

By: Senator(s) Cuevas

To: Education;  
Appropriations

SENATE BILL NO. 2423

1 AN ACT TO AMEND SECTIONS 37-13-81, 37-13-91, 37-13-89 AND  
2 19-19-5, MISSISSIPPI CODE OF 1972, TO TRANSFER THE FUNCTIONS AND  
3 DUTIES OF SCHOOL ATTENDANCE OFFICERS TO THE CONSTABLES OF THE  
4 VARIOUS COUNTIES, TO PROVIDE THAT CONSTABLES SHALL HAVE THE  
5 AUTHORITY AND RESPONSIBILITY OF ENFORCING THE MISSISSIPPI  
6 COMPULSORY SCHOOL ATTENDANCE LAW FOR ANY CHILD RESIDING OR FOUND  
7 IN THE COUNTY IN WHICH THE CONSTABLE HAS JURISDICTION, TO PROVIDE  
8 THAT THE CONSTABLE IS AUTHORIZED TO FILE PETITIONS IN THE YOUTH  
9 COURT OF HIS COUNTY IN ORDER TO ENFORCE THE PROVISIONS OF THE  
10 COMPULSORY SCHOOL ATTENDANCE LAW, AND TO CLARIFY THE FUNCTIONS AND  
11 RESPONSIBILITIES OF CONSTABLES RELATIVE TO THE ENFORCEMENT OF THE  
12 COMPULSORY SCHOOL ATTENDANCE LAW; TO AMEND SECTION 25-7-27,  
13 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CONSTABLES SHALL RECEIVE  
14 A FEE FOR ENFORCING THE COMPULSORY SCHOOL ATTENDANCE LAW WHICH  
15 SHALL BE PAID BY THE LOCAL SCHOOL DISTRICT IN WHICH THE CHILD IS  
16 ENROLLED OR SHOULD BE ENROLLED; TO AMEND SECTION 37-151-7,  
17 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE LOCAL SCHOOL  
18 DISTRICT COST OF PAYING THE FEES OF CONSTABLES FOR ENFORCING THE  
19 COMPULSORY SCHOOL ATTENDANCE LAW IN THEIR DISTRICT SHALL BE  
20 INCLUDED IN THE BASE STUDENT COST PAID BY THE STATE TO SCHOOL  
21 DISTRICTS UNDER THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM; AND  
22 FOR RELATED PURPOSES.

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

24 **SECTION 1.** Section 37-13-81, Mississippi Code of 1972, is  
25 amended as follows:

26 37-13-81. Until June 30, 2002, there is created the Office  
27 of Compulsory School Attendance Enforcement within the State  
28 Department of Education. The office shall be responsible for the  
29 administration of a statewide system of enforcement of the  
30 Mississippi Compulsory School Attendance Law (Section 37-13-91)  
31 and for the supervision of school attendance officers throughout  
32 the state. From and after July 1, 2002, the authority, duties and  
33 responsibilities of school attendance officers shall be  
34 transferred to the elected constable of the county in which the  
35 compulsory-school-age child resides or is to be found, and the  
36 statewide system of supervision of school attendance officers by  
37 the State Department of Education is hereby abolished.



38           **SECTION 2.** Section 37-13-91, Mississippi Code of 1972, is  
39 amended as follows:

40           37-13-91. (1) This section shall be referred to as the  
41 "Mississippi Compulsory School Attendance Law."

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

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

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

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

53           (d) "School day" means not less than five (5) and not  
54 more than eight (8) hours of actual teaching in which both  
55 teachers and pupils are in regular attendance for scheduled  
56 schoolwork.

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

62           (f) "Compulsory-school-age child" means a child who has  
63 attained or will attain the age of six (6) years on or before  
64 September 1 of the calendar year and who has not attained the age  
65 of seventeen (17) years on or before September 1 of the calendar  
66 year.

67           (g) "Constable" means the elected constable of the  
68 county in which the compulsory-school-age child resides or is to  
69 be found. From and after July 1, 2002, such constables shall  
70 assume the authority and responsibilities of school attendance



71 officers formerly employed by the State Department of Education  
72 pursuant to Section 37-13-89.

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

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

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

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

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

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

97 The parent, guardian or custodian of a compulsory-school-age  
98 child described in this subsection, or the parent, guardian or  
99 custodian of a compulsory-school-age child attending any nonpublic  
100 school, or the appropriate school official for any or all children  
101 attending a nonpublic school shall complete a "certificate of  
102 enrollment" in order to facilitate the administration of this  
103 section.



104           The form of the certificate of enrollment shall be prepared  
105 by the \* \* \* State Department of Education for distribution to the  
106 local school districts and shall be designed to obtain the  
107 following information only:

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

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

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

116                   (iv) The signature of the parent, guardian or  
117 custodian of the compulsory-school-age child or, for any or all  
118 compulsory-school-age child or children attending a nonpublic  
119 school, the signature of the appropriate school official and the  
120 date signed.

