

By: Representatives Bain, Baria, Massengill

To: Education;
Appropriations

HOUSE BILL NO. 814

1 AN ACT TO CREATE THE "SPECIAL EDUCATION IMPROVEMENT ACT OF
2 2015"; TO REQUIRE FUNDING FOR SPECIAL EDUCATION TO BE
3 APPROPRIATED TO THE STATE BOARD OF EDUCATION AS A SEPARATE LINE
4 ITEM IN THE K-12 EDUCATION GENERAL SUPPORT APPROPRIATIONS BILL; TO
5 PRESCRIBE A FORMULA FOR DETERMINING ALLOCATIONS OF SPECIAL
6 EDUCATION FUNDS TO THE LOCAL SCHOOL DISTRICTS; TO REQUIRE THE
7 STATE DEPARTMENT OF EDUCATION TO EMPLOY A COORDINATOR OF AUTISM
8 SPECTRUM DISORDER SERVICES; TO ESTABLISH THE CHILDREN WITH SPECIAL
9 NEEDS FUND, TO BE ADMINISTERED BY THE STATE DEPARTMENT OF HEALTH,
10 FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE TO FAMILIES OF
11 CHILDREN WITH SPECIAL NEEDS; TO DESCRIBE THE SERVICES AND
12 EQUIPMENT FOR WHICH FUNDS MAY BE USED; TO ESTABLISH ELIGIBILITY
13 CRITERIA FOR APPLICANTS FOR FUNDS; TO REQUIRE THE STATE DEPARTMENT
14 OF HEALTH TO DEVELOP GUIDELINES CONCERNING APPLICATIONS FOR
15 ASSISTANCE FROM THE FUND; TO REQUIRE THE STATE AUDITOR TO OVERSEE
16 THE FUND'S OPERATIONS AND TO ANNUALLY REPORT TO THE LEGISLATURE ON
17 THE FUND'S ACTIVITIES; TO AMEND SECTIONS 37-151-5, 37-151-7 AND
18 37-151-81, MISSISSIPPI CODE OF 1972, TO REMOVE SPECIAL EDUCATION
19 PROGRAMS FROM THE ADD-ON PROGRAM COSTS INCLUDED IN APPROPRIATIONS
20 UNDER THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM; AND FOR RELATED
21 PURPOSES.

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

23 **SECTION 1.** Sections 1 through 4 of this act shall be known
24 and may be cited as the "Special Education Improvement Act of
25 2015."

26 **SECTION 2.** Beginning with the appropriation for fiscal year
27 2016, funding for the special education program required under



28 Chapter 23, Title 37, Mississippi Code of 1972, shall be
29 appropriated to the State Board of Education as a separate line
30 item in the K-12 education general support appropriations bill.
31 The State Board of Education shall allocate the special education
32 funding to each school district as follows:

33 For each teacher employed by a school district in a program
34 for exceptional children, as defined in Section 27-23-3, which is
35 approved by the State Department of Education, an amount equal to
36 one hundred percent (100%) of the adequate education program
37 salary schedule prescribed in Section 37-19-7, based on the type
38 of license and number of years' teaching experience held by each
39 approved special education teacher, plus an amount equal to one
40 hundred percent (100%) of the applicable employer's rate for
41 social security and contributions to the state retirement system.

42 **SECTION 3.** Subject to the availability of funding for this
43 purpose, the State Department of Education shall employ a
44 coordinator of Autism Spectrum Disorder (ASD) services. The
45 coordinator shall perform the following duties:

46 (a) Develop and implement statewide ASD public
47 education policies under the auspices of the Office of Special
48 Education within the State Department of Education and in
49 cooperation with the Mississippi Autism Advisory Committee created
50 under Section 37-169-1;

51 (b) Conduct oversight of ASD services in the public
52 schools;



53 (c) Facilitate interagency cooperation and coordination
54 on ASD services with the State Department of Mental Health and the
55 State Department of Rehabilitation Services, as well as other
56 state agencies that may provide ASD or related services; and

57 (d) Carry out any other duties assigned by the State
58 Superintendent of Public Education or the State Director of
59 Special Education.

60 **SECTION 4.** (1) As used in this section, the following words
61 and phrases have the meanings ascribed in this subsection unless
62 the context clearly indicates otherwise:

63 (a) "Dyslexia" means a specific learning disability
64 that is neurological in origin, characterized by difficulties with
65 accurate and fluent word recognition and poor spelling and
66 decoding abilities, which typically result from a deficit in the
67 phonological component of language which is often unexpected in
68 relation to other cognitive abilities and the provision of
69 effective classroom instruction, and further characterized by
70 secondary consequences that may include problems in reading
71 comprehension and reduced reading experience, which can impede
72 growth of vocabulary and background knowledge.

73 (b) "Fund" means the Children with Special Needs Fund
74 created under this section.

75 (c) "Parent" means a resident of this state who is a
76 parent, legal guardian, custodian or other person having the
77 authority to act on behalf of a child.



78 (d) "Services" means special education services
79 provided in Mississippi schools under the Individuals with
80 Disabilities Education Act (IDEA) or state laws and clinical or
81 therapeutic services provided by licensed professionals.

82 (e) "Special education advisory panel" means the
83 advisory panel created pursuant to Section 37-23-145 to advise the
84 State Department of Education on issues related to special
85 education.

86 (f) "Special needs" means the needs of a child who has
87 an Individualized Education Program (IEP) through a school
88 district in Mississippi or a diagnosis by a licensed professional
89 of dyslexia.

90 (2) There is created the Children with Special Needs Fund,
91 to be administered by the State Department of Health, for the
92 purpose of helping families of children with special needs defray
93 the costs of therapies, services and equipment for a child with
94 special needs as follows:

95 (a) As a supplement to services provided within the
96 school setting under IDEA or state law;

97 (b) For clinical or therapeutic services and equipment
98 that are not allowed under IDEA but which are prescribed by a
99 licensed professional; and

100 (c) For respite care, enrichment programs and special
101 purpose camps that support the child's special needs, private
102 tutoring and assistive technology.



103 (3) In order to be eligible for assistance from the fund, a
104 child must:

105 (a) Be in the age range of three (3) through twenty-one
106 (21) years;

107 (b) