

By: Representatives Summers, Hudson

To: Education;
Appropriations

HOUSE BILL NO. 342

1 AN ACT TO AMEND SECTION 37-151-5, MISSISSIPPI CODE OF 1972,
2 TO DEFINE THE TERM "AVERAGE DAILY MEMBERSHIP (ADM)" FOR PURPOSES
3 OF THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM; TO AMEND SECTION
4 37-151-7, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
5 DETERMINATION OF THE BASIC ADEQUATE EDUCATION PROGRAM COST FOR
6 EACH SCHOOL DISTRICT BASED ON STUDENT AVERAGE DAILY MEMBERSHIP
7 WITH CERTAIN EXCEPTIONS; TO PROVIDE FOR STUDENT COUNTS BY THE
8 STATE AUDITOR; TO REVISE THE DEFINITION OF THE TERMS "MINIMUM
9 SCHOOL TERM" AND "AVERAGE DAILY ATTENDANCE" AS SUCH TERMS ARE USED
10 FOR DETERMINING ALLOCATIONS TO SCHOOL DISTRICTS UNDER THE ADEQUATE
11 EDUCATION PROGRAM; TO AMEND SECTIONS 37-151-85, 37-151-97 AND
12 37-151-103, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
13 SECTION 37-13-91, MISSISSIPPI CODE OF 1972, TO REMOVE THE
14 ATTENDANCE REQUIREMENT THAT A COMPULSORY-SCHOOL-AGE CHILD WHO IS
15 ABSENT MORE THAN 37% OF THE INSTRUCTIONAL DAY MUST BE CONSIDERED
16 ABSENT FOR THE ENTIRE DAY; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 37-151-5, Mississippi Code of 1972, is
19 amended as follows:

20 37-151-5. As used in Sections 37-151-5 and 37-151-7:

21 (a) "Adequate program" or "adequate education program"
22 or "Mississippi Adequate Education Program (MAEP)" shall mean the
23 program to establish adequate current operation funding levels
24 necessary for the programs of such school district to meet at
25 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.

(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 percent (60%) of the * * * normal day * * *. 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 * * * membership per square mile of area served in a school district, as determined by the State Department of Education.

(l) 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)



125 year of teaching experience be given for all services in one (1)
126 calendar or school year. In determining a teacher's experience,
127 no deduction shall be made because of the temporary absence of the
128 teacher because of illness or other good cause, and the teacher
129 shall be given credit therefor. Beginning with the 2003-2004
130 school year, the State Board of Education shall fix a number of
131 days, not to exceed forty-five (45) consecutive school days,
132 during which a teacher may not be under contract of employment
133 during any school year and still be considered to have been in
134 full-time employment for a regular scholastic term. If a teacher
135 exceeds the number of days established by the State Board of
136 Education that a teacher may not be under contract but may still
137 be employed, that teacher shall not be credited with a year of
138 teaching experience. In determining the experience of school
139 librarians, each complete year of continuous, full-time employment
140 as a professional librarian in a public library in this or some
141 other state shall be considered a year of teaching experience. If
142 a full-time school administrator returns to actual teaching in the
143 public schools, the term "year of teaching experience" shall
144 include the period of time he or she served as a school
145 administrator. In determining the salaries of teachers who have
146 experience in any branch of the military, the term "year of
147 teaching experience" shall include each complete year of actual
148 classroom instruction while serving in the military. In
149 determining the experience of speech-language pathologists and



150 audiologists, each complete year of continuous full-time post
151 master's degree employment in an educational setting in this or
152 some other state shall be considered a year of teaching
153 experience. Provided, however, that school districts are
154 authorized, in their discretion, to negotiate the salary levels
155 applicable to certificated employees employed after July 1, 2009,
156 who are receiving retirement benefits from the retirement system
157 of another state, and the annual experience increment provided in
158 Section 37-19-7 shall not be applicable to any such retired
159 certificated employee.

160 (n) (i) The term "average daily attendance" shall be
161 the figure which results when the total aggregate full-day
162 attendance during the period or months counted is divided by the
163 number of days during the period or months counted upon which both
164 teachers and pupils are in regular attendance for scheduled
165 classroom instruction, * * * less the average daily attendance for
166 self-contained special education classes. * * * Prior to full
167 implementation of the adequate education program the department
168 shall deduct the average daily attendance for the alternative
169 school program provided for in Section 37-19-22.