121           The certificate of enrollment shall be returned to the  
122 constable of the county in which the child resides on or before  
123 September 15 of each year. Any parent, guardian or custodian  
124 found by the constable to be in noncompliance with this section  
125 shall comply, after written notice of the noncompliance by the  
126 constable, with this subsection within ten (10) days after the  
127 notice or be in violation of this section. However, in the event  
128 the child has been enrolled in a public school within fifteen (15)  
129 calendar days after the first day of the school year as required  
130 in subsection (6), the parent or custodian may at a later date  
131 enroll the child in a legitimate nonpublic school or legitimate  
132 home instruction program and send the certificate of enrollment to  
133 the constable and be in compliance with this subsection.

134           For the purposes of this subsection, a legitimate nonpublic  
135 school or legitimate home instruction program shall be those not



136 operated or instituted for the purpose of avoiding or  
137 circumventing the compulsory attendance law.

138 (4) An "unlawful absence" is an absence during a school day  
139 by a compulsory-school-age child, which absence is not due to a  
140 valid excuse for temporary nonattendance. Days missed from school  
141 due to disciplinary suspension shall not be considered an  
142 "excused" absence under this section. This subsection shall not  
143 apply to children enrolled in a nonpublic school.

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

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

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

158 (c) An absence is excused when isolation of a  
159 compulsory-school-age child is ordered by the county health  
160 officer, by the State Board of Health or appropriate school  
161 official.

162 (d) An absence is excused when it results from the  
163 death or serious illness of a member of the immediate family of a  
164 compulsory-school-age child. The immediate family members of a  
165 compulsory-school-age child shall include children, spouse,  
166 grandparents, parents, brothers and sisters, including  
167 stepbrothers and stepsisters.



168           (e) An absence is excused when it results from a  
169 medical or dental appointment of a compulsory-school-age child  
170 where an approval of the superintendent of the school district,    or  
171 his designee,    is gained before the absence, except in the case of  
172 emergency.

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

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

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

192           (i) An absence may be excused when it is demonstrated  
193 to the satisfaction of the superintendent of the school district,     
194 or his designee,    that conditions are sufficient to warrant the  
195 compulsory-school-age child's nonattendance. However, no absences  
196 shall be excused by the school district superintendent,    or his  
197 designee,    when any student suspensions or expulsions circumvent  
198 the intent and spirit of the compulsory attendance law.

199           (5) Any parent, guardian or custodian of a  
200 compulsory-school-age child subject to this section who refuses or



201 willfully fails to perform any of the duties imposed upon him or  
202 her under this section or who intentionally falsifies any  
203 information required to be contained in a certificate of  
204 enrollment, shall be guilty of contributing to the neglect of a  
205 child and, upon conviction, shall be punished in accordance with  
206 Section 97-5-39.

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

224       (6) If a compulsory-school-age child has not been enrolled  
225 in a school within fifteen (15) calendar days after the first day  
226 of the school year of the school which the child is eligible to  
227 attend or the child has accumulated five (5) unlawful absences  
228 during the school year of the public school in which the child is  
229 enrolled, the school district superintendent shall report, within  
230 two (2) school days or within five (5) calendar days, whichever is  
231 less, the absences to any constable of the county in which the  
232 school or school district is located. In the event the school  
233 district is located in two (2) or more school districts, the



234 superintendent shall make such report to any constable of the  
235 county in which the child resides or is to be found. The State  
236 Department of Education shall prescribe a uniform method for  
237 schools to utilize in reporting the unlawful absences to the  
238 constable. The superintendent, or his designee, also shall report  
239 any student suspensions or student expulsions to the constable  
240 when they occur.

241 (7) When a constable has made all attempts to secure  
242 enrollment and/or attendance of a compulsory-school-age child and  
243 is unable to effect the enrollment and/or attendance, the  
244 constable shall file a petition with the youth court under Section  
245 43-21-451 or shall file a petition in a court of competent  
246 jurisdiction as it pertains to parent or child. Sheriffs, deputy  
247 sheriffs and municipal law enforcement officers shall be fully  
248 authorized to investigate all cases of nonattendance and unlawful  
249 absences by compulsory-school-age children, and shall be  
250 authorized to file a petition with the youth court under Section  
251 43-21-451 or file a petition or information in the court of  
252 competent jurisdiction as it pertains to parent or child for  
253 violation of this section. The youth court shall expedite a  
254 hearing to make an appropriate adjudication and a disposition to  
255 ensure compliance with the Compulsory School Attendance Law, and  
256 may order the child to enroll or reenroll in school. The  
257 superintendent of the school district to which the child is  
258 ordered may assign, in his discretion, the child to the  
259 alternative school program of the school established pursuant to  
260 Section 37-13-92.

