

By: Senator(s) DeBar

To: Education

SENATE BILL NO. 2364

1 AN ACT TO BRING FORWARD SECTION 37-151-7, MISSISSIPPI CODE OF  
2 1972, WHICH PROVIDES FOR THE MISSISSIPPI ADEQUATE EDUCATION  
3 PROGRAM DETERMINATION OF ANNUAL ALLOCATIONS, FOR THE PURPOSE OF  
4 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 37-151-7, Mississippi Code of 1972, is  
7 brought forward as follows:

8 37-151-7. The annual allocation to each school district for  
9 the operation of the adequate education program shall be  
10 determined as follows:

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

15 (a) **Determination of average daily attendance.**  
16 Effective with fiscal year 2011, the State Department of Education  
17 shall determine the percentage change from the prior year of each  
18 year of each school district's average of months two (2) and three  
19 (3) average daily attendance (ADA) for the three (3) immediately



20 preceding school years of the year for which funds are being  
21 appropriated. For any school district that experiences a positive  
22 growth in the average of months two (2) and three (3) ADA each  
23 year of the three (3) years, the average percentage growth over  
24 the three-year period shall be multiplied times the school  
25 district's average of months two (2) and three (3) ADA for the  
26 year immediately preceding the year for which MAEP funds are being  
27 appropriated. The resulting amount shall be added to the school  
28 district's average of months two (2) and three (3) ADA for the  
29 year immediately preceding the year for which MAEP funds are being  
30 appropriated to arrive at the ADA to be used in determining a  
31 school district's MAEP allocation. Otherwise, months two (2) and  
32 three (3) ADA for the year immediately preceding the year for  
33 which MAEP funds are being appropriated will be used in  
34 determining a school district's MAEP allocation. In any fiscal  
35 year prior to 2010 in which the MAEP formula is not fully funded,  
36 for those districts that do not demonstrate a three-year positive  
37 growth in months two (2) and three (3) ADA, months one (1) through  
38 nine (9) ADA of the second preceding year for which funds are  
39 being appropriated or months two (2) and three (3) ADA of the  
40 preceding year for which funds are being appropriated, whichever  
41 is greater, shall be used to calculate the district's MAEP  
42 allocation. The district's average daily attendance shall be  
43 computed and currently maintained in accordance with regulations  
44 promulgated by the State Board of Education. The district's



45 average daily attendance shall include any student enrolled in a  
46 Dual Enrollment-Dual Credit Program as defined and provided in  
47 Section 37-15-38(19). The State Department of Education shall  
48 make payments for Dual Enrollment-Dual Credit Programs to the home  
49 school in which the student is enrolled, in accordance with  
50 regulations promulgated by the State Board of Education. The  
51 community college providing services to students in a Dual  
52 Enrollment-Dual Credit Program shall require payment from the home  
53 school district for services provided to such students at a rate  
54 of one hundred percent (100%) of ADA. All MAEP/state funding  
55 shall cease upon completion of high school graduation  
56 requirements.

57 (b) **Determination of base student cost.** Effective with  
58 fiscal year 2011 and every fourth fiscal year thereafter, the  
59 State Board of Education, on or before August 1, with adjusted  
60 estimate no later than January 2, shall submit to the Legislative  
61 Budget Office and the Governor a proposed base student cost  
62 adequate to provide the following cost components of educating a  
63 pupil in a successful school district: (i) instructional cost;  
64 (ii) administrative cost; (iii) operation and maintenance of  
65 plant; and (iv) ancillary support cost. For purposes of these  
66 calculations, the Department of Education shall utilize financial  
67 data from the second preceding year of the year for which funds  
68 are being appropriated.



