

By: Representative Busby

To: Education

HOUSE BILL NO. 821

1 AN ACT TO AMEND SECTION 37-28-23, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE OPEN ENROLLMENT IN CHARTER SCHOOLS; TO AMEND SECTION
3 37-28-45, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING
4 PROVISIONS; TO AMEND SECTION 37-28-35, MISSISSIPPI CODE OF 1972,
5 TO REQUIRE UNSPENT GOVERNMENT FUNDS TO REVERT TO THOSE SCHOOL
6 DISTRICTS IN WHICH STUDENTS ATTENDING A CHARTER SCHOOL RESIDE IF
7 THE CHARTER SCHOOL CLOSES; TO AMEND SECTION 37-28-53, MISSISSIPPI
8 CODE OF 1972, TO REQUIRE CHARTER SCHOOLS TO CERTIFY TO EACH LOCAL
9 SCHOOL DISTRICT IN WHICH STUDENTS ENROLLED IN THE CHARTER SCHOOL
10 RESIDE THE NUMBER OF CHARTER SCHOOL STUDENTS RESIDING IN THAT
11 DISTRICT; TO AMEND SECTION 37-28-55, MISSISSIPPI CODE OF 1972, TO
12 REVISE THE MANNER BY WHICH THE STATE DEPARTMENT OF EDUCATION
13 DETERMINES THE AMOUNT OF ADEQUATE EDUCATION PROGRAM FUNDS WHICH IS
14 TO BE PAID TO A CHARTER SCHOOL TO REFLECT THAT A CHARTER SCHOOL'S
15 STUDENTS MAY RESIDE IN SCHOOL DISTRICTS OTHER THAN THAT IN WHICH
16 THE CHARTER SCHOOL IS LOCATED, AND TO REQUIRE EACH SCHOOL DISTRICT
17 IN WHICH CHARTER SCHOOL STUDENTS RESIDE TO MAKE LOCAL CONTRIBUTION
18 PAYMENTS TO THE CHARTER SCHOOL; TO AMEND SECTION 37-151-7,
19 MISSISSIPPI CODE OF 1972, TO REVISE THE FORMULA FOR CALCULATING A
20 CHARTER SCHOOL'S LOCAL CONTRIBUTION TO THE ADEQUATE EDUCATION
21 PROGRAM TO REFLECT THAT THE CHARTER SCHOOL'S STUDENTS MAY RESIDE
22 IN SCHOOL DISTRICTS OTHER THAN THAT IN WHICH THE CHARTER SCHOOL IS
23 LOCATED; TO AMEND SECTION 37-57-107, MISSISSIPPI CODE OF 1972, TO
24 REQUIRE EACH SCHOOL DISTRICT IN WHICH STUDENTS ENROLLED IN A
25 CHARTER SCHOOL RESIDE TO MAKE AD VALOREM TAX RECEIPTS PAYMENTS TO
26 THE CHARTER SCHOOL; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** Section 37-28-23, Mississippi Code of 1972, is
29 amended as follows:



30 37-28-23. (1) A charter school must be open to any student
31 residing in the * * * state.

32 (2) A school district may not require any student enrolled
33 in the school district to attend a charter school.

34 (3) Except as otherwise provided under subsection (8)(d) of
35 this section, a charter school may not limit admission based on
36 ethnicity, national origin, religion, gender, income level,
37 disabling condition, proficiency in the English language, or
38 academic or athletic ability.

39 (4) A charter school may limit admission to students within
40 a given age group or grade level, including pre-kindergarten
41 students, and may be organized around a special emphasis, theme or
42 concept as stated in the school's application.

43 (5) The underserved student composition of a charter
44 school's enrollment collectively must reflect that of students of
45 all ages attending the school district in which the charter school
46 is located, to be defined for the purposes of this chapter as
47 being at least eighty percent (80%) of that population. If the
48 underserved student composition of an applicant's or charter
49 school's enrollment is less than eighty percent (80%) of the
50 enrollment of students of all ages in the school district in which
51 the charter school is located, despite the school's best efforts,
52 the authorizer must consider the applicant's or charter school's
53 recruitment efforts and the underserved student composition of the
54 applicant pool in determining whether the applicant or charter



55 school is operating in a nondiscriminatory manner. A finding by
56 the authorizer that a charter school is operating in a
57 discriminatory manner justifies the revocation of a charter.

58 (6) A charter school must enroll all students who wish to
59 attend the school unless the number of students exceeds the
60 capacity of a program, class, grade level or building.

61 (7) If capacity is insufficient to enroll all students who
62 wish to attend the school based on initial application, the
63 charter school must select students through a lottery.

64 (8) (a) Any noncharter public school or part of a
65 noncharter public school converting to a charter school shall
66 adopt and maintain a policy giving an enrollment preference to
67 students who reside within the former attendance area of that
68 public school. If the charter school has excess capacity after
69 enrolling students residing within the former attendance area of
70 the school, students outside of the former attendance area of the
71 school * * * are eligible for enrollment. If the number of
72 students applying for admission exceeds the capacity of a program,
73 class, grade level or building of the charter school, the charter
74 school must admit students on the basis of a lottery.

75 (b) A charter school must give an enrollment preference
76 to students enrolled in the charter school during the preceding
77 school year and to siblings of students already enrolled in the
78 charter school. An enrollment preference for returning students
79 excludes those students from entering into a lottery.



80 (c) A charter school may give an enrollment preference
81 to children of the charter school's applicant, governing board
82 members and full-time employees, so long as those children
83 constitute no more than ten percent (10%) of the charter school's
84 total student population.

85 (d) This section does not preclude the formation of a
86 charter school whose mission is focused on serving students with
87 disabilities, students of the same gender, students who pose such
88 severe disciplinary problems that they warrant a specific
89 educational program, or students who are at risk of academic
90 failure. If capacity is insufficient to enroll all students who
91 wish to attend the school, the charter school must select students
92 through a lottery.

93 **SECTION 2.** Section 37-28-45, Mississippi Code of 1972, is
94 amended as follows:

95 37-28-45. (1) Charter schools are subject to the same civil
96 rights, health and safety requirements applicable to noncharter
97 public schools in the state, except as otherwise specifically
98 provided in this chapter.

99 (2) Charter schools are subject to the student assessment
100 and accountability requirements applicable to noncharter public
101 schools in the state; however, this requirement does not preclude
102 a charter school from establishing additional student assessment
103 measures that go beyond state requirements if the authorizer
104 approves those measures.



105 (3) Although a charter school is geographically located
106 within the boundaries of a particular school district * * *, the
107 charter school may not be considered a school within that district
108 under the purview of the school district's school board. The
109 rules, regulations, policies and procedures established by the
110 school board for the noncharter public schools that are in the
111 school district in which the charter school is geographically
112 located do not apply to the charter school unless otherwise
113 required under the charter contract or any contract entered into
114 between the charter school governing board and the local school
115 board.

116 (4) Whenever the provisions of Title 37, Mississippi Code of
117 1972, relating to the elementary and secondary education of public
118 school students establish a requirement for or grant authority to
119 local school districts, their school boards and the schools within
120 the respective school districts, the language "school districts,"
121 "school boards," "boards of trustees," "the schools within a
122 school district," or any other similar phraseology does not
123 include a charter school and the governing board of a charter
124 school unless the statute specifically is made applicable to
125 charter schools as well as noncharter public schools.

126 (5) A charter school is not subject to any rule, regulation,
127 policy or procedure adopted by the State Board of Education or the
128 State Department of Education unless otherwise required by the
129 authorizer or in the charter contract.



130 (6) Charter schools are not exempt from the following
131 statutes:

132 (a) Chapter 41, Title 25, Mississippi Code of 1972,
133 which relate to open meetings of public bodies.

134 (b) Chapter 61, Title 25, Mississippi Code of 1972,
135 which relate to public access to public records.

136 (c) Section 37-3-51, which requires notice by the
137 district attorney of licensed school employees who are convicted
138 of certain sex offenses.

139 (d) Section 37-3-53, which requires publication of the
140 Mississippi Report Card by the State Board of Education.

141 (e) Section 37-11-18, which requires the automatic
142 expulsion of a student possessing a weapon or controlled substance
143 on educational property.

144 (f) Section 37-11-18.1, which requires expulsion of
145 certain habitually disruptive students.

146 (g) Section 37-11-19, which requires suspension or
147 expulsion of a student who damages school property.

148 (h) Section 37-11-20, which prohibits acts of
149 intimidation intended to keep a student from attending school.

150 (i) Section 37-11-21, which prohibits parental abuse of
151 school staff.

152 (j) Section 37-11-23, which prohibits the willful
153 disruption of school and school meetings.



154 (k) Sections 37-11-29 and 37-11-31, which relate to
155 reporting requirements regarding unlawful or violent acts on
156 school property.

157 (l) Section 37-11-67, which prohibits bullying or
158 harassing behavior in public schools.

159 (m) Section 37-13-3, which prohibits doctrinal,
160 sectarian or denominational teaching in public schools.

161 (n) Sections 37-13-5 and 37-13-6, which require the
162 flags of the United States and the State of Mississippi to be
163 displayed near the school building.

