

By: Representative Currie

To: Education

HOUSE BILL NO. 27

1 AN ACT TO AMEND SECTIONS 37-13-91 AND 37-151-5, MISSISSIPPI  
 2 CODE OF 1972, TO REVISE THE PERCENTAGE OF THE INSTRUCTIONAL DAY  
 3 WHICH A STUDENT MUST BE PRESENT IN SCHOOL IN ORDER TO BE INCLUDED  
 4 IN THE SCHOOL DISTRICT'S AVERAGE DAILY ATTENDANCE FOR PURPOSES OF  
 5 DETERMINING THE DISTRICT'S LEVEL OF FUNDING UNDER THE ADEQUATE  
 6 EDUCATION PROGRAM; AND FOR RELATED PURPOSES.

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

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

10 37-13-91. (1) This section shall be referred to as the  
 11 "Mississippi Compulsory School Attendance Law."

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

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

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



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

23 (d) "School day" means not less than five and one-half  
24 (5-1/2) and not more than eight (8) hours of actual teaching in  
25 which both teachers and pupils are in regular attendance for  
26 scheduled schoolwork.

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

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

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

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



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

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

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

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

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

66 The parent, guardian or custodian of a compulsory-school-age  
67 child described in this subsection, or the parent, guardian or  
68 custodian of a compulsory-school-age child attending any charter  
69 school or nonpublic school, or the appropriate school official for



70 any or all children attending a charter school or nonpublic school  
71 shall complete a "certificate of enrollment" in order to  
72 facilitate the administration of this section.

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

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

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

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

85 (iv) The signature of the parent, guardian or  
86 custodian of the compulsory-school-age child or, for any or all  
87 compulsory-school-age child or children attending a charter school  
88 or nonpublic school, the signature of the appropriate school  
89 official and the date signed.

90 The certificate of enrollment shall be returned to the school  
91 attendance officer where the child resides on or before September  
92 15 of each year. Any parent, guardian or custodian found by the  
93 school attendance officer to be in noncompliance with this section  
94 shall comply, after written notice of the noncompliance by the



95 school attendance officer, with this subsection within ten (10)  
96 days after the notice or be in violation of this section.  
97 However, in the event the child has been enrolled in a public  
98 school within fifteen (15) calendar days after the first day of  
99 the school year as required in subsection (6), the parent or  
100 custodian may, at a later date, enroll the child in a legitimate  
101 nonpublic school or legitimate home instruction program and send  
102 the certificate of enrollment to the school attendance officer and  
103 be in compliance with this subsection.

104 For the purposes of this subsection, a legitimate nonpublic  
105 school or legitimate home instruction program shall be those not  
106 operated or instituted for the purpose of avoiding or  
107 circumventing the compulsory attendance law.

108 (4) An "unlawful absence" is an absence for an entire school  
109 day or during part of a school day by a compulsory-school-age  
110 child, which absence is not due to a valid excuse for temporary  
111 nonattendance. For purposes of reporting absenteeism under  
112 subsection (6) of this section, if a compulsory-school-age child  
113 has an absence that is more than \* \* \* fifty percent (50%) of the  
114 instructional day, as fixed by the school board for the school at  
115 which the compulsory-school-age child is enrolled, the child must  
116 be considered absent the entire school day. Days missed from  
117 school due to disciplinary suspension shall not be considered an  
118 "excused" absence under this section. This subsection shall not  
119 apply to children enrolled in a nonpublic school.



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

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

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

134           (c) An absence is excused when isolation of a  
135 compulsory-school-age child is ordered by the county health  
136 officer, by the State Board of Health or appropriate school  
137 official.

138           (d) An absence is excused when it results from the  
139 death or serious illness of a member of the immediate family of a  
140 compulsory-school-age child. The immediate family members of a  
141 compulsory-school-age child shall include children, spouse,  
142 grandparents, parents, brothers and sisters, including  
143 stepbrothers and stepsisters.



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

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

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

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

165 (i) An absence may be excused when it is demonstrated  
166 to the satisfaction of the superintendent of the school district,  
167 or his designee, that conditions are sufficient to warrant the  
168 compulsory-school-age child's nonattendance. However, no absences



169 shall be excused by the school district superintendent, or his  
170 designee, when any student suspensions or expulsions circumvent  
171 the intent and spirit of the compulsory attendance law.

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

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

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

191 Upon prosecution of a parent, guardian or custodian of a  
192 compulsory-school-age child for violation of this section, the  
193 presentation of evidence by the prosecutor that shows that the





194 child has not been enrolled in school within eighteen (18)  
195 calendar days after the first day of the school year of the public  
196 school which the child is eligible to attend, or that the child  
197 has accumulated twelve (12) unlawful absences during the school  
198 year at the public school in which the child has been enrolled,  
199 shall establish a prima facie case that the child's parent,  
200 guardian or custodian is responsible for the absences and has  
201 refused or willfully failed to perform the duties imposed upon him  
202 or her under this section. However, no proceedings under this  
203 section shall be brought against a parent, guardian or custodian  
204 of a compulsory-school-age child unless the school attendance  
205 officer has contacted promptly the home of the child and has  
206 provided written notice to the parent, guardian or custodian of  
207 the requirement for the child's enrollment or attendance.

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



219 superintendent, or his designee, also shall report any student  
220 suspensions or student expulsions to the school attendance officer  
221 when they occur.