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

81 Fund 1120 Functions 1110-1199 Objects 100-999, Functions  
82 1210, 1220, 2150-2159 Objects 210 and 215;

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

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

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

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

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

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



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

105 Fund 1120 Functions 2300-2599, Functions 2800-2899,  
106 Objects 100-999;

107 Fund 2711 Functions 2300-2599, Functions 2800-2899,  
108 Objects 100-999.

109 For the plant and maintenance cost component, the Department  
110 of Education shall select districts that have been identified as  
111 instructionally successful and have a ratio of plant and  
112 maintenance expenditures per one hundred thousand (100,000) square  
113 feet of building space and a ratio of maintenance workers per one  
114 hundred thousand (100,000) square feet of building space that are  
115 both between one (1) standard deviation above the mean and two (2)  
116 standard deviations below the mean of the statewide average. The  
117 plant and maintenance cost component shall be calculated by



118 dividing the latest available months one (1) through nine (9) ADA  
119 of the selected districts into the plant and maintenance  
120 expenditures of these selected districts. For the purpose of this  
121 calculation, the Department of Education shall use the following  
122 funds, functions and objects:

123 Fund 1120 Functions 2600-2699, Objects 100-699

124 and Objects 800-999;

125 Fund 2711 Functions 2600-2699, Objects 100-699

126 and Objects 800-999;

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

128 and Objects 800-999.

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



143 Fund 1120 Functions 2110-2129, Objects 100-999;  
144 Fund 1120 Functions 2140-2149, Objects 100-999;  
145 Fund 1120 Functions 2220-2229, Objects 100-999;  
146 Fund 2001 Functions 2100-2129, Objects 100-999;  
147 Fund 2001 Functions 2140-2149, Objects 100-999;  
148 Fund 2001 Functions 2220-2229, Objects 100-999.

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

154 Provided, however, that the base student cost in fiscal year 1998  
155 shall be Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).

156 For each of the fiscal years between the recalculation of the  
157 base student cost under the provisions of this paragraph (b), the  
158 base student cost shall be increased by an amount equal to forty  
159 percent (40%) of the base student cost for the previous fiscal  
160 year, multiplied by the latest annual rate of inflation for the  
161 State of Mississippi as determined by the State Economist, plus  
162 any adjustments for additional state requirements such as, but not  
163 limited to, teacher pay raises and health insurance premium  
164 increases.

165 (c) **Determination of the basic adequate education**  
166 **program cost.** The basic amount for current operation to be



167 included in the Mississippi Adequate Education Program for each  
168 school district shall be computed as follows:

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

172 (d) **Adjustment to the base student cost for at-risk**  
173 **pupils.** The amount to be included for at-risk pupil programs for  
174 each school district shall be computed as follows: Multiply the  
175 base student cost for the appropriate fiscal year as determined  
176 under paragraph (b) by five percent (5%), and multiply that  
177 product by the number of pupils participating in the federal free  
178 school lunch program in such school district, which yields the  
179 total adjustment for at-risk pupil programs for such school  
180 district.

181 (e) **Add-on program cost.** The amount to be allocated to  
182 school districts in addition to the adequate education program  
183 cost for add-on programs for each school district shall be  
184 computed as follows:

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

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





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

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

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

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

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

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

210 The sum of the items listed above (i) transportation, (ii)  
211 vocational or technical education, (iii) special education, (iv)  
212 gifted education, (v) alternative school, (vi) extended school  
213 year, (vii) university-based, and (viii) bus driver training shall  
214 yield the add-on cost for each school district.



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

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

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

232                   (a) The State Department of Education shall certify to  
233 each school district that twenty-eight (28) mills, less the  
234 estimated amount of the yield of the School Ad Valorem Tax  
235 Reduction Fund grants as determined by the State Department of  
236 Education, is the millage rate required to provide the district  
237 required local effort for that year, or twenty-seven percent (27%)  
238 of the basic adequate education program cost for such school  
239 district as determined under paragraph (c), whichever is a lesser



240 amount. In the case of an agricultural high school, the millage  
241 requirement shall be set at a level which generates an equitable  
242 amount per pupil to be determined by the State Board of Education.  
243 The local contribution amount for school districts in which there  
244 is located one or more charter schools will be calculated using  
245 the following methodology: using the adequate education program  
246 twenty-eight (28) mill value, or the twenty-seven percent (27%)  
247 cap amount (whichever is less) for each school district in which a  
248 charter school is located, an average per pupil amount will be  
249 calculated. This average per pupil amount will be multiplied  
250 times the number of students attending the charter school in that  
251 school district. The sum becomes the charter school's local  
252 contribution to the adequate education program.

