapter to an eligible school, postsecondary institution or
educational service provider the state bears the burden of
establishing that the law is necessary and does not impose any
undue burden on the eligible school, postsecondary institution or
educational service provider.
SEC**ION 10. Section 37-181-19, Mississippi Code of 1972, is
amended as follows:
37-181-19. The Office of Educational Choice in the State
Department of Education may receive and expend contributions from
any public or private source to fund ESAs for participating
students.
SECTION 11. The following shall be codified as Section 37-181-20, Mississippi Code of 1972:

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

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

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

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

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

(2) From and after July 1, 1983, and until July 1, 1984, there shall be a State Department of Education, which shall consist of a State Superintendent of Public Education, a director of the division of finance and administration, a director of the division of instruction, a director of the division of school building and transportation services, a director of the division of vocational and technical education, who shall be an associate state superintendent of public education, the director of the division of vocational rehabilitation, a director of the division of junior colleges and such supervisors, assistants or employees as may be necessary for the proper functioning of the above-named divisions.

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

(4) From and after July 1, 2018, there shall be an Office of Educational Choice established by the State Board of Education in the State Department of Education as an independent division to

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administer the Education Scholarship Account (ESA) program created in Section 37-181-1 et seq. The Office of Educational Choice shall administer and implement the requirements of the ESA program as prescribed in said sections and shall be authorized to expend and distribute ESA program payments to eligible students in amounts appropriated by the Legislature and specified for use for the ESA program.

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

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

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

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

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

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

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

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

(f) "Compulsory-school-age child" means a child who has attained or will attain the age of six (6) years on or before September 1 of the calendar year and who has not attained the age of seventeen (17) years on or before September 1 of the calendar year; and shall include any child who has attained or will attain the age of five (5) years on or before September 1 and has enrolled in a full-day public school kindergarten program.

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) The signature of the parent, guardian or custodian of the compulsory-school-age child or, for any or all compulsory-school-age child or children attending a charter school or nonpublic school, the signature of the appropriate school official and the date signed.
The certificate of enrollment shall be returned to the school attendance officer where the child resides on or before September 15 of each year. Any parent, guardian or custodian found by the school attendance officer to be in noncompliance with this section shall comply, after written notice of the noncompliance by the school attendance officer, with this subsection within ten (10) days after the notice or be in violation of this section. However, in the event the child has been enrolled in a public school within fifteen (15) calendar days after the first day of the school year as required in subsection (6), the parent or custodian may, at a later date, enroll the child in a legitimate nonpublic school or legitimate home instruction program or Education Scholarship Account (ESA) program and send the certificate of enrollment to the school attendance officer and be in compliance with this subsection.

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

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

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

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

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

(c) An absence is excused when isolation of a
compulsory-school-age child is ordered by the county health
officer, by the State Board of Health or appropriate school
official.
(d) An absence is excused when it results from the death or serious illness of a member of the immediate family of a compulsory-school-age child. The immediate family members of a compulsory-school-age child shall include children, spouse, grandparents, parents, brothers and sisters, including stepbrothers and stepsisters.

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

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

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

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

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

(j) An absence is excused when it results from the attendance of a compulsory-school-age child participating in official organized events sponsored by the 4-H or Future Farmers of America (FFA). The excuse for the 4-H or FFA event must be provided in writing to the appropriate school superintendent by the Extension Agent or High School Agricultural Instructor/FFA Advisor.

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

(5) Any parent, guardian or custodian of a compulsory-school-age child subject to this section who refuses or willfully fails to perform any of the duties imposed upon him or her under this section or who intentionally falsifies any information required to be contained in a certificate of

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enrollment, shall be guilty of contributing to the neglect of a child and, upon conviction, shall be punished in accordance with Section 97-5-39.

Upon prosecution of a parent, guardian or custodian of a compulsory-school-age child for violation of this section, the presentation of evidence by the prosecutor that shows that the child has not been enrolled in school within eighteen (18) calendar days after the first day of the school year of the public school which the child is eligible to attend, or that the child has accumulated twelve (12) unlawful absences during the school year at the public school in which the child has been enrolled, shall establish a prima facie case that the child's parent, guardian or custodian is responsible for the absences and has refused or willfully failed to perform the duties imposed upon him or her under this section. However, no proceedings under this section shall be brought against a parent, guardian or custodian of a compulsory-school-age child unless the school attendance officer has contacted promptly the home of the child and has provided written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance.