170 (ii) [Repealed]

171 (o) The term "local supplement" shall mean the amount
172 paid to an individual teacher over and above the adequate
173 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.

(w) The term "average daily membership" or "ADM" shall be the figure which results when the total aggregate student enrollment 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. However, if a local school board adopts a class schedule that operates throughout the year for all or any schools in the district, average daily membership shall be computed by the State Department of Education so that the resulting average daily membership will not be higher or lower than if the local school board had not adopted such schedule.

SECTION 2. Section 37-151-7, Mississippi Code of 1972, is amended as follows:

37-151-7. 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 * * * membership.** Effective with fiscal year * * * 2022, the State Department of Education shall determine the percentage change from the prior



223 year of each year of each school district's average of months two
224 (2) and three (3) average daily * * * membership (ADM) for the
225 three (3) immediately preceding school years of the year for which
226 funds are being appropriated. For any school district that
227 experiences a positive growth in the average of months two (2) and
228 three (3) * * * average daily membership (ADM) each year of the
229 three (3) years, the average percentage growth over the three-year
230 period shall be multiplied times the school district's average of
231 months two (2) and three (3) * * * average daily membership (ADM)
232 for the year immediately preceding the year for which MAEP funds
233 are being appropriated. The resulting amount shall be added to
234 the school district's average of months two (2) and three
235 (3) * * * average daily membership (ADM) for the year immediately
236 preceding the year for which MAEP funds are being appropriated to
237 arrive at the * * * average daily membership (ADM) to be used in
238 determining a school district's MAEP allocation. Otherwise,
239 months two (2) and three (3) * * * average daily membership (ADM)
240 for the year immediately preceding the year for which MAEP funds
241 are being appropriated will be used in determining a school
242 district's MAEP allocation. * * * The district's average daily
243 attendance or average daily membership (ADM) shall include any
244 student enrolled in a Dual Enrollment-Dual Credit Program as
245 defined and provided in Section 37-15-38(19). The State
246 Department of Education shall make payments for Dual
247 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 * * * base student cost. All MAEP/state funding shall cease upon completion of high school graduation requirements.

The State Auditor shall make one (1) actual count of students in month two (2) and one (1) actual count of students in month three (3) of the school year. The State Auditor shall not be required to count students in all local school districts during this time period, but shall make a concerted effort to count students in as many local districts as practical. No advance notice shall be given to a school when a count is scheduled to be conducted; however, a count may be postponed due to extraordinary circumstances such as a natural disaster or fire. If the State Auditor finds that the average of the two (2) counts made under the provisions of this chapter shows that the number of students enrolled and in actual attendance in any school is as much below the number reported to the State Department of Education for month two (2) and for month three (3) for the applicable scholastic year, then the State Auditor shall certify the same to the State Department of Education no later than December 11 of the scholastic year during which the counts were made. The State Department of Education shall thereupon reduce the amount of state



funds allotted to the school district for the Mississippi Adequate Education Program (MAEP) for the ensuing scholastic year as follows:

For each school district whose reported average daily attendance is in excess of one hundred three percent (103%) of the average number of students actually counted by the examiners, the State Department of Education shall use one hundred three percent (103%) of the average count by the examiners as the average daily attendance for this school district in allotting MAEP funds for the next school session if funding for that school district is based on average daily attendance (ADA) and not average daily membership (ADM).

(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.