164 (o) Section 37-13-63(1), which prescribes the minimum
165 number of days which public schools must be kept in session during
166 a scholastic year.

167 (p) Section 37-13-91, which is the Mississippi
168 Compulsory School Attendance Law.

169 (q) Section 37-13-171(2) and (4), which requires any
170 course containing sex-related education to include instruction in
171 abstinence-only or abstinence-plus education.

172 (r) Section 37-13-173, which requires notice to parents
173 before instruction on human sexuality is provided in public
174 classrooms.

175 (s) Section 37-13-193, which relates to civil rights
176 and human rights education in the public schools.



177 (t) Sections 37-15-1 and 37-15-3, which relate to the
178 maintenance and transfer of permanent student records in public
179 schools.

180 (u) Section 37-15-6, which requires the State
181 Department of Education to maintain a record of expulsions from
182 the public schools.

183 (v) Section 37-15-9, which establishes minimum age
184 requirements for kindergarten and first grade enrollment in public
185 schools.

186 (w) Section 37-15-11, which requires a parent, legal
187 guardian or custodian to accompany a child seeking enrollment in a
188 public school.

189 (x) Sections 37-16-1, 37-16-3, 37-16-4 and 37-16-9,
190 which relate to the statewide assessment testing program.

191 (y) Section 37-18-1, which establishes the
192 Superior-Performing Schools Program and Exemplary Schools Program
193 to recognize public schools that improve.

194 **SECTION 3.** Section 37-28-35, Mississippi Code of 1972, is
195 amended as follows:

196 37-28-35. (1) Before implementing a charter school closure
197 decision, the authorizer must develop a charter school closure
198 protocol to ensure timely notification to parents, orderly
199 transition of students and student records to new schools, and
200 proper disposition of school funds, property and assets in
201 accordance with the requirements of this chapter. The protocol



202 must specify tasks, timelines and responsible parties, including
203 delineating the respective duties of the school and the
204 authorizer. If a charter school is to be closed for any reason,
205 the authorizer shall oversee and work with the closing school to
206 ensure a smooth and orderly closure and transition for students
207 and parents, as guided by the closure protocol.

208 (2) If a charter school closes, all unspent government
209 funds, unspent earnings from those funds and assets purchased with
210 government funds must revert to the local school districts in
211 which students enrolled in the charter school * * * reside, in
212 such amounts that are proportionate to the number of students
213 enrolled in the charter school from each school district to the
214 charter school's total enrollment. Unless otherwise provided for
215 in the charter or a debt instrument, unspent funds from
216 nongovernmental sources, unspent earnings from those funds, assets
217 purchased with those funds and debts of the school must revert to
218 the nonprofit entity created to operate the school and may be
219 disposed of according to applicable laws for nonprofit
220 corporations.

221 **SECTION 4.** Section 37-28-53, Mississippi Code of 1972, is
222 amended as follows:

223 37-28-53. (1) Each charter school shall certify annually to
224 the State Department of Education its student enrollment, average
225 daily attendance and student participation in the national school
226 lunch program, special education, vocational education, gifted



227 education, alternative school program and federal programs in the
228 same manner as school districts.

229 (2) Each charter school shall certify annually to the school
230 board of * * * a school district in which * * * a charter school
231 student resides the total number of enrolled charter school
232 students residing in * * * that school district.

233 **SECTION 5.** Section 37-28-55, Mississippi Code of 1972, is
234 amended as follows:

235 37-28-55. (1) (a) The State Department of Education shall
236 make payments to charter schools for each student in average daily
237 attendance at the charter school in an amount equal to the state
238 share of the adequate education program payments for each student
239 in average daily attendance at the respective school district in
240 which * * * a particular charter school * * * student resides.

241 The total payment from the department to a charter school shall be
242 calculated by adding together, for each school district in which a
243 student enrolled in the charter school resides, an amount equal to
244 the state's share, per student, of the adequate education program
245 payments to that school district multiplied by the total number of
246 students enrolled in the charter school from that school district.

247 In calculating the local contribution for purposes of determining
248 the state share of the adequate education program payments, the
249 department shall deduct the pro rata local contribution of the
250 school district in which the student resides, to be determined as
251 provided in Section 37-151-7(2) (a).



252 (b) Payments made pursuant to this subsection by the
253 State Department of Education must be made at the same time and in
254 the same manner as adequate education program payments are made to
255 school districts under Sections 37-151-101 and 37-151-103.
256 Amounts payable to a charter school must be determined by the
257 State Department of Education. Amounts payable to a charter
258 school in its first year of operation must be based on the
259 projections of initial-year enrollment and federal school level
260 funding set forth in the charter contract. Such projections must
261 be reconciled with the average daily attendance at the end of the
262 school's first year of operation, and any necessary adjustments
263 must be made to payments during the school's second year of
264 operation.

265 (2) The school district in which a charter school * * *
266 student resides shall pay directly to the charter school * * *,
267 for each student residing in that school district who is enrolled
268 in the charter school, an amount equal to the ad valorem tax
269 receipts and in-lieu payments received per pupil for the support
270 of the local school district in which the student resides. The
271 pro rata ad valorem receipts and in-lieu receipts to be
272 transferred to the charter school shall include all levies for the
273 support of the local school district under Sections 37-57-1 (local
274 contribution to the adequate education program) and 37-57-105
275 (school district operational levy) and may not include any taxes
276 levied for the retirement of the local school district's bonded



277 indebtedness or short-term notes or any taxes levied for the
278 support of vocational-technical education programs. In no event
279 may the payment exceed the pro rata amount of the local ad valorem
280 payment for the local contribution to the adequate education
281 program under Section 37-57-1 for the school district in which the
282 student resides. Payments made under this section by a school
283 district to a charter school must be made before the expiration of
284 three (3) business days after the funds are distributed to the
285 school district by the tax collector.

286 (3) (a) The State Department of Education shall direct the
287 proportionate share of monies generated under federal and state
288 categorical aid programs, including special education, vocational,
289 gifted and alternative school programs, to charter schools serving
290 students eligible for such aid. The department shall ensure that
291 charter schools with rapidly expanding enrollments are treated
292 equitably in the calculation and disbursement of all federal and
293 state categorical aid program dollars. Each charter school that
294 serves students who may be eligible to receive services provided
295 through such programs shall comply with all reporting requirements
296 to receive the aid.

297 (b) A charter school shall pay to a local school
298 district any federal or state aid attributable to a student with a
299 disability attending the charter school in proportion to the level
300 of services for that student which the local school district
301 provides directly or indirectly.



302 (c) Subject to the approval of the authorizer, a
303 charter school and a local school district may negotiate and enter
304 into a contract for the provision of and payment for special
305 education services, including, but not necessarily limited to, a
306 reasonable reserve not to exceed five percent (5%) of the local
307 school district's total budget for providing special education
308 services. The reserve may be used by the local school district
309 only to offset excess costs of providing services to students with
310 disabilities enrolled in the charter school.

311 (4) (a) The State Department of Education shall disburse
312 state transportation funding to a charter school on the same basis
313 and in the same manner as it is paid to school districts under the
314 adequate education program.

315 (b) A charter school may enter into a contract with a
316 school district or private provider to provide transportation to
317 the school's students.

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

320 37-151-7. The annual allocation to each school district for
321 the operation of the adequate education program shall be
322 determined as follows:

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



327 (a) **Determination of average daily attendance.**
328 Effective with fiscal year 2011, the State Department of Education
329 shall determine the percentage change from the prior year of each
330 year of each school district's average of months two (2) and three
331 (3) average daily attendance (ADA) for the three (3) immediately
332 preceding school years of the year for which funds are being
333 appropriated. For any school district that experiences a positive
334 growth in the average of months two (2) and three (3) ADA each
335 year of the three (3) years, the average percentage growth over
336 the three-year period shall be multiplied times the school
337 district's average of months two (2) and three (3) ADA for the
338 year immediately preceding the year for which MAEP funds are being
339 appropriated. The resulting amount shall be added to the school
340 district's average of months two (2) and three (3) ADA for the
341 year immediately preceding the year for which MAEP funds are being
342 appropriated to arrive at the ADA to be used in determining a
343 school district's MAEP allocation. Otherwise, months two (2) and
344 three (3) ADA for the year immediately preceding the year for
345 which MAEP funds are being appropriated will be used in
346 determining a school district's MAEP allocation. In any fiscal
347 year prior to 2010 in which the MAEP formula is not fully funded,
348 for those districts that do not demonstrate a three-year positive
349 growth in months two (2) and three (3) ADA, months one (1) through
350 nine (9) ADA of the second preceding year for which funds are
351 being appropriated or months two (2) and three (3) ADA of the



352 preceding year for which funds are being appropriated, whichever
353 is greater, shall be used to calculate the district's MAEP
354 allocation. The district's average daily attendance shall be
355 computed and currently maintained in accordance with regulations
356 promulgated by the State Board of Education. The district's
357 average daily attendance shall include any student enrolled in a
358 Dual Enrollment-Dual Credit Program as defined and provided in
359 Section 37-15-38(19). The State Department of Education shall
360 make payments for Dual Enrollment-Dual Credit Programs to the home
361 school in which the student is enrolled, in accordance with
362 regulations promulgated by the State Board of Education. The
363 community college providing services to students in a Dual
364 Enrollment-Dual Credit Program shall require payment from the home
365 school district for services provided to such students at a rate
366 of one hundred percent (100%) of ADA. All MAEP/state funding
367 shall cease upon completion of high school graduation
368 requirements.

369 (b) **Determination of base student cost.** Effective with
370 fiscal year 2011 and every fourth fiscal year thereafter, the
371 State Board of Education, on or before August 1, with adjusted
372 estimate no later than January 2, shall submit to the Legislative
373 Budget Office and the Governor a proposed base student cost
374 adequate to provide the following cost components of educating a
375 pupil in a successful school district: (i) Instructional Cost;
376 (ii) Administrative Cost; (iii) Operation and Maintenance of



377 Plant; and (iv) Ancillary Support Cost. For purposes of these
378 calculations, the Department of Education shall utilize financial
379 data from the second preceding year of the year for which funds
380 are being appropriated.

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

393 Fund 1120 Functions 1110-1199 Objects 100-999, Functions

394 1210, 1220, 2150-2159 Objects 210 and 215;

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

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

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

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

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

400 Prior to the calculation of the instructional cost component,
401 there shall be subtracted from the above expenditures any revenue



402 received for Chickasaw Cession payments, Master Teacher
403 Certification payments and the district's portion of state revenue
404 received from the MAEP at-risk allocation.

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

417 Fund 1120 Functions 2300-2599, Functions 2800-2899,
418 Objects 100-999;

419 Fund 2711 Functions 2300-2599, Functions 2800-2899,
420 Objects 100-999.

421 For the plant and maintenance cost component, the Department
422 of Education shall select districts that have been identified as
423 instructionally successful and have a ratio of plant and
424 maintenance expenditures per one hundred thousand (100,000) square
425 feet of building space and a ratio of maintenance workers per one
426 hundred thousand (100,000) square feet of building space that are



427 both between one (1) standard deviation above the mean and two (2)
428 standard deviations below the mean of the statewide average. The
429 plant and maintenance cost component shall be calculated by
430 dividing the latest available months one (1) through nine (9) ADA
431 of the selected districts into the plant and maintenance
432 expenditures of these selected districts. For the purpose of this
433 calculation, the Department of Education shall use the following
434 funds, functions and objects:

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

436 and Objects 800-999;

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

438 and Objects 800-999;

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

440 and Objects 800-999.

441 For the ancillary support cost component, the Department of
442 Education shall select districts that have been identified as
443 instructionally successful and have a ratio of a number of
444 librarians, media specialists, guidance counselors and
445 psychologists per one thousand (1,000) students that is between
446 one (1) standard deviation above the mean and two (2) standard
447 deviations below the mean of the statewide average of librarians,
448 media specialists, guidance counselors and psychologists per one
449 thousand (1,000) students. The ancillary cost component shall be
450 calculated by dividing the latest available months one (1) through
451 nine (9) ADA into the ancillary expenditures instructional



452 expenditures of these selected districts. For the purpose of this
453 calculation, the Department of Education shall use the following
454 funds, functions and objects:

455 Fund 1120 Functions 2110-2129, Objects 100-999;

456 Fund 1120 Functions 2140-2149, Objects 100-999;

457 Fund 1120 Functions 2220-2229, Objects 100-999;

458 Fund 2001 Functions 2100-2129, Objects 100-999;

459 Fund 2001 Functions 2140-2149, Objects 100-999;

460 Fund 2001 Functions 2220-2229, Objects 100-999.

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

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

468 For each of the fiscal years between the recalculation of the
469 base student cost under the provisions of this paragraph (b), the
470 base student cost shall be increased by an amount equal to forty
471 percent (40%) of the base student cost for the previous fiscal
472 year, multiplied by the latest annual rate of inflation for the
473 State of Mississippi as determined by the State Economist, plus
474 any adjustments for additional state requirements such as, but not
475 limited to, teacher pay raises and health insurance premium
476 increases.



477 (c) **Determination of the basic adequate education**

478 **program cost.** The basic amount for current operation to be
479 included in the Mississippi Adequate Education Program for each
480 school district shall be computed as follows:

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

484 (d) **Adjustment to the base student cost for at-risk**

485 **pupils.** The amount to be included for at-risk pupil programs for
486 each school district shall be computed as follows: Multiply the
487 base student cost for the appropriate fiscal year as determined
488 under paragraph (b) by five percent (5%), and multiply that
489 product by the number of pupils participating in the federal free
490 school lunch program in such school district, which yields the
491 total adjustment for at-risk pupil programs for such school
492 district.

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

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



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

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

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

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

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

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

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

522 The sum of the items listed above (i) transportation, (ii)
523 vocational or technical education, (iii) special education, (iv)
524 gifted education, (v) alternative school, (vi) extended school



525 year, (vii) university-based, and (viii) bus driver training shall
526 yield the add-on cost for each school district.

527 (f) **Total projected adequate education program cost.**

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

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

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

544 (a) The State Department of Education shall certify to
545 each school district that twenty-eight (28) mills, less the
546 estimated amount of the yield of the School Ad Valorem Tax
547 Reduction Fund grants as determined by the State Department of
548 Education, is the millage rate required to provide the district
549 required local effort for that year, or twenty-seven percent (27%)



550 of the basic adequate education program cost for such school
551 district as determined under paragraph (c), whichever is a lesser
552 amount. In the case of an agricultural high school, the millage
553 requirement shall be set at a level which generates an equitable
554 amount per pupil to be determined by the State Board of Education.
555 The local contribution amount for school districts in which * * *
556 charter school students reside will be calculated using the
557 following methodology: using the adequate education program
558 twenty-eight (28) mill value, or the twenty-seven percent (27%)
559 cap amount (whichever is less) for each school district in which
560 students enrolled in a charter school * * * reside, an average per
561 pupil amount for that particular school district will be
562 calculated. This average per pupil amount will be multiplied
563 times the number of students attending the charter school who
564 reside in that school district. The sum of all school districts'
565 products (average per pupil amount multiplied times the number of
566 students attending the charter school from that district) becomes
567 the charter school's local contribution to the adequate education
568 program.

569 (b) The State Department of Education shall determine
570 the following from the annual assessment information submitted to
571 the department by the tax assessors of the various counties: (i)
572 the total assessed valuation of nonexempt property for school
573 purposes in each school district; (ii) assessed value of exempt
574 property owned by homeowners aged sixty-five (65) or older or



575 disabled as defined in Section 27-33-67(2), Mississippi Code of
576 1972; (iii) the school district's tax loss from exemptions
577 provided to applicants under the age of sixty-five (65) and not
578 disabled as defined in Section 27-33-67(1), Mississippi Code of
579 1972; and (iv) the school district's homestead reimbursement
580 revenues.

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

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

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

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

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



600 section from the total projected adequate education program cost
601 as set forth in subsection (1)(f) of this section.

602 (b) Provided, however, that in fiscal year 1998 and in
603 the fiscal year in which the adequate education program is fully
604 funded by the Legislature, any increase in the said state
605 contribution to any district calculated under this section shall
606 be not less than eight percent (8%) in excess of the amount
607 received by said district from state funds for the fiscal year
608 immediately preceding. For purposes of this paragraph (b), state
609 funds shall include minimum program funds less the add-on
610 programs, State Uniform Millage Assistance Grant Funds, Education
611 Enhancement Funds appropriated for Uniform Millage Assistance
612 Grants and state textbook allocations, and State General Funds
613 allocated for textbooks.

614 (c) If the school board of any school district shall
615 determine that it is not economically feasible or practicable to
616 operate any school within the district for the full one hundred
617 eighty (180) days required for a school term of a scholastic year
618 as required in Section 37-13-63, Mississippi Code of 1972, due to
619 an enemy attack, a man-made, technological or natural disaster in
620 which the Governor has declared a disaster emergency under the
621 laws of this state or the President of the United States has
622 declared an emergency or major disaster to exist in this state,
623 said school board may notify the State Department of Education of
624 such disaster and submit a plan for altering the school term. If



625 the State Board of Education finds such disaster to be the cause
626 of the school not operating for the contemplated school term and
627 that such school was in a school district covered by the
628 Governor's or President's disaster declaration, it may permit said
629 school board to operate the schools in its district for less than
630 one hundred eighty (180) days and, in such case, the State
631 Department of Education shall not reduce the state contributions
632 to the adequate education program allotment for such district,
633 because of the failure to operate said schools for one hundred
634 eighty (180) days.

635 (4) The Interim School District Capital Expenditure Fund is
636 hereby established in the State Treasury which shall be used to
637 distribute any funds specifically appropriated by the Legislature
638 to such fund to school districts entitled to increased allocations
639 of state funds under the adequate education program funding
640 formula prescribed in Sections 37-151-3 through 37-151-7,
641 Mississippi Code of 1972, until such time as the said adequate
642 education program is fully funded by the Legislature. The
643 following percentages of the total state cost of increased
644 allocations of funds under the adequate education program funding
645 formula shall be appropriated by the Legislature into the Interim
646 School District Capital Expenditure Fund to be distributed to all
647 school districts under the formula: Nine and two-tenths percent
648 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
649 (20%) shall be appropriated in fiscal year 1999, forty percent