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

242 (8) The State Board of Education shall adopt rules and  
243 regulations for the purpose of reprimanding any school



244 superintendents who fail to timely report unexcused absences under  
245 the provisions of this section.

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

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

266 37-151-5. As used in Sections 37-151-5 and 37-151-7:

267 (a) "Adequate program" or "adequate education program"  
268 or "Mississippi Adequate Education Program (MAEP)" shall mean the



269 program to establish adequate current operation funding levels  
270 necessary for the programs of such school district to meet at  
271 least a successful Level III rating of the accreditation system as  
272 established by the State Board of Education using current  
273 statistically relevant state assessment data.

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

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

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

287 (iii) "Adult education" shall mean public  
288 education dealing primarily with students above eighteen (18)  
289 years of age not enrolled as full-time public school students and  
290 not classified as students of technical schools, colleges or  
291 universities of the state.



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

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

299 (d) "Base student cost" shall mean the funding level  
300 necessary for providing an adequate education program for one (1)  
301 base student, subject to any minimum amounts prescribed in Section  
302 37-151-7(1).

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

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

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

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



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

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

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

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

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

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

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

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



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

344 (j) "Minimum school term" shall mean a term of at least  
345 one hundred eighty (180) days of school in which both teachers and  
346 pupils are in regular attendance for scheduled classroom  
347 instruction for not less than \* \* \* fifty percent (50%) of the  
348 instructional day, as fixed by the local school board for each  
349 school in the school district. It is the intent of the  
350 Legislature that any tax levies generated to produce additional  
351 local funds required by any school district to operate school  
352 terms in excess of one hundred seventy-five (175) days shall not  
353 be construed to constitute a new program for the purposes of  
354 exemption from the limitation on tax revenues as allowed under  
355 Sections 27-39-321 and 37-57-107 for new programs mandated by the  
356 Legislature.

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

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



366 (m) The term "year of teaching experience" shall mean  
367 nine (9) months of actual teaching in the public or private  
368 elementary and secondary schools and shall also include nine (9)  
369 months of actual teaching at postsecondary institutions accredited  
370 by the Southern Association of Colleges and Schools (SACS) or  
371 equivalent regional accrediting body for degree-granting  
372 postsecondary institutions. In no case shall more than one (1)  
373 year of teaching experience be given for all services in one (1)  
374 calendar or school year. In determining a teacher's experience,  
375 no deduction shall be made because of the temporary absence of the  
376 teacher because of illness or other good cause, and the teacher  
377 shall be given credit therefor. Beginning with the 2003-2004  
378 school year, the State Board of Education shall fix a number of  
379 days, not to exceed forty-five (45) consecutive school days,  
380 during which a teacher may not be under contract of employment  
381 during any school year and still be considered to have been in  
382 full-time employment for a regular scholastic term. If a teacher  
383 exceeds the number of days established by the State Board of  
384 Education that a teacher may not be under contract but may still  
385 be employed, that teacher shall not be credited with a year of  
386 teaching experience. In determining the experience of school  
387 librarians, each complete year of continuous, full-time employment  
388 as a professional librarian in a public library in this or some  
389 other state shall be considered a year of teaching experience. If  
390 a full-time school administrator returns to actual teaching in the





391 public schools, the term "year of teaching experience" shall  
392 include the period of time he or she served as a school  
393 administrator. In determining the salaries of teachers who have  
394 experience in any branch of the military, the term "year of  
395 teaching experience" shall include each complete year of actual  
396 classroom instruction while serving in the military. In  
397 determining the experience of speech-language pathologists and  
398 audiologists, each complete year of continuous full-time post  
399 master's degree employment in an educational setting in this or  
400 some other state shall be considered a year of teaching  
401 experience. Provided, however, that school districts are  
402 authorized, in their discretion, to negotiate the salary levels  
403 applicable to certificated employees employed after July 1, 2009,  
404 who are receiving retirement benefits from the retirement system  
405 of another state, and the annual experience increment provided in  
406 Section 37-19-7 shall not be applicable to any such retired  
407 certificated employee.

408           (n) \* \* \* The term "average daily attendance" shall be  
409 the figure which results when the total aggregate full-day  
410 attendance during the period or months counted is divided by the  
411 number of days during the period or months counted upon which both  
412 teachers and pupils are in regular attendance for scheduled  
413 classroom instruction, \* \* \* less the average daily attendance for  
414 self-contained special education classes. For purposes of  
415 determining and reporting attendance, a pupil must be present for



416 at least \* \* \* fifty percent (50%) of the instructional day, as  
417 fixed by the local school board for each school in the school  
418 district, in order to be considered in full-day attendance. Prior  
419 to full implementation of the adequate education program the  
420 department shall deduct the average daily attendance for the  
421 alternative school program provided for in Section 37-19-22.

422 \* \* \*

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

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

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

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

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

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



441 (u) "Dual enrollment-dual credit programs" shall mean  
442 programs for potential or recent high school student dropouts to  
443 dually enroll in their home high school and a local community  
444 college in a dual credit program consisting of high school  
445 completion coursework and a credential, certificate or degree  
446 program at the community college, as provided in Section  
447 37-15-38(19).

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

452 **SECTION 3.** This act shall take effect and be in force from  
453 and after July 1, 2020.