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

309 Fund 1120 Functions 1110-1199 Objects 100-999, Functions
310 1210, 1220, 2150-2159 Objects 210 and 215;

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

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

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

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

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

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



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

333 Fund 1120 Functions 2300-2599, Functions 2800-2899,
334 Objects 100-999;

335 Fund 2711 Functions 2300-2599, Functions 2800-2899,
336 Objects 100-999.

337 For the plant and maintenance cost component, the Department
338 of Education shall select districts that have been identified as
339 instructionally successful and have a ratio of plant and
340 maintenance expenditures per one hundred thousand (100,000) square
341 feet of building space and a ratio of maintenance workers per one
342 hundred thousand (100,000) square feet of building space that are
343 both between one (1) standard deviation above the mean and two (2)
344 standard deviations below the mean of the statewide average. The
345 plant and maintenance cost component shall be calculated by



346 dividing the latest available months one (1) through nine
347 (9) * * * ADM of the selected districts into the plant and
348 maintenance expenditures of these selected districts. For the
349 purpose of this calculation, the Department of Education shall use
350 the following funds, functions and objects:

351 Fund 1120 Functions 2600-2699, Objects 100-699
352 and Objects 800-999;
353 Fund 2711 Functions 2600-2699, Objects 100-699
354 and Objects 800-999;
355 Fund 2430 Functions 2600-2699, Objects 100-699
356 and Objects 800-999.

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



371 Fund 1120 Functions 2110-2129, Objects 100-999;
372 Fund 1120 Functions 2140-2149, Objects 100-999;
373 Fund 1120 Functions 2220-2229, Objects 100-999;
374 Fund 2001 Functions 2100-2129, Objects 100-999;
375 Fund 2001 Functions 2140-2149, Objects 100-999;
376 Fund 2001 Functions 2220-2229, Objects 100-999.

377 The total base cost for each year shall be the sum of the
378 instructional cost component, administrative cost component, plant
379 and maintenance cost component and ancillary support cost
380 component, and any estimated adjustments for additional state
381 requirements as determined by the State Board of Education.
382 Provided, however, that the base student cost in fiscal year 1998
383 shall be Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).

384 For each of the fiscal years between the recalculation of the
385 base student cost under the provisions of this paragraph (b), the
386 base student cost shall be increased by an amount equal to forty
387 percent (40%) of the base student cost for the previous fiscal
388 year, multiplied by the latest annual rate of inflation for the
389 State of Mississippi as determined by the State Economist, plus
390 any adjustments for additional state requirements such as, but not
391 limited to, teacher pay raises and health insurance premium
392 increases.

393 (c) **Determination of the basic adequate education**
394 **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:

Beginning with the 2022-2023 school year, multiply the average daily * * * membership of the district by the base student cost as established by the Legislature, which yields the total base program cost for each school district. However, beginning with the 2022-2023 school year, the total base student cost for each school district shall be based on the ADM of the school district unless average daily attendance (ADA) is less than ninety-five percent (95%) threshold of the district's ADM. In instances that a district's attendance falls below the ninety-five percent (95%) threshold of the ADM, the base student cost shall be funded based on ADA.

(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 in addition to the adequate education program



419 cost for add-on programs for each school district shall be
420 computed as follows:

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

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

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

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

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

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

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



(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.

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, and (viii) bus driver training shall yield the add-on cost for each school district.

(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



518 exceed twenty-seven percent (27%) of the total projected adequate
519 education program cost as set forth in subsection (1)(f) of this
520 section from the total projected adequate education program cost
521 as set forth in subsection (1)(f) of this section.

522 (b) Provided, however, that in fiscal year 2015, any
523 increase in the said state contribution to any district calculated
524 under this section shall be not less than six percent (6%) in
525 excess of the amount received by said district from state funds
526 for fiscal year 2002; in fiscal year 2016, any increase in the
527 said state contribution to any district calculated under this
528 section shall be not less than four percent (4%) in excess of the
529 amount received by said district from state funds for fiscal year
530 2002; in fiscal year 2017, any increase in the said state
531 contribution to any district calculated under this section shall
532 be not less than two percent (2%) in excess of the amount received
533 by said district from state funds for fiscal year 2002; and in
534 fiscal year 2018 and thereafter, any increase in the said state
535 contribution to any district calculated under this section shall
536 be zero percent (0%). For purposes of this paragraph (b), state
537 funds shall include minimum program funds less the add-on
538 programs, State Uniform Millage Assistance Grant Funds, Education
539 Enhancement Funds appropriated for Uniform Millage Assistance
540 Grants and state textbook allocations, and State General Funds
541 allocated for textbooks.