650 (40%) shall be appropriated in fiscal year 2000, sixty percent
651 (60%) shall be appropriated in fiscal year 2001, eighty percent
652 (80%) shall be appropriated in fiscal year 2002, and one hundred
653 percent (100%) shall be appropriated in fiscal year 2003 into the
654 State Adequate Education Program Fund. Until July 1, 2002, such
655 money shall be used by school districts for the following
656 purposes:

657 (a) Purchasing, erecting, repairing, equipping,
658 remodeling and enlarging school buildings and related facilities,
659 including gymnasiums, auditoriums, lunchrooms, vocational training
660 buildings, libraries, school barns and garages for transportation
661 vehicles, school athletic fields and necessary facilities
662 connected therewith, and purchasing land therefor. Any such
663 capital improvement project by a school district shall be approved
664 by the State Board of Education, and based on an approved
665 long-range plan. The State Board of Education shall promulgate
666 minimum requirements for the approval of school district capital
667 expenditure plans.

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

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



675 (d) From and after October 1, 1997, through June 30,
676 1998, pursuant to a school district capital expenditure plan
677 approved by the State Department of Education, a school district
678 may pledge such funds until July 1, 2002, plus funds provided for
679 in paragraph (e) of this subsection (4) that are not otherwise
680 permanently pledged under such paragraph (e) to pay all or a
681 portion of the debt service on debt issued by the school district
682 under Sections 37-59-1 through 37-59-45, 37-59-101 through
683 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
684 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
685 issued by boards of supervisors for agricultural high schools
686 pursuant to Section 37-27-65, Mississippi Code of 1972, or
687 lease-purchase contracts entered into pursuant to Section 31-7-13,
688 Mississippi Code of 1972, or to retire or refinance outstanding
689 debt of a district, if such pledge is accomplished pursuant to a
690 written contract or resolution approved and spread upon the
691 minutes of an official meeting of the district's school board or
692 board of supervisors. It is the intent of this provision to allow
693 school districts to irrevocably pledge their Interim School
694 District Capital Expenditure Fund allotments as a constant stream
695 of revenue to secure a debt issued under the foregoing code
696 sections. To allow school districts to make such an irrevocable
697 pledge, the state shall take all action necessary to ensure that
698 the amount of a district's Interim School District Capital
699 Expenditure Fund allotments shall not be reduced below the amount



700 certified by the department or the district's total allotment
701 under the Interim Capital Expenditure Fund if fully funded, so
702 long as such debt remains outstanding.

703 (e) [Repealed]

704 (f) [Repealed]

705 (g) The State Board of Education may authorize the
706 school district to expend not more than twenty percent (20%) of
707 its annual allotment of such funds or Twenty Thousand Dollars
708 (\$20,000.00), whichever is greater, for technology needs of the
709 school district, including computers, software,
710 telecommunications, cable television, interactive video, film,
711 low-power television, satellite communications, microwave
712 communications, technology-based equipment installation and
713 maintenance, and the training of staff in the use of such
714 technology-based instruction. Any such technology expenditure
715 shall be reflected in the local district technology plan approved
716 by the State Board of Education under Section 37-151-17,
717 Mississippi Code of 1972.

718 (h) To the extent a school district has not utilized
719 twenty percent (20%) of its annual allotment for technology
720 purposes under paragraph (g), a school district may expend not
721 more than twenty percent (20%) of its annual allotment or Twenty
722 Thousand Dollars (\$20,000.00), whichever is greater, for
723 instructional purposes. The State Board of Education may
724 authorize a school district to expend more than said twenty



725 percent (20%) of its annual allotment for instructional purposes
726 if it determines that such expenditures are needed for
727 accreditation purposes.

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

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

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

745 (5) The State Department of Education shall make payments to
746 charter schools for each student in average daily attendance at
747 the charter school equal to the state share of the adequate
748 education program payments for each student in average daily
749 attendance at the school district in which the * * * respective



750 charter school * * * student resides. In calculating the local
751 contribution for purposes of determining the state share of the
752 adequate education program payments, the department shall deduct
753 the pro rata local contribution of the school district in which
754 the student resides as determined in subsection (2)(a) of this
755 section.