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

(7) When a school attendance officer has made all attempts to secure enrollment and/or attendance of a compulsory-school-age child and is unable to effect the enrollment and/or attendance, the attendance officer shall file a petition with the youth court under Section 43-21-451 or shall file a petition in a court of competent jurisdiction as it pertains to parent or child. Sheriffs, deputy sheriffs and municipal law enforcement officers shall be fully authorized to investigate all cases of nonattendance and unlawful absences by compulsory-school-age children, and shall be authorized to file a petition with the youth court under Section 43-21-451 or file a petition or information in the court of competent jurisdiction as it pertains to parent or child for violation of this section. The youth court shall expedite a hearing to make an appropriate adjudication and a disposition to ensure compliance with the Compulsory School Attendance Law, and may order the child to enroll or re-enroll in
school. The superintendent of the school district to which the child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

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

(9) Notwithstanding any provision or implication herein to the contrary, it is not the intention of this section to impair the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the proper education and training for such child, and nothing in this section shall ever be construed to grant, by implication or otherwise, to the State of Mississippi, any of its officers, agencies or subdivisions any right or authority to control, manage, supervise or make any suggestion as to the control, management or supervision of any private or parochial school or institution for the education or training of children, of any kind whatsoever that is not a public school according to the laws of this state; and this section shall never be construed so as to grant, by implication or otherwise, any right or authority to any state agency or other entity to control, manage, supervise, provide for or affect the operation, management, program,
curriculum, admissions policy or discipline of any such school or home instruction program.

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

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

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

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

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

(ii) "Pilot programs" shall mean programs of a pilot or experimental nature usually designed for special purposes and for a specified period of time other than those included in the adequate education program.
(iii) "Adult education" shall mean public education dealing primarily with students above eighteen (18) years of age not enrolled as full-time public school students and not classified as students of technical schools, colleges or universities of the state.

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

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

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

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

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

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

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

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

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

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

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

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

(ix) "Education Scholarship Account (ESA) programs shall mean those ESA programs for eligible students as provided for in Sections 37-181-1 through 37-181-21.
(f) "Teacher" shall include any employee of a local school who is required by law to obtain a teacher's license from the State Board of Education and who is assigned to an instructional area of work as defined by the State Department of Education.

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

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

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

(j) "Minimum school term" shall mean a term of at least one hundred eighty (180) days of school in which both teachers and pupils are in regular attendance for scheduled classroom instruction for not less than sixty-three percent (63%) of the instructional day, as fixed by the local school board for each school in the school district. It is the intent of the Legislature that any tax levies generated to produce additional local funds required by any school district to operate school terms in excess of one hundred seventy-five (175) days shall not be construed to constitute a new program for the purposes of exemption from the limitation on tax revenues as allowed under Sections 27-39-321 and 37-57-107 for new programs mandated by the Legislature.
(k) The term "transportation density" shall mean the number of transported children in average daily attendance per square mile of area served in a school district, as determined by the State Department of Education.

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

(m) The term "year of teaching experience" shall mean nine (9) months of actual teaching in the public or private elementary and secondary schools and shall also include nine (9) months of actual teaching at postsecondary institutions accredited by the Southern Association of Colleges and Schools (SACS) or equivalent regional accrediting body for degree-granting postsecondary institutions. In no case shall more than one (1) year of teaching experience be given for all services in one (1) calendar or school year. In determining a teacher's experience, no deduction shall be made because of the temporary absence of the teacher because of illness or other good cause, and the teacher shall be given credit therefor. Beginning with the 2003-2004 school year, the State Board of Education shall fix a number of days, not to exceed forty-five (45) consecutive school days, during which a teacher may not be under contract of employment during any school year and still be considered to have been in
full-time employment for a regular scholastic term. If a teacher exceeds the number of days established by the State Board of Education that a teacher may not be under contract but may still be employed, that teacher shall not be credited with a year of teaching experience. In determining the experience of school librarians, each complete year of continuous, full-time employment as a professional librarian in a public library in this or some other state shall be considered a year of teaching experience. If a full-time school administrator returns to actual teaching in the public schools, the term "year of teaching experience" shall include the period of time he or she served as a school administrator. In determining the salaries of teachers who have experience in any branch of the military, the term "year of teaching experience" shall include each complete year of actual classroom instruction while serving in the military. In determining the experience of speech-language pathologists and audiologists, each complete year of continuous full-time post master's degree employment in an educational setting in this or some other state shall be considered a year of teaching experience. Provided, however, that school districts are authorized, in their discretion, to negotiate the salary levels applicable to certificated employees employed after July 1, 2009, who are receiving retirement benefits from the retirement system of another state, and the annual experience increment provided in
Section 37-19-7 shall not be applicable to any such retired certificated employee.