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

563 (4) The Interim School District Capital Expenditure Fund is
564 hereby established in the State Treasury which shall be used to
565 distribute any funds specifically appropriated by the Legislature
566 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



592 by the State Board of Education, and based on an approved
593 long-range plan. The State Board of Education shall promulgate
594 minimum requirements for the approval of school district capital
595 expenditure plans.

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

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

603 (d) From and after October 1, 1997, through June 30,
604 1998, pursuant to a school district capital expenditure plan
605 approved by the State Department of Education, a school district
606 may pledge such funds until July 1, 2002, plus funds provided for
607 in paragraph (e) of this subsection (4) that are not otherwise
608 permanently pledged under such paragraph (e) to pay all or a
609 portion of the debt service on debt issued by the school district
610 under Sections 37-59-1 through 37-59-45, 37-59-101 through
611 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
612 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
613 issued by boards of supervisors for agricultural high schools
614 pursuant to Section 37-27-65, Mississippi Code of 1972, or
615 lease-purchase contracts entered into pursuant to Section 31-7-13,
616 Mississippi Code of 1972, or to retire or refinance outstanding



617 debt of a district, if such pledge is accomplished pursuant to a
618 written contract or resolution approved and spread upon the
619 minutes of an official meeting of the district's school board or
620 board of supervisors. It is the intent of this provision to allow
621 school districts to irrevocably pledge their Interim School
622 District Capital Expenditure Fund allotments as a constant stream
623 of revenue to secure a debt issued under the foregoing code
624 sections. To allow school districts to make such an irrevocable
625 pledge, the state shall take all action necessary to ensure that
626 the amount of a district's Interim School District Capital
627 Expenditure Fund allotments shall not be reduced below the amount
628 certified by the department or the district's total allotment
629 under the Interim Capital Expenditure Fund if fully funded, so
630 long as such debt remains outstanding.

631 (e) [Repealed]

632 (f) [Repealed]

633 (g) The State Board of Education may authorize the
634 school district to expend not more than twenty percent (20%) of
635 its annual allotment of such funds or Twenty Thousand Dollars
636 (\$20,000.00), whichever is greater, for technology needs of the
637 school district, including computers, software,
638 telecommunications, cable television, interactive video, film,
639 low-power television, satellite communications, microwave
640 communications, technology-based equipment installation and
641 maintenance, and the training of staff in the use of such



642 technology-based instruction. Any such technology expenditure
643 shall be reflected in the local district technology plan approved
644 by the State Board of Education under Section 37-151-17,
645 Mississippi Code of 1972.

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

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



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

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

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

683 **SECTION 3.** Section 37-151-85, Mississippi Code of 1972, is
684 amended as follows:

685 37-151-85. (1) The amount to be allotted by the State Board
686 of Education for transportation shall be determined as follows:

687 The State Department of Education shall calculate the cost of
688 transportation in school districts by ascertaining the average
689 cost per pupil in average daily attendance of transported pupils
690 in school districts classified in different density groups as



691 determined by the State Department of Education. Based on these
692 calculations, the State Department of Education shall develop a
693 scale for determining the allowable cost per pupil in different
694 density groups, which scale shall provide greatest allowance per
695 pupil transported in school districts with lowest densities and
696 smallest allowance per pupil in school districts with highest
697 densities. Beginning with the 2022-2023 school year, the total
698 allowance in the adequate education program for transported
699 children for any school district for the current year shall be the
700 average daily * * * membership (ADM) of the transported children
701 for the nine (9) months of the prior year, multiplied by the
702 allowance per transported pupil as provided herein. However, the
703 State Department of Education is hereby authorized and empowered
704 to make proper adjustments in allotments, under rules and
705 regulations of the State Board of Education, in cases where major
706 changes in the number of children in average daily * * *
707 membership (ADM) transported occur from one (1) year to another as
708 a result of changes or alterations in the boundaries of school
709 districts, a change in or relocation of attendance centers, or for
710 other reasons which would result in major decrease or increase in
711 the number of children in average daily attendance transported
712 during the current school year as compared with the preceding
713 year. Moreover, the State Board of Education is hereby authorized
714 and empowered to make such payments to all districts and/or
715 university-based programs as deemed necessary in connection with