253 (b) The State Department of Education shall determine  
254 the following from the annual assessment information submitted to  
255 the department by the tax assessors of the various counties: (i)  
256 the total assessed valuation of nonexempt property for school  
257 purposes in each school district; (ii) assessed value of exempt  
258 property owned by homeowners aged sixty-five (65) or older or  
259 disabled as defined in Section 27-33-67(2), Mississippi Code of  
260 1972; (iii) the school district's tax loss from exemptions  
261 provided to applicants under the age of sixty-five (65) and not  
262 disabled as defined in Section 27-33-67(1), Mississippi Code of  
263 1972; and (iv) the school district's homestead reimbursement  
264 revenues.



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

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

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

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

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

286 (b) Provided, however, that in fiscal year 2015, any  
287 increase in the said state contribution to any district calculated  
288 under this section shall be not less than six percent (6%) in  
289 excess of the amount received by said district from state funds



290 for fiscal year 2002; in fiscal year 2016, any increase in the  
291 said state contribution to any district calculated under this  
292 section shall be not less than four percent (4%) in excess of the  
293 amount received by said district from state funds for fiscal year  
294 2002; in fiscal year 2017, any increase in the said state  
295 contribution to any district calculated under this section shall  
296 be not less than two percent (2%) in excess of the amount received  
297 by said district from state funds for fiscal year 2002; and in  
298 fiscal year 2018 and thereafter, any increase in the said state  
299 contribution to any district calculated under this section shall  
300 be zero percent (0%). For purposes of this paragraph (b), state  
301 funds shall include minimum program funds less the add-on  
302 programs, State Uniform Millage Assistance Grant Funds, Education  
303 Enhancement Funds appropriated for Uniform Millage Assistance  
304 Grants and state textbook allocations, and State General Funds  
305 allocated for textbooks.

306 (c) If the school board of any school district shall  
307 determine that it is not economically feasible or practicable to  
308 operate any school within the district for the full one hundred  
309 eighty (180) days required for a school term of a scholastic year  
310 as required in Section 37-13-63, Mississippi Code of 1972, due to  
311 an enemy attack, a man-made, technological or natural disaster in  
312 which the Governor has declared a disaster emergency under the  
313 laws of this state or the President of the United States has  
314 declared an emergency or major disaster to exist in this state,



315 said school board may notify the State Department of Education of  
316 such disaster and submit a plan for altering the school term. If  
317 the State Board of Education finds such disaster to be the cause  
318 of the school not operating for the contemplated school term and  
319 that such school was in a school district covered by the  
320 Governor's or President's disaster declaration, it may permit said  
321 school board to operate the schools in its district for less than  
322 one hundred eighty (180) days and, in such case, the State  
323 Department of Education shall not reduce the state contributions  
324 to the adequate education program allotment for such district,  
325 because of the failure to operate said schools for one hundred  
326 eighty (180) days.

327 (4) The Interim School District Capital Expenditure Fund is  
328 hereby established in the State Treasury which shall be used to  
329 distribute any funds specifically appropriated by the Legislature  
330 to such fund to school districts entitled to increased allocations  
331 of state funds under the adequate education program funding  
332 formula prescribed in Sections 37-151-3 through 37-151-7,  
333 Mississippi Code of 1972, until such time as the said adequate  
334 education program is fully funded by the Legislature. The  
335 following percentages of the total state cost of increased  
336 allocations of funds under the adequate education program funding  
337 formula shall be appropriated by the Legislature into the Interim  
338 School District Capital Expenditure Fund to be distributed to all  
339 school districts under the formula: Nine and two-tenths percent



340 (9.2%) shall be appropriated in fiscal year 1998, twenty percent  
341 (20%) shall be appropriated in fiscal year 1999, forty percent  
342 (40%) shall be appropriated in fiscal year 2000, sixty percent  
343 (60%) shall be appropriated in fiscal year 2001, eighty percent  
344 (80%) shall be appropriated in fiscal year 2002, and one hundred  
345 percent (100%) shall be appropriated in fiscal year 2003 into the  
346 State Adequate Education Program Fund. Until July 1, 2002, such  
347 money shall be used by school districts for the following  
348 purposes:

349 (a) Purchasing, erecting, repairing, equipping,  
350 remodeling and enlarging school buildings and related facilities,  
351 including gymnasiums, auditoriums, lunchrooms, vocational training  
352 buildings, libraries, school barns and garages for transportation  
353 vehicles, school athletic fields and necessary facilities  
354 connected therewith, and purchasing land therefor. Any such  
355 capital improvement project by a school district shall be approved  
356 by the State Board of Education, and based on an approved  
357 long-range plan. The State Board of Education shall promulgate  
358 minimum requirements for the approval of school district capital  
359 expenditure plans.