756 **SECTION 7.** Section 37-57-107, Mississippi Code of 1972, is
757 amended as follows:

758 37-57-107. (1) Beginning with the tax levy for the 1997
759 fiscal year and for each fiscal year thereafter, the aggregate
760 receipts from taxes levied for school district purposes pursuant
761 to Sections 37-57-105 and 37-57-1 shall not exceed the aggregate
762 receipts from those sources during any one (1) of the immediately
763 preceding three (3) fiscal years, as determined by the school
764 board, plus an increase not to exceed seven percent (7%). For the
765 purpose of this limitation, the term "aggregate receipts" when
766 used in connection with the amount of funds generated in a
767 preceding fiscal year shall not include excess receipts required
768 by law to be deposited into a special account. However, the term
769 "aggregate receipts" includes any receipts required by law to be
770 paid to a charter school. The additional revenue from the ad
771 valorem tax on any newly constructed properties or any existing
772 properties added to the tax rolls or any properties previously
773 exempt which were not assessed in the next preceding year may be
774 excluded from the seven percent (7%) increase limitation set forth



775 herein. Taxes levied for payment of principal of and interest on
776 general obligation school bonds issued heretofore or hereafter
777 shall be excluded from the seven percent (7%) increase limitation
778 set forth herein. Any additional millage levied to fund any new
779 program mandated by the Legislature shall be excluded from the
780 limitation for the first year of the levy and included within such
781 limitation in any year thereafter. For the purposes of this
782 section, the term "new program" shall include, but shall not be
783 limited to, (a) the Early Childhood Education Program required to
784 commence with the 1986-1987 school year as provided by Section
785 37-21-7 and any additional millage levied and the revenue
786 generated therefrom, which is excluded from the limitation for the
787 first year of the levy, to support the mandated Early Childhood
788 Education Program shall be specified on the minutes of the school
789 board and of the governing body making such tax levy; (b) any
790 additional millage levied and the revenue generated therefrom
791 which shall be excluded from the limitation for the first year of
792 the levy, for the purpose of generating additional local
793 contribution funds required for the adequate education program for
794 the 2003 fiscal year and for each fiscal year thereafter under
795 Section 37-151-7(2); and (c) any additional millage levied and the
796 revenue generated therefrom which shall be excluded from the
797 limitation for the first year of the levy, for the purpose of
798 support and maintenance of any agricultural high school which has
799 been transferred to the control, operation and maintenance of the



800 school board by the board of trustees of the community college
801 district under provisions of Section 37-29-272.

802 (2) The seven percent (7%) increase limitation prescribed in
803 this section may be increased an additional amount only when the
804 school board has determined the need for additional revenues and
805 has held an election on the question of raising the limitation
806 prescribed in this section. The limitation may be increased only
807 if three-fifths (3/5) of those voting in the election shall vote
808 for the proposed increase. The resolution, notice and manner of
809 holding the election shall be as prescribed by law for the holding
810 of elections for the issuance of bonds by the respective school
811 boards. Revenues collected for the fiscal year in excess of the
812 seven percent (7%) increase limitation pursuant to an election
813 shall be included in the tax base for the purpose of determining
814 aggregate receipts for which the seven percent (7%) increase
815 limitation applies for subsequent fiscal years.

816 (3) Except as otherwise provided for excess revenues
817 generated pursuant to an election, if revenues collected as the
818 result of the taxes levied for the fiscal year pursuant to this
819 section and Section 37-57-1 exceed the increase limitation, then
820 it shall be the mandatory duty of the school board of the school
821 district to deposit such excess receipts over and above the
822 increase limitation into a special account and credit it to the
823 fund for which the levy was made. It will be the further duty of
824 such board to hold said funds and invest the same as authorized by



825 law. Such excess funds shall be calculated in the budgets for the
826 school districts for the purpose for which such levies were made,
827 for the succeeding fiscal year. Taxes imposed for the succeeding
828 year shall be reduced by the amount of excess funds available.
829 Under no circumstances shall such excess funds be expended during
830 the fiscal year in which such excess funds are collected.

831 (4) For the purposes of determining ad valorem tax receipts
832 for a preceding fiscal year under this section, the term "fiscal
833 year" means the fiscal year beginning October 1 and ending
834 September 30.

835 (5) Beginning with the * * * 2014-2015 school year, each
836 school district in which a charter school * * * student resides
837 shall pay to the charter school an amount for each student
838 enrolled in the charter school equal to the ad valorem taxes
839 levied per pupil for the support of the school district in which
840 the charter school * * * student resides. The pro rata ad valorem
841 taxes to be transferred to the charter school must include all
842 levies for the support of the school district under Sections
843 37-57-1 (local contribution to the adequate education program) and
844 37-57-105 (school district operational levy) but may not include
845 any taxes levied for the retirement of school district bonded
846 indebtedness or short-term notes or any taxes levied for the
847 support of vocational-technical education programs. Payments made
848 pursuant to this subsection by a school district to a charter



849 school must be made before the expiration of three (3) business
850 days after the funds are distributed to the school district.

851 **SECTION 8.** This act shall take effect and be in force from
852 and after July 1, 2014.