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

265 (9) Notwithstanding any provision or implication herein to  
266 the contrary, it is not the intention of this section to impair





267 the primary right and the obligation of the parent or parents, or  
268 person or persons in loco parentis to a child, to choose the  
269 proper education and training for such child, and nothing in this  
270 section shall ever be construed to grant, by implication or  
271 otherwise, to the State of Mississippi, any of its officers,  
272 agencies or subdivisions any right or authority to control,  
273 manage, supervise or make any suggestion as to the control,  
274 management or supervision of any private or parochial school or  
275 institution for the education or training of children, of any kind  
276 whatsoever that is not a public school according to the laws of  
277 this state; and this section shall never be construed so as to  
278 grant, by implication or otherwise, any right or authority to any  
279 state agency or other entity to control, manage, supervise,  
280 provide for or affect the operation, management, program,  
281 curriculum, admissions policy or discipline of any such school or  
282 home instruction program.

283 **SECTION 3.** Section 37-13-89, Mississippi Code of 1972, is  
284 amended as follows:

285 37-13-89. \* \* \*

286 (1) It shall be the duty of each constable in carrying out  
287 the provisions of the Mississippi Compulsory School Attendance Law  
288 relative to compulsory-school-age children residing or found in  
289 the elected constable's county to:

290 (a) Cooperate with any public agency to locate and  
291 identify all compulsory-school-age children who are not attending  
292 school;

293 (b) Cooperate with all courts of competent  
294 jurisdiction;

295 (c) Investigate all cases of nonattendance and unlawful  
296 absences by compulsory-school-age children not enrolled in a  
297 nonpublic school;



298 (d) Provide appropriate counseling to encourage all  
299 school-age children to attend school until they have completed  
300 high school;

301 (e) Attempt to secure the provision of social or  
302 welfare services that may be required to enable any child to  
303 attend school;

304 (f) Contact the home or place of residence of a  
305 compulsory-school-age child and any other place in which the  
306 constable is likely to find any compulsory-school-age child when  
307 the child is absent from school during school hours without a  
308 valid written excuse from school officials, and when the child is  
309 found, the constable shall notify the parents and school officials  
310 as to where the child was physically located;

311 (g) Contact promptly the home of each  
312 compulsory-school-age child in the school district(s) within the  
313 supervisors district from which the constable was elected who is  
314 not enrolled in school or is not in attendance at public school  
315 and is without a valid written excuse from school officials; if no  
316 valid reason is found for the nonenrollment or absence from the  
317 school, the constable shall give written notice to the parent,  
318 guardian or custodian of the requirement for the child's  
319 enrollment or attendance;

320 (h) Collect and maintain information concerning  
321 absenteeism, dropouts and other attendance-related problems, as  
322 may be required by law or the State Board of Education; and

323 (i) Perform all other duties relating to compulsory  
324 school attendance established by law or by the State Board of  
325 Education.

326 (2) While engaged in the performance of his compulsory  
327 school attendance duties, each constable shall carry on his person  
328 a badge identifying him as a constable \* \* \*.

329 \* \* \*



330           **SECTION 4.** Section 19-19-5, Mississippi Code of 1972, is  
331 amended as follows:

332           19-19-5. (1) It shall be the duty of every constable to  
333 keep and preserve the peace within his county, by faithfully  
334 aiding and assisting in executing the criminal laws of the state;  
335 to give information, without delay, to some justice court judge or  
336 other proper officer, of all riots, routs and unlawful assemblies,  
337 and of every violation of the penal laws which may come to his  
338 knowledge in any manner whatsoever; to execute and return all  
339 process, civil and criminal, lawfully directed to him, according  
340 to the command thereof; and to pay over all monies, when collected  
341 by him to the person lawfully authorized to receive the same. No  
342 constable shall receive any fee provided by law for making an  
343 arrest, or attending any trial, wherein the defendant has been  
344 arrested, or is being tried for any violation of the motor vehicle  
345 laws committed on any designated United States highway located  
346 within the district or county of the constable.

347           (2) From and after July 1, 2002, it shall be the duty of  
348 every constable to enforce the provisions of the Mississippi  
349 Compulsory School Attendance Law, Section 37-13-91, Mississippi  
350 Code of 1972, relative to all compulsory-school-age children  
351 residing or found in the county in which he has jurisdiction, and  
352 to file petitions in the youth court or other court of proper  
353 jurisdiction as required by law.