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

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

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

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

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

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

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

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

(v) "Charter school" means a public school that is established and operating under the terms of a charter contract between the school's governing board and the Mississippi Charter School Authorizer Board.

SECTION 16. Section 37-151-7, Mississippi Code of 1972, is amended as follows:
7. The annual allocation to each school district for the operation of the adequate education program shall be determined as follows:

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

(a) **Determination of average daily attendance.**

Effective with fiscal year 2011, the State Department of Education shall determine the percentage change from the prior year of each year of each school district's average of months two (2) and three (3) average daily attendance (ADA) for the three (3) immediately preceding school years of the year for which funds are being appropriated. For any school district that experiences a positive growth in the average of months two (2) and three (3) ADA each year of the three (3) years, the average percentage growth over the three-year period shall be multiplied times the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated. The resulting amount shall be added to the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated to arrive at the ADA to be used in determining a school district's MAEP allocation. Otherwise, months two (2) and three (3) ADA for the year immediately preceding the year for
which MAEP funds are being appropriated will be used in
determining a school district's MAEP allocation. In any fiscal
year prior to 2010 in which the MAEP formula is not fully funded,
for those districts that do not demonstrate a three-year positive
growth in months two (2) and three (3) ADA, months one (1) through
nine (9) ADA of the second preceding year for which funds are
being appropriated or months two (2) and three (3) ADA of the
preceding year for which funds are being appropriated, whichever
is greater, shall be used to calculate the district's MAEP
allocation. The district's average daily attendance shall be
computed and currently maintained in accordance with regulations
promulgated by the State Board of Education. The district's
average daily attendance shall include any student enrolled in a
Dual Enrollment-Dual Credit Program as defined and provided in
Section 37-15-38(19). The State Department of Education shall
make payments for Dual Enrollment-Dual Credit Programs to the home
school in which the student is enrolled, in accordance with
regulations promulgated by the State Board of Education. The
community college providing services to students in a Dual
Enrollment-Dual Credit Program shall require payment from the home
school district for services provided to such students at a rate
of one hundred percent (100%) of ADA. All MAEP/state funding
shall cease upon completion of high school graduation
requirements.
(b) **Determination of base student cost.** Effective with fiscal year 2011 and every fourth fiscal year thereafter, the State Board of Education, on or before August 1, with adjusted estimate no later than January 2, shall submit to the Legislative Budget Office and the Governor a proposed base student cost adequate to provide the following cost components of educating a pupil in a successful school district: (i) instructional cost; (ii) administrative cost; (iii) operation and maintenance of plant; and (iv) ancillary support cost. For purposes of these calculations, the Department of Education shall utilize financial data from the second preceding year of the year for which funds are being appropriated.

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

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

Fund 1130 All Functions, Object Code 210 and 215;

Fund 2001 Functions 1110-1199 Objects 100-999;

Fund 2070 Functions 1110-1199 Objects 100-999;

Fund 2420 Functions 1110-1199 Objects 100-999;

Fund 2711 All Functions, Object Code 210 and 215.

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

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

Fund 1120 Functions 2300-2599, Functions 2800-2899, Objects 100-999;
For the plant and maintenance cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of plant and maintenance expenditures per one hundred thousand (100,000) square feet of building space and a ratio of maintenance workers per one hundred thousand (100,000) square feet of building space that are both between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average. The plant and maintenance cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA of the selected districts into the plant and maintenance expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 2600-2699, Objects 100-699 and Objects 800-999;
Fund 2711 Functions 2600-2699, Objects 100-699 and Objects 800-999;
Fund 2430 Functions 2600-2699, Objects 100-699 and Objects 800-999.

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

- Fund 1120 Functions 2110-2129, Objects 100-999;
- Fund 1120 Functions 2140-2149, Objects 100-999;
- Fund 1120 Functions 2220-2229, Objects 100-999;
- Fund 2001 Functions 2100-2129, Objects 100-999;
- Fund 2001 Functions 2140-2149, Objects 100-999;
- Fund 2001 Functions 2220-2229, Objects 100-999.