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

363 (c) Paying debt service on existing capital improvement  
364 debt of the district or refinancing outstanding debt of a district



365 if such refinancing will result in an interest cost savings to the  
366 district.

367 (d) From and after October 1, 1997, through June 30,  
368 1998, pursuant to a school district capital expenditure plan  
369 approved by the State Department of Education, a school district  
370 may pledge such funds until July 1, 2002, plus funds provided for  
371 in paragraph (e) of this subsection (4) that are not otherwise  
372 permanently pledged under such paragraph (e) to pay all or a  
373 portion of the debt service on debt issued by the school district  
374 under Sections 37-59-1 through 37-59-45, 37-59-101 through  
375 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,  
376 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt  
377 issued by boards of supervisors for agricultural high schools  
378 pursuant to Section 37-27-65, Mississippi Code of 1972, or  
379 lease-purchase contracts entered into pursuant to Section 31-7-13,  
380 Mississippi Code of 1972, or to retire or refinance outstanding  
381 debt of a district, if such pledge is accomplished pursuant to a  
382 written contract or resolution approved and spread upon the  
383 minutes of an official meeting of the district's school board or  
384 board of supervisors. It is the intent of this provision to allow  
385 school districts to irrevocably pledge their Interim School  
386 District Capital Expenditure Fund allotments as a constant stream  
387 of revenue to secure a debt issued under the foregoing code  
388 sections. To allow school districts to make such an irrevocable  
389 pledge, the state shall take all action necessary to ensure that





390 the amount of a district's Interim School District Capital  
391 Expenditure Fund allotments shall not be reduced below the amount  
392 certified by the department or the district's total allotment  
393 under the Interim Capital Expenditure Fund if fully funded, so  
394 long as such debt remains outstanding.

395 (e) [Repealed]

396 (f) [Repealed]

397 (g) The State Board of Education may authorize the  
398 school district to expend not more than twenty percent (20%) of  
399 its annual allotment of such funds or Twenty Thousand Dollars  
400 (\$20,000.00), whichever is greater, for technology needs of the  
401 school district, including computers, software,  
402 telecommunications, cable television, interactive video, film,  
403 low-power television, satellite communications, microwave  
404 communications, technology-based equipment installation and  
405 maintenance, and the training of staff in the use of such  
406 technology-based instruction. Any such technology expenditure  
407 shall be reflected in the local district technology plan approved  
408 by the State Board of Education under Section 37-151-17,  
409 Mississippi Code of 1972.

410 (h) To the extent a school district has not utilized  
411 twenty percent (20%) of its annual allotment for technology  
412 purposes under paragraph (g), a school district may expend not  
413 more than twenty percent (20%) of its annual allotment or Twenty  
414 Thousand Dollars (\$20,000.00), whichever is greater, for



415 instructional purposes. The State Board of Education may  
416 authorize a school district to expend more than said twenty  
417 percent (20%) of its annual allotment for instructional purposes  
418 if it determines that such expenditures are needed for  
419 accreditation purposes.

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

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

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

437 (5) The State Department of Education shall make payments to  
438 charter schools for each student in average daily attendance at  
439 the charter school equal to the state share of the adequate



440 education program payments for each student in average daily  
441 attendance at the school district in which the public charter  
442 school is located. In calculating the local contribution for  
443 purposes of determining the state share of the adequate education  
444 program payments, the department shall deduct the pro rata local  
445 contribution of the school district in which the student resides  
446 as determined in subsection (2)(a) of this section.

447       **SECTION 2.** This act shall take effect and be in force from  
448 and after July 1, 2023.