354           (3) (a) During a constable's term of office, each constable  
355 shall attend and, to the extent to which he is physically able,  
356 participate in a curriculum having a duration of two (2) weeks  
357 which addresses the nature and scope of specific duties and  
358 responsibilities of a constable and which includes firearm use and  
359 safety training, to be established by the Board on Law Enforcement  
360 Officers Standards and Training in the field of law enforcement at  
361 the Mississippi Law Enforcement Officers' Training Academy or such  
362 other training programs that are approved by the Board on Law



363 Enforcement Officers Standards and Training pursuant to Section  
364 45-6-9. No physical fitness test shall be required to be  
365 successfully completed in order to complete the training program.  
366 The board of supervisors of the county shall be responsible for  
367 paying, only one (1) time, the tuition, living and travel expenses  
368 incurred by any constable of that county in attendance at such  
369 training program or curriculum. If such constable does not attend  
370 and, to the extent to which he is physically able, participate in  
371 the entirety of the required program or curriculum, any further  
372 training which may be required by this section shall be completed  
373 at the expense of such constable. No constable shall be entitled  
374 to the receipt of any fees, costs or compensation authorized by  
375 law after the first twenty-four (24) months in office if he fails  
376 to attend the required training and, to the extent to which he is  
377 physically able, participate in the entirety of the appropriate  
378 program or curriculum. Any constable who does not complete the  
379 required training when required may execute and return civil  
380 process but thereafter shall not be paid any fees, costs or  
381 compensation for executing such process and shall not be allowed  
382 to exercise any law enforcement functions or to carry a firearm in  
383 the performance of his duties until he has completed such  
384 training.

385           (b) (i) The Board of Law Enforcement Officers  
386 Standards and Training shall develop a program of continuing  
387 education training for constables to attend consisting of eight  
388 (8) hours annually. The program shall be divided equally between  
389 firearms training and safety and instruction in both substantive  
390 and procedural law, and from and after July 1, 2002, shall include  
391 instruction in the authority, duties and responsibilities of  
392 constables in the enforcement of the Mississippi Compulsory School  
393 Attendance Law, Section 37-13-91, Mississippi Code of 1972. The  
394 training program shall be conducted by the Mississippi Constables  
395 Association, and appropriate parts of the program may be conducted



396 by members who have been certified by the board to conduct the  
397 training program. The cost of travel, tuition and living expenses  
398 in attending the continuing training shall be paid out of the Law  
399 Enforcement Officers Training Fund created in Section 45-6-15.

400 (ii) No constable elected prior to January 1,  
401 2000, shall be required to comply with the continuing education  
402 requirements of this paragraph (b); however, any constable may  
403 elect to attend the annual training and shall be reimbursed  
404 therefor as provided in this paragraph (b).

405 (c) The provisions of this subsection shall not apply  
406 to a constable who has received a certificate from the Board on  
407 Law Enforcement Officers Standards and Training evidencing  
408 satisfaction of subsections (2) and (3) of Section 45-6-11, or who  
409 is exempt from the requirements of subsections (2) and (3) of  
410 Section 45-6-11 by the provisions of subsection (1) of Section  
411 45-6-11.

412 **SECTION 5.** Section 25-7-27, Mississippi Code of 1972, is  
413 amended as follows:

414 25-7-27. (1) Marshals and constables shall charge the  
415 following fees:

416 (a) A uniform total fee in all cases, civil and  
417 criminal, whether contested or uncontested, which shall include  
418 all services in connection therewith, except as hereinafter  
419 stated, each..... \$25.00

420 Provided, however, that in all cases where there is more than  
421 one (1) defendant, for service on each additional  
422 defendant..... \$ 5.00

423 Provided further, that when a complaining party has provided  
424 erroneous information to the clerk of the court relating to the  
425 service of process on the defendant or defendants and process  
426 cannot be served after diligent search and inquiry, the uniform  
427 fee shall be assessed upon subsequent successful service and an  
428 additional fee shall be due in the following amount..... \$15.00



429 (b) Provided, however, that after final judgment has  
430 been enrolled, further proceedings involving levy of execution on  
431 judgments, and attachment and garnishment proceedings shall be a  
432 new suit for which the marshal or constable shall be entitled to  
433 the following fee..... \$25.00

434 (c) For conveying a person charged with a crime to  
435 jail, mileage reimbursement in an amount not to exceed the rate  
436 established under Section 25-3-41(2).

437 To be paid out of the county treasury on the allowance of the  
438 board of supervisors, when the state fails in the prosecution, or  
439 the person is convicted but is not able to pay the costs.

440 (d) For other service, the same fees allowed sheriffs  
441 for similar services.

442 (e) For service as a bailiff in any court in a civil  
443 case, to be paid by the county on allowance of the court on  
444 issuance of a warrant therefor, an amount equal to the per diem  
445 compensation provided under Section 25-3-69 for each day, or part  
446 thereof, for which he serves as bailiff when the court is in  
447 session.