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

Provided, however, that the base student cost in fiscal year 1998 shall be Two Thousand Six Hundred Sixty-four Dollars ($2,664.00).
For each of the fiscal years between the recalculation of the base student cost under the provisions of this paragraph (b), the base student cost shall be increased by an amount equal to forty percent (40%) of the base student cost for the previous fiscal year, multiplied by the latest annual rate of inflation for the State of Mississippi as determined by the State Economist, plus any adjustments for additional state requirements such as, but not limited to, teacher pay raises and health insurance premium increases.

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

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

(d) **Adjustment to the base student cost for at-risk pupils.** The amount to be included for at-risk pupil programs for each school district shall be computed as follows: Multiply the base student cost for the appropriate fiscal year as determined under paragraph (b) by five percent (5%), and multiply that product by the number of pupils participating in the federal free school lunch program in such school district, which yields the total adjustment for at-risk pupil programs for such school district.
(e) **Add-on program cost.** The amount to be allocated to school districts and to the Special ESA Fund in addition to the adequate education program cost for add-on programs for each school district and the Special ESA Fund shall be computed as follows:

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

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

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

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

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

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

(vii) University-based programs shall be the amount allocated to school districts for those university-based
programs for handicapped children as defined and provided for in

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

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

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

(f) Total projected adequate education program cost.
The total Mississippi Adequate Education Program cost shall be the
sum of the total basic adequate education program cost (paragraph
(c)), and the adjustment to the base student cost for at-risk
pupils (paragraph (d)) for each school district. In any year in
which the MAEP is not fully funded, the Legislature shall direct
the Department of Education in the K-12 appropriation bill as to
how to allocate MAEP funds to school districts for that year.

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

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

(a) The State Department of Education shall certify to each school district that twenty-eight (28) mills, less the estimated amount of the yield of the School Ad Valorem Tax Reduction Fund grants as determined by the State Department of Education, is the millage rate required to provide the district required local effort for that year, or twenty-seven percent (27%) of the basic adequate education program cost for such school district as determined under paragraph (c), whichever is a lesser amount. In the case of an agricultural high school, the millage requirement shall be set at a level which generates an equitable amount per pupil to be determined by the State Board of Education. The local contribution amount for school districts in which there is located one or more charter schools will be calculated using the following methodology: using the adequate education program twenty-eight (28) mill value, or the twenty-seven percent (27%) cap amount (whichever is less) for each school district in which a charter school is located, an average per pupil amount will be calculated. This average per pupil amount will be multiplied
times the number of students attending the charter school in that school district. The sum becomes the charter school's local contribution to the adequate education program.

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

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

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

One hundred percent (100%) of any fees in lieu of taxes as prescribed in Section 27-31-104.
(3) **Computation of the required state effort in support of the adequate education program.**

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

(b) Provided, however, that in fiscal year 2015, any increase in the said state contribution to any district calculated under this section shall be not less than six percent (6%) in excess of the amount received by said district from state funds for fiscal year 2002; in fiscal year 2016, any increase in the said state contribution to any district calculated under this section shall be not less than four percent (4%) in excess of the amount received by said district from state funds for fiscal year 2002; in fiscal year 2017, any increase in the said state contribution to any district calculated under this section shall be not less than two percent (2%) in excess of the amount received by said district from state funds for fiscal year 2002; and in fiscal year 2018 and thereafter, any increase in the said state contribution to any district calculated under this section shall
be zero percent (0%). For purposes of this paragraph (b), state funds shall include minimum program funds less the add-on programs, State Uniform Millage Assistance Grant Funds, Education Enhancement Funds appropriated for Uniform Millage Assistance Grants and state textbook allocations, and State General Funds allocated for textbooks.