716 transporting exceptional children as defined in Section 37-23-3.
717 The State Board of Education shall establish and implement all
718 necessary rules and regulations to allot transportation payments
719 to university-based programs. In developing density
720 classifications under the provisions hereof, the State Department
721 of Education may give consideration to the length of the route,
722 the sparsity of the population, the lack of adequate roads,
723 highways and bridges, and the presence of large streams or other
724 geographic obstacles. In addition to funds allotted under the
725 above provisions, funds shall be allotted to each school district
726 that transports students from their assigned school or attendance
727 center to classes in an approved vocational-technical center at a
728 rate per mile not to exceed the average statewide cost per mile of
729 school bus transportation during the preceding year exclusive of
730 bus replacement. All such transportation must have prior approval
731 by the State Department of Education.

732 (2) The average daily * * * membership (ADM) of transported
733 children shall be reported by the school district in which such
734 children attend school. If children living in a school district
735 are transported at the expense of such school district to another
736 school district, the average daily * * * membership (ADM) of such
737 transported children shall be deducted by the State Department of
738 Education from the aggregate average daily * * * membership (ADM)
739 of transported children in the school district in which they
740 attend school and shall be added to the aggregate average



741 daily * * * membership (ADM) of transported children of the school
742 district from which they come for the purpose of calculating
743 transportation allotments. However, such deduction shall not be
744 made for the purpose of calculating adequate education program
745 pupil-based funding.

746 (3) The State Department of Education shall include in the
747 allowance for transportation for each school district an amount
748 for the replacement of school buses or the purchase of new buses,
749 which amount shall be calculated upon the estimated useful life of
750 all school buses being used for the transportation of children in
751 such school district, whether such buses be publicly or privately
752 owned.

753 (4) The school boards of all districts operating school bus
754 transportation are authorized and directed to establish a salary
755 schedule for school bus drivers. No school district shall be
756 entitled to receive the funds herein allotted for transportation
757 unless it pays each of its nonstudent adult school bus drivers
758 paid from such transportation allotments a minimum of One Hundred
759 Ninety Dollars (\$190.00) per month. In addition, local school
760 boards may compensate school bus drivers, to include temporary or
761 substitute bus drivers, for actual expenses incurred when
762 acquiring an initial commercial license or any renewal of a
763 commercial license in order to drive a school bus. In addition,
764 local school boards may compensate school bus drivers, to include
765 temporary or substitute bus drivers, for expenses, not to exceed



One Hundred Dollars (\$100.00), when acquiring an initial medical exam or any renewal of a medical exam, in order to qualify for a commercial driver's license.

(5) The State Board of Education shall be authorized and empowered to use such part of the funds appropriated for transportation in the adequate education fund as may be necessary to finance driver training courses as provided for in Section 37-41-1, Mississippi Code of 1972.

(6) The State Board of Education, acting through the Department of Education, may compensate school bus drivers, to include temporary or substitute bus drivers, who are providing driving services to the various state operated schools, such as the Mississippi School for the Deaf, the Mississippi School for the Blind, the Mississippi School of the Arts, the Mississippi School for Math and Science and any other similar state operated schools, for actual expenses incurred when acquiring an initial commercial license or any renewal of a commercial license in order to drive a school bus, to include the expense, not to exceed One Hundred Dollars (\$100.00), of acquiring an initial medical exam or any renewal of a medical exam in order to qualify for a commercial driver's license.

SECTION 4. Section 37-151-97, Mississippi Code of 1972, is amended as follows:

37-151-97. The State Department of Education shall develop an annual reporting process to inform the Legislature, local



791 district personnel and the general public as to the ongoing and
792 future plans for the state's educational programs. The annual
793 reporting process will include those vital statistics that are
794 commonly reported by schools and districts and that can provide
795 clear demographic, strategic and educational information to
796 constituencies such as, but not limited to, the following
797 information:

798 (a) Student enrollment, average daily membership (ADM),
799 attendance, drop-out and graduation;

800 (b) Overall student and district achievement;

801 (c) Budget, administrative costs and other pertinent
802 fiscal information, including:

803 (i) The receipts and disbursements of all school
804 funds handled by the board;

805 (ii) Reports of expenditures for public schools,
806 which, upon request must be made available on an individual
807 district basis by the State Department of Education;

808 1. Total Student Expenditures:

809 a. Instruction (1000s);

810 b. Other Student Instructional

811 Expenditures (2100s, 2200s);

812 2. General Administration (2300s and 2500s);

813 3. School Administration (2400s);

814 4. Other Expenditures (2600s, 2700s, 2800s,

815 3100s, 3200s); and



5. Nonoperational Expenditures (4000s, 5000s,
6000s);

(iii) The number of school districts,
schoolteachers employed, school administrators employed, pupils
taught and the attendance record of pupils therein;

(iv) County and district levies for each school
district and agricultural high school;

(v) The condition of vocational education, a list
of schools to which federal and state aid has been given, and a
detailed statement of the expenditures of federal funds and the
state funds that may be provided, and the ranking of subjects
taught as compared with the state's needs.

(d) Other as directed by the State Board of Education.

Further, the reporting process will include an annual report
developed specifically to relate the mission and goals of the
State Board of Education, state superintendent and departments.
This document will become the method through which the strategic
planning and management process of the department is articulated
to the public. It will explain and inform the public of the major
initiatives of the department and clearly identify rationale for
program development and/or elimination. The report will establish
benchmarks, future plans and discuss the effectiveness of
educational programs.

In addition to the information specified herein, the State
Board of Education shall have full and plenary authority and power



to require the furnishing of such further, additional and supplementary information as it may deem necessary for the purpose of determining the cost of the adequate education program in such school district for the succeeding fiscal year, the amount of the adequate education program funds to be allotted to each school district for the succeeding fiscal year, and for any other purpose authorized by law or deemed necessary by said State Board of Education.

It shall be the duty of the State Department of Education to prescribe the forms for the reports provided for in this section.

SECTION 5. Section 37-151-103, Mississippi Code of 1972, is amended as follows:

37-151-103. (1) Funds due each school district and charter school under the terms of this chapter from the Adequate Education Program Fund shall be paid in the following manner: Two (2) business days prior to the last working day of each month there shall be paid to each school district and charter school, by electronic funds transfer, one-twelfth (1/12) of the funds to which the district or charter school is entitled from funds appropriated for the Adequate Education Program Fund. However, in December those payments shall be made on December 15th or the next business day after that date. All school districts shall process a single monthly payroll for licensed employees and may process a single monthly or a semimonthly payroll for nonlicensed employees, in the discretion of the local school board, with electronic



866 settlement of payroll checks secured through direct deposit of net
867 pay for all school district employees. In addition, the State
868 Department of Education may pay school districts and charter
869 schools from the common school fund and the Adequate Education
870 Program Fund on a date earlier than provided for by this section
871 if it is determined that it is in the best interest of school
872 districts and charter schools to do so.

873 * * * However, * * * if the cash balance in the State
874 General Fund is not adequate on the due date to pay the amounts
875 due to all school districts and charter schools in the state as
876 determined by the State Superintendent of Education, the State
877 Fiscal Officer shall not transfer said funds payable to any school
878 district or districts or charter schools until money is available
879 to pay the amount due to all districts and charter schools.

880 (2) Notwithstanding any provision of this chapter or any
881 other law requiring the number of children in average daily
882 attendance, average daily membership (ADM) or the average
883 daily * * * membership (ADM) of transported children to be
884 determined on the basis of the preceding year, the State Board of
885 Education is hereby authorized and empowered to make proper
886 adjustments in allotments in cases where major changes in the
887 number of children in average daily attendance, average daily
888 membership (ADM) or the average daily * * * membership (ADM) of
889 transported children occurs from one (1) year to another as a
890 result of changes or alterations in the boundaries of school



891 districts, the sending of children from one county or district to
892 another upon a contract basis, the termination or discontinuance
893 of a contract for the sending of children from one county or
894 district to another, a change in or relocation of attendance
895 centers, or for any other reason which would result in a major
896 decrease or increase in the number of children in average daily
897 attendance, average daily membership (ADM) or the average
898 daily * * * membership (ADM) of transported children during the
899 current school year as compared with the preceding year.