448 (f) For serving all warrants and other process,  
449 attending all trials in state cases in which the state fails in  
450 the prosecution, to be paid out of the county treasury on the  
451 allowance of the board of supervisors without itemization,  
452 subject, however, to the condition that the marshal or constable  
453 must not have overcharged in the collection of fees for costs,  
454 contrary to the provisions of this section, annually not to  
455 exceed..... \$1,000.00

456 (g) For filing petitions or information before the  
457 youth court or other court with competent jurisdiction reporting  
458 violations of the Mississippi Compulsory School Attendance Law,  
459 Section 37-13-91, Mississippi Code of 1972, and for serving each  
460 written notice of noncompliance with the compulsory attendance law  
461 as required under said Section 37-13-91, to be paid from local



462 school district maintenance funds on the allowance of the local  
463 school board, or when any person is convicted but is not able to  
464 pay the costs.....\$ 25.00

465 (2) Marshals and constables shall be paid all uncollected  
466 fees levied under subsection (1) of this section in full from the  
467 first proceeds received by the court from the guilty party or from  
468 any other source of payment in connection with the case.

469 (3) In addition to the fees authorized to be paid to a  
470 constable under subsection (1) of this section, a constable may  
471 receive payments for collecting delinquent criminal fines in  
472 justice court pursuant to the provisions of Section 19-3-41(3).

473 **SECTION 6.** Section 37-151-7, Mississippi Code of 1972, is  
474 amended as follows:

475 37-151-7. The annual allocation to each school district for  
476 the operation of the adequate education program shall be  
477 determined as follows:

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

482 (a) **Determination of average daily attendance.** During  
483 months two (2) and three (3) of the current school year, the  
484 average daily attendance of a school district shall be computed,  
485 or the average daily attendance for the prior school year shall be  
486 used, whichever is greater. The district's average daily  
487 attendance shall be computed and currently maintained in  
488 accordance with regulations promulgated by the State Board of  
489 Education.

490 (b) **Determination of base student cost.** The State  
491 Board of Education, on or before August 1, with adjusted estimate  
492 no later than January 2, shall annually submit to the Legislative  
493 Budget Office and the Governor a proposed base student cost  
494 adequate to provide the following cost components of educating a



495 pupil in an average school district meeting Level III  
496 accreditation standards required by the Commission on School  
497 Accreditation: (i) Instructional Cost; (ii) Administrative Cost;  
498 (iii) Operation and Maintenance of Plant; \* \* \* (iv) Ancillary  
499 Support Cost; and (v) Cost of Compulsory School Attendance Law by  
500 Local Constables. The department shall utilize a statistical  
501 methodology which considers such factors as, but not limited to,  
502 (i) school size; (ii) assessed valuation per pupil; (iii) the  
503 percentage of students receiving free lunch; (iv) the local  
504 district maintenance tax levy; (v) other local school district  
505 revenues; and (vi) the district's accreditation level, in the  
506 selection of the representative Mississippi school districts for  
507 which cost information shall be obtained for each of the above  
508 listed cost areas.

509 For the instructional cost component, the department shall  
510 determine the instructional cost of each of the representative  
511 school districts selected above, excluding instructional cost of  
512 self-contained special education programs and vocational education  
513 programs, and the average daily attendance in the selected school  
514 districts. The instructional cost is then totaled and divided by  
515 the total average daily attendance for the selected school  
516 districts to yield the instructional cost component. For the  
517 administrative cost component, the department shall determine the  
518 administrative cost of each of the representative school districts  
519 selected above, excluding administrative cost of self-contained  
520 special education programs and vocational education programs, and  
521 the average daily attendance in the selected school districts.  
522 The administrative cost is then totaled and divided by the total  
523 average daily attendance for the selected school districts to  
524 yield the administrative cost component. For the plant and  
525 maintenance cost component, the department shall determine the  
526 plant and maintenance cost of each of the representative school  
527 districts selected above, excluding plant and maintenance cost of





528 self-contained special education programs and vocational education  
529 programs, and the average daily attendance in the selected school  
530 districts. The plant and maintenance cost is then totaled and  
531 divided by the total average daily attendance for the selected  
532 school districts to yield the plant and maintenance cost  
533 component. For the ancillary support cost component, the  
534 department shall determine the ancillary support cost of each of  
535 the representative school districts selected above, excluding  
536 ancillary support cost of self-contained special education  
537 programs and vocational education programs, and the average daily  
538 attendance in the selected school districts. The ancillary  
539 support cost is then totaled and divided by the total average  
540 daily attendance for the selected school districts to yield the  
541 ancillary support cost component. For the cost of Compulsory  
542 School Attendance Enforcement by the Local Constables, the  
543 department shall survey the aggregate fees paid to constables for  
544 servicing notices of noncompliance and for filing petitions in the  
545 youth or other court for violations of the Mississippi School  
546 Attendance Law as required under Sections 37-13-91 and  
547 25-7-27(1)(g) in the selected school districts, and divide the  
548 total by the total average daily attendance for the selected  
549 school districts to yield the compulsory school attendance cost  
550 component. The total base cost for each year shall be the sum of  
551 the instructional cost component, administrative cost component,  
552 plant and maintenance cost component, ancillary support cost  
553 component, the compulsory school attendance enforcement paid to  
554 local constables component, and any estimated adjustments for  
555 additional state requirements as determined by the State Board of  
556 Education. Provided, however, that the base student cost in  
557 fiscal year 1998 shall be Two Thousand Six Hundred Sixty-four  
558 Dollars (\$2,664.00).

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



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

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

566             (d) **Adjustment to the base student cost for at-risk**  
567 **pupils.** The amount to be included for at-risk pupil programs for  
568 each school district shall be computed as follows: Multiply the  
569 base student cost for the appropriate fiscal year as determined  
570 under paragraph (b) by five percent (5%), and multiply that  
571 product by the number of pupils participating in the federal free  
572 school lunch program in such school district, which yields the  
573 total adjustment for at-risk pupil programs for such school  
574 district.

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

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

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

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

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

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



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

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

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

604 The sum of the items listed above (i) transportation, (ii)  
605 vocational or technical education, (iii) special education, (iv)  
606 gifted education, (v) alternative school, (vi) extended school  
607 year, and (vii) university-based shall yield the add-on cost for  
608 each school district.

609 (f) **Total projected adequate education program cost.**  
610 The total Mississippi Adequate Education Program Cost shall be the  
611 sum of the total basic adequate education program cost (paragraph  
612 (c)), and the adjustment to the base student cost for at-risk  
613 pupils (paragraph (d)) for each school district.

614 (g) **Supplemental grant to school districts.** In  
615 addition to the adequate education program grant, the State  
616 Department of Education shall annually distribute an additional  
617 amount as follows: Multiply the base student cost for the  
618 appropriate fiscal year as determined under paragraph (b) by .13%  
619 and multiply that product by the average daily attendance of each  
620 school district. Such grant shall not be subject to the local  
621 revenue requirement provided in subsection (2).

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



626           (a) The State Board of Education shall certify to each  
627 school district that twenty-eight (28) mills, less the estimated  
628 amount of the yield of the School Ad Valorem Tax Reduction Fund  
629 grants as determined by the State Department of Education, is the  
630 millage rate required to provide the district required local  
631 effort for that year, or twenty-seven percent (27%) of the basic  
632 adequate education program cost for such school district as  
633 determined under subsection (c), whichever is a lesser amount. In  
634 the case of an agricultural high school the millage requirement  
635 shall be set at a level which generates an equitable amount per  
636 pupil to be determined by the State Board of Education.

637           (b) The State Board of Education shall determine (i)  
638 the total assessed valuation of nonexempt property for school  
639 purposes in each school district; (ii) assessed value of exempt  
640 property owned by homeowners aged sixty-five (65) or older or  
641 disabled as defined in Section 27-33-67(2), Mississippi Code of  
642 1972; (iii) the school district's tax loss from exemptions  
643 provided to applicants under the age of sixty-five (65) and not  
644 disabled as defined in Section 27-33-67(1), Mississippi Code of  
645 1972; and (iv) the school district's homestead reimbursement  
646 revenues.

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

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

655           (3) Computation of the required state effort in support of  
656 the adequate education program.

657           The required state effort in support of the adequate  
658 education program shall be determined by subtracting the sum of



659 the required local tax effort as set forth in subsection (2)(a) of  
660 this section and the other local revenue sources as set forth in  
661 subsection (2)(c) of this section in an amount not to exceed  
662 twenty-seven percent (27%) of the total projected adequate  
663 education program cost as set forth in subsection (1)(f) of this  
664 section from the total projected adequate education program cost  
665 as set forth in subsection (1)(f) of this section.

666         Provided, however, that in fiscal year 1998 and in the fiscal  
667 year in which the adequate education program is fully funded by  
668 the Legislature, any increase in the said state contribution,  
669 including the supplemental grant to school districts provided  
670 under subsection (1)(g), to any district calculated under this  
671 section shall be not less than eight percent (8%) in excess of the  
672 amount received by said district from state funds for the fiscal  
673 year immediately preceding. For purposes of this section, state  
674 funds shall include minimum program funds less the add-on  
675 programs, state Uniform Millage Assistance Grant funds,  
676 Education Enhancement Funds appropriated for Uniform Millage  
677 Assistance Grants and state textbook allocations, and State  
678 General Funds allocated for textbooks.

679         (4) The State Adequate Education Program Fund is hereby  
680 established in the State Treasury which shall be used to  
681 distribute any funds specifically appropriated by the Legislature  
682 to such fund, to school districts entitled to increased  
683 allocations of state funds under the adequate education program  
684 funding formula prescribed in Sections 37-151-3, 37-151-5 and  
685 37-151-7 of this article. If the Legislature provides less funds  
686 than the total state funds needed for support of such increased  
687 allocations under the adequate education program, the State  
688 Department of Education shall reduce all elements of the cost of  
689 the adequate education program proportionately. Any such adequate  
690 education program funds shall be transferred to the school  
691 district maintenance fund of such district in the manner



692 prescribed in Section 37-19-47, Mississippi Code of 1972, and  
693 shall be expended in the manner provided by law.

694 (5) The Interim School District Capital Expenditure Fund is  
695 hereby established in the State Treasury which shall be used to  
696 distribute any funds specifically appropriated by the Legislature  
697 to such fund to school districts entitled to increased allocations  
698 of state funds under the adequate education program funding  
699 formula prescribed in Sections 37-151-3 through 37-151-7,  
700 Mississippi Code of 1972, until such time as the said adequate  
701 education program is fully funded by the Legislature. The  
702 following percentages of the total state cost of increased  
703 allocations of funds under the adequate education program funding  
704 formula shall be appropriated by the Legislature into the Interim  
705 School District Capital Expenditure Fund to be distributed to all  
706 school districts under the formula: Nine and two-tenths percent  
707 (9.2%) shall be appropriated in fiscal year 1998, twenty percent  
708 (20%) shall be appropriated in fiscal year 1999, forty percent  
709 (40%) shall be appropriated in fiscal year 2000, sixty percent  
710 (60%) shall be appropriated in fiscal year 2001, eighty percent  
711 (80%) shall be appropriated in fiscal year 2002, and one hundred  
712 percent (100%) shall be appropriated in fiscal year 2003 into the  
713 State Adequate Education Program Fund created in subsection (4).  
714 Until such time as the adequate education program is fully funded  
715 by the Legislature, such money shall be used by school districts  
716 for the following purposes:

717 (a) Purchasing, erecting, repairing, equipping,  
718 remodeling and enlarging school buildings and related facilities,  
719 including gymnasiums, auditoriums, lunchrooms, vocational training  
720 buildings, libraries, school barns and garages for transportation  
721 vehicles, school athletic fields and necessary facilities  
722 connected therewith, and purchasing land therefor. Any such  
723 capital improvement project by a school district shall be approved  
724 by the State Board of Education, and based on an approved



725 long-range plan. The State Board of Education shall promulgate  
726 minimum requirements for the approval of school district capital  
727 expenditure plans.

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

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

735 (d) From and after October 1, 1997, through June 30,  
736 1998, pursuant to a school district capital expenditure plan  
737 approved by the State Department of Education, a school district  
738 may pledge such funds until July 1, 2002, plus funds provided for  
739 in paragraph (e) of this subsection (5) that are not otherwise  
740 permanently pledged under such paragraph (e) to pay all or a  
741 portion of the debt service on debt issued by the school district  
742 under Sections 37-59-1 through 37-59-45, 37-59-101 through  
743 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,  
744 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt  
745 issued by boards of supervisors for agricultural high schools  
746 pursuant to Section 37-27-65, Mississippi Code of 1972, or  
747 lease-purchase contracts entered into pursuant to Section 31-7-13,  
748 Mississippi Code of 1972, or to retire or refinance outstanding  
749 debt of a district, if such pledge is accomplished pursuant to a  
750 written contract or resolution approved and spread upon the  
751 minutes of an official meeting of the district's school board or  
752 board of supervisors. It is the intent of this provision to allow  
753 school districts to irrevocably pledge their Interim School  
754 District Capital Expenditure Fund allotments as a constant stream  
755 of revenue to secure a debt issued under the foregoing code  
756 sections. To allow school districts to make such an irrevocable  
757 pledge, the state shall take all action necessary to ensure that



758 the amount of a district's Interim School District Capital  
759 Expenditure Fund allotments shall not be reduced below the amount  
760 certified by the department or the district's total allotment  
761 under the Interim Capital Expenditure Fund if fully funded, so  
762 long as such debt remains outstanding.

763 (e) From and after October 1, 1997, through June 30,  
764 1998, in addition to any other authority a school district may  
765 have, any school district may issue State Aid Capital Improvement  
766 Bonds secured in whole by a continuing annual pledge of any  
767 Mississippi Adequate Education Program funds available to the  
768 district, in an amount not to exceed One Hundred Sixty Dollars  
769 (\$160.00) per pupil based on the latest completed average daily  
770 attendance count certified by the department prior to the issuance  
771 of the bonds. Such State Aid Capital Improvement Bonds may be  
772 issued for the purposes enumerated in subsections (a), (b), (c)  
773 and (g) of this section. Prior to issuing such bonds, the school  
774 board of the district shall adopt a resolution declaring the  
775 necessity for and its intention of issuing such bonds and  
776 borrowing such money, specifying the approximate amount to be so  
777 borrowed, how such money is to be used and how such indebtedness  
778 is to be evidenced. Any capital improvement project financed with  
779 State Aid Capital Improvement Bonds shall be approved by the  
780 department, and based on an approved long-range plan. The State  
781 Board of Education shall promulgate minimum requirements for the  
782 approval of such school district capital expenditure plans. The  
783 State Board of Education shall not approve any capital expenditure  
784 plan for a pledge of funds under this paragraph unless it  
785 determines (i) that the quality of instruction in such district  
786 will not be reduced as a result of this pledge, and (ii) the  
787 district has other revenue available to attain and maintain at  
788 least Level III accreditation.

789 A district issuing State Aid Capital Improvement Bonds may  
790 pledge for the repayment of such bonds all funds received by the





791 district from the state, in an amount not to exceed One Hundred  
792 Sixty Dollars (\$160.00) per pupil in average daily attendance in  
793 the school district as set forth above, and not otherwise  
794 permanently pledged under paragraph (d) of this subsection or  
795 under Section 37-61-33(2)(d), Mississippi Code of 1972. The  
796 district's school board shall specify by resolution the amount of  
797 state funds, which are being pledged by the district for the  
798 repayment of the State Aid Capital Improvement Bonds. Once such a  
799 pledge is made to secure the bonds, the district shall notify the  
800 department of such pledge. Upon making such a pledge, the school  
801 district may request the department which may agree to irrevocably  
802 transfer a specified amount or percentage of the district's state  
803 revenue pledged to repay the district's State Aid Capital  
804 Improvement Bonds directly to a state or federally chartered bank  
805 serving as a trustee or paying agent on such bonds for the payment  
806 of all or portion of such State Aid Capital Improvement Bonds.  
807 Such instructions shall be incorporated into a resolution by the  
808 school board for the benefit of holders of the bonds and may  
809 provide that such withholding and transfer of such other available  
810 funds shall be made only upon notification by a trustee or paying  
811 agent on such bonds that the amounts available to pay such bonds  
812 on any payment date will not be sufficient. It is the intent of  
813 this provision to allow school districts to irrevocably pledge a  
814 certain, constant stream of revenue as security for State Aid  
815 Capital Improvement Bonds issued hereunder. To allow school  
816 districts to make such an irrevocable pledge, the state shall take  
817 all action necessary to ensure that the amount of a district's  
818 state revenues up to an amount equal to One Hundred Sixty Dollars  
819 (\$160.00) per pupil as set forth above which have been pledged to  
820 repay debt as set forth herein shall not be reduced so long as any  
821 State Aid Capital Improvement Bonds are outstanding.

822 Any such State Aid Capital Improvement bonds shall mature as  
823 determined by the district's school bond over a period not to



824 exceed twenty (20) years. Such bonds shall not bear a greater  
825 overall maximum interest rate to maturity than that allowed in  
826 Section 75-17-101, Mississippi Code of 1972. The further details  
827 and terms of such bonds shall be as determined by the school board  
828 of the district.

829 The provisions of this subsection shall be cumulative and  
830 supplemental to any existing funding programs or other authority  
831 conferred upon school districts or school boards. Debt of a  
832 school district secured in whole by a pledge of revenue pursuant  
833 to this section shall not be subject to any debt limitation.

834 For purposes of this paragraph (e), "State Aid Capital  
835 Improvement Bond" shall mean any bond, note, or other certificate  
836 of indebtedness issued by a school district under the provisions  
837 hereof.

838 This paragraph (e) shall stand repealed from and after June  
839 30, 1998.

840 (f) As an alternative to the authority granted under  
841 paragraph (e), a school district, in its discretion, may authorize  
842 the State Board of Education to withhold an amount of the  
843 district's adequate education program allotment equal to up to One  
844 Hundred Sixty Dollars (\$160.00) per student in average daily  
845 attendance in the district to be allocated to the State Public  
846 School Building Fund to the credit of such school district. A  
847 school district may choose the option provided under this  
848 paragraph (e) or paragraph (f), but not both. In addition to the  
849 grants made by the state pursuant to Section 37-47-9, a school  
850 district shall be entitled to grants based on the allotments to  
851 the State Public School Building Fund credited to such school  
852 district under this paragraph. This paragraph (f) shall stand  
853 repealed from and after June 30, 1998.

854 (g) The State Board of Education may authorize the  
855 school district to expend not more than twenty percent (20%) of  
856 its annual allotment of such funds or Twenty Thousand Dollars



857 (\$20,000.00), whichever is greater, for technology needs of the  
858 school district, including computers, software,  
859 telecommunications, cable television, interactive video, film  
860 low-power television, satellite communications, microwave  
861 communications, technology-based equipment installation and  
862 maintenance, and the training of staff in the use of such  
863 technology-based instruction. Any such technology expenditure  
864 shall be reflected in the local district technology plan approved  
865 by the State Board of Education under Section 37-151-17,  
866 Mississippi Code of 1972.

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

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

887 Any interest accruing on any unexpended balance in the  
888 Interim School District Capital Expenditure Fund shall be invested



889 by the State Treasurer and placed to the credit of each school  
890 district participating in such fund in its proportionate share.

891 The provisions of this subsection shall be cumulative and  
892 supplemental to any existing funding programs or other authority  
893 conferred upon school districts or school boards.

894 **SECTION 7.** This act shall take effect and be in force from  
895 and after July 1, 2002.