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

(4) The Interim School District Capital Expenditure Fund is hereby established in the State Treasury which shall be used to distribute any funds specifically appropriated by the Legislature to such fund to school districts entitled to increased allocations of state funds under the adequate education program funding formula prescribed in Sections 37-151-3 through 37-151-7, Mississippi Code of 1972, until such time as the said adequate education program is fully funded by the Legislature. The following percentages of the total state cost of increased allocations of funds under the adequate education program funding formula shall be appropriated by the Legislature into the Interim School District Capital Expenditure Fund to be distributed to all school districts under the formula: Nine and two-tenths percent (9.2%) shall be appropriated in fiscal year 1998, twenty percent (20%) shall be appropriated in fiscal year 1999, forty percent (40%) shall be appropriated in fiscal year 2000, sixty percent (60%) shall be appropriated in fiscal year 2001, eighty percent (80%) shall be appropriated in fiscal year 2002, and one hundred percent (100%) shall be appropriated in fiscal year 2003 into the State Adequate Education Program Fund. Until July 1, 2002, such money shall be used by school districts for the following purposes:
(a) Purchasing, erecting, repairing, equipping, remodeling and enlarging school buildings and related facilities, including gymnasiums, auditoriums, lunchrooms, vocational training buildings, libraries, school barns and garages for transportation vehicles, school athletic fields and necessary facilities connected therewith, and purchasing land therefor. Any such capital improvement project by a school district shall be approved by the State Board of Education, and based on an approved long-range plan. The State Board of Education shall promulgate minimum requirements for the approval of school district capital expenditure plans.

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

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

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

(e) [Repealed]

(f) [Repealed]

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

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

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

Any interest accruing on any unexpended balance in the
Interim School District Capital Expenditure Fund shall be invested
by the State Treasurer and placed to the credit of each school
district participating in such fund in its proportionate share.
The provisions of this subsection (4) shall be cumulative and
supplemental to any existing funding programs or other authority
conferred upon school districts or school boards.

(5) The State Department of Education shall make payments to
charter schools for each student in average daily attendance at
the charter school equal to the state share of the adequate
education program payments for each student in average daily
attendance at the school district in which the public charter
school is located. In calculating the local contribution for
purposes of determining the state share of the adequate education
program payments, the department shall deduct the pro rata local
contribution of the school district in which the student resides
as determined in subsection (2)(a) of this section.

SECTION 17. Section 37-151-101, Mississippi Code of 1972, is
amended as follows:
37-151-101. It shall be the duty of the State Department of Education to file with the State Treasurer and the State Fiscal Officer such data and information as may be required to enable the said State Treasurer and State Fiscal Officer to distribute the common school funds and adequate education program funds by electronic funds transfer to the several school districts and charter schools, and adequate education program funds by electronic funds transfer to the Special ESA Fund at the time required and provided under the provisions of this chapter. Such data and information so filed shall show in detail the amount of funds to which each school district and charter school is entitled from such common school fund and adequate education program fund. Such data and information so filed may be revised from time to time as necessitated by law. At the time provided by law, the State Treasurer and the State Fiscal Officer shall distribute to the several school districts and charter schools the amounts to which they are entitled from the common school fund and shall distribute to the several school districts, charter schools, and the Special ESA Fund the amounts to which they are entitled from the adequate education program fund as provided by this chapter. Such distribution shall be made by electronic funds transfer to the depositories of the several school districts, charter schools, and Special ESA Fund designated in writing to the State Treasurer based upon the data and information supplied by the State Department of Education for such distribution. In such
instances, the State Treasurer shall submit a request for an
electronic funds transfer to the State Fiscal Officer, which shall
set forth the purpose, amount and payees, and shall be in such
form as may be approved by the State Fiscal Officer so as to
provide the necessary information as would be required for a
requisition and issuance of a warrant. A copy of the record of
said electronic funds transfers shall be transmitted by the school
district and charter school depositories to the Treasurer, who
shall file duplicates, and a duplicate of electronic funds
transfer to the Special ESA Fund with the State Fiscal Officer.
The Treasurer and State Fiscal Officer shall jointly promulgate
regulations for the utilization of electronic funds transfers to
school districts, charter schools, and the Special ESA Fund.

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

37-151-86. Allowance of state funds for education

scholarship accounts program. In addition to other funds provided
for in this chapter, there shall be added a distribution from the
Adequate Education Program Fund to the Special ESA Fund which
shall be paid in the following manner: Two (2) business days
prior to the last working day of July, there shall be paid to the
Special ESA Fund, by electronic funds transfer, one-half (1/2) of
the funds to which the Special ESA Fund is entitled from funds
appropriated for the Adequate Education Program Fund; the
remaining one-half (1/2) of appropriated payments shall be on December 15 or the next business day after that date.

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