900 (3) In the event of an inordinately large number of
901 absentees in any school district or charter school as a result of
902 epidemic, natural disaster, or any concerted activity discouraging
903 school attendance, then in such event school attendance for the
904 purposes of determining average daily attendance or average daily
905 membership (ADM) under the adequate education program shall be
906 based upon the average daily attendance or average daily
907 membership (ADM) for the preceding school year for such school
908 district or charter school.

909 **SECTION 6.** Section 37-13-91, Mississippi Code of 1972, is
910 amended as follows:

911 37-13-91. (1) This section shall be referred to as the
912 "Mississippi Compulsory School Attendance Law."

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



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

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

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

924 (d) "School day" means not less than five and one-half
925 (5-1/2) and not more than eight (8) hours of actual teaching in
926 which both teachers and pupils are in regular attendance for
927 scheduled schoolwork.

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

934 (f) "Compulsory-school-age child" means a child who has
935 attained or will attain the age of six (6) years on or before
936 September 1 of the calendar year and who has not attained the age
937 of seventeen (17) years on or before September 1 of the calendar
938 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



963 education for handicapped or physically or mentally disadvantaged
964 children.

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

967 The parent, guardian or custodian of a compulsory-school-age
968 child described in this subsection, or the parent, guardian or
969 custodian of a compulsory-school-age child attending any charter
970 school or nonpublic school, or the appropriate school official for
971 any or all children attending a charter school or nonpublic school
972 shall complete a "certificate of enrollment" in order to
973 facilitate the administration of this section.

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

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

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

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

986 (iv) The signature of the parent, guardian or
987 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 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 program shall be those not operated or instituted for the purpose of avoiding or circumventing the compulsory 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. * * * 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,



1038 grandparents, parents, brothers and sisters, including
1039 stepbrothers and stepsisters.

1040 (e) An absence is excused when it results from a
1041 medical or dental appointment of a compulsory-school-age child.

1042 (f) An absence is excused when it results from the
1043 attendance of a compulsory-school-age child at the proceedings of
1044 a court or an administrative tribunal if the child is a party to
1045 the action or under subpoena as a witness.

1046 (g) An absence may be excused if the religion to which
1047 the compulsory-school-age child or the child's parents adheres,
1048 requires or suggests the observance of a religious event. The
1049 approval of the absence is within the discretion of the
1050 superintendent of the school district, or his designee, but
1051 approval should be granted unless the religion's observance is of
1052 such duration as to interfere with the education of the child.

1053 (h) An absence may be excused when it is demonstrated
1054 to the satisfaction of the superintendent of the school district,
1055 or his designee, that the purpose of the absence is to take
1056 advantage of a valid educational opportunity such as travel,
1057 including vacations or other family travel. Approval of the
1058 absence must be gained from the superintendent of the school
1059 district, or his designee, before the absence, but the approval
1060 shall not be unreasonably withheld.

1061 (i) An absence may be excused when it is demonstrated
1062 to the satisfaction of the superintendent of the school district,



1063 or his designee, that conditions are sufficient to warrant the
1064 compulsory-school-age child's nonattendance. However, no absences
1065 shall be excused by the school district superintendent, or his
1066 designee, when any student suspensions or expulsions circumvent
1067 the intent and spirit of the compulsory attendance law.

1068 (j) An absence is excused when it results from the
1069 attendance of a compulsory-school-age child participating in
1070 official organized events sponsored by the 4-H or Future Farmers
1071 of America (FFA). The excuse for the 4-H or FFA event must be
1072 provided in writing to the appropriate school superintendent by
1073 the Extension Agent or High School Agricultural Instructor/FFA
1074 Advisor.

1075 (k) An absence is excused when it results from the
1076 compulsory-school-age child officially being employed to serve as
1077 a page at the State Capitol for the Mississippi House of
1078 Representatives or Senate.

1079 (5) Any parent, guardian or custodian of a
1080 compulsory-school-age child subject to this section who refuses or
1081 willfully fails to perform any of the duties imposed upon him or
1082 her under this section or who intentionally falsifies any
1083 information required to be contained in a certificate of
1084 enrollment, shall be guilty of contributing to the neglect of a
1085 child and, upon conviction, shall be punished in accordance with
1086 Section 97-5-39.



1087 Upon prosecution of a parent, guardian or custodian of a
1088 compulsory-school-age child for violation of this section, the
1089 presentation of evidence by the prosecutor that shows that the
1090 child has not been enrolled in school within eighteen (18)
1091 calendar days after the first day of the school year of the public
1092 school which the child is eligible to attend, or that the child
1093 has accumulated twelve (12) unlawful absences during the school
1094 year at the public school in which the child has been enrolled,
1095 shall establish a prima facie case that the child's parent,
1096 guardian or custodian is responsible for the absences and has
1097 refused or willfully failed to perform the duties imposed upon him
1098 or her under this section. However, no proceedings under this
1099 section shall be brought against a parent, guardian or custodian
1100 of a compulsory-school-age child unless the school attendance
1101 officer has contacted promptly the home of the child and has
1102 provided written notice to the parent, guardian or custodian of
1103 the requirement for the child's enrollment or attendance.

1104 (6) If a compulsory-school-age child has not been enrolled
1105 in a school within fifteen (15) calendar days after the first day
1106 of the school year of the school which the child is eligible to
1107 attend or the child has accumulated five (5) unlawful absences
1108 during the school year of the public school in which the child is
1109 enrolled, the school district superintendent, or his designee,
1110 shall report, within two (2) school days or within five (5)
1111 calendar days, whichever is less, the absences to the school



1112 attendance officer. The State Department of Education shall
1113 prescribe a uniform method for schools to utilize in reporting the
1114 unlawful absences to the school attendance officer. The
1115 superintendent, or his designee, also shall report any student
1116 suspensions or student expulsions to the school attendance officer
1117 when they occur.

1118 (7) When a school attendance officer has made all attempts
1119 to secure enrollment and/or attendance of a compulsory-school-age
1120 child and is unable to effect the enrollment and/or attendance,
1121 the attendance officer shall file a petition with the youth court
1122 under Section 43-21-451 or shall file a petition in a court of
1123 competent jurisdiction as it pertains to parent or child.
1124 Sheriffs, deputy sheriffs and municipal law enforcement officers
1125 shall be fully authorized to investigate all cases of
1126 nonattendance and unlawful absences by compulsory-school-age
1127 children, and shall be authorized to file a petition with the
1128 youth court under Section 43-21-451 or file a petition or
1129 information in the court of competent jurisdiction as it pertains
1130 to parent or child for violation of this section. The youth court
1131 shall expedite a hearing to make an appropriate adjudication and a
1132 disposition to ensure compliance with the Compulsory School
1133 Attendance Law, and may order the child to enroll or re-enroll in
1134 school. The superintendent of the school district to which the
1135 child is ordered may assign, in his discretion, the child to the



1136 alternative school program of the school established pursuant to
1137 Section 37-13-92.

1138 (8) The State Board of Education shall adopt rules and
1139 regulations for the purpose of reprimanding any school
1140 superintendents who fail to timely report unexcused absences under
1141 the provisions of this section.

1142 (9) Notwithstanding any provision or implication herein to
1143 the contrary, it is not the intention of this section to impair
1144 the primary right and the obligation of the parent or parents, or
1145 person or persons in loco parentis to a child, to choose the
1146 proper education and training for such child, and nothing in this
1147 section shall ever be construed to grant, by implication or
1148 otherwise, to the State of Mississippi, any of its officers,
1149 agencies or subdivisions any right or authority to control,
1150 manage, supervise or make any suggestion as to the control,
1151 management or supervision of any private or parochial school or
1152 institution for the education or training of children, of any kind
1153 whatsoever that is not a public school according to the laws of
1154 this state; and this section shall never be construed so as to
1155 grant, by implication or otherwise, any right or authority to any
1156 state agency or other entity to control, manage, supervise,
1157 provide for or affect the operation, management, program,
1158 curriculum, admissions policy or discipline of any such school or
1159 home instruction program.



1160 **SECTION 7.** This act shall take effect and be in force from
1161 and after July 1, 2021.

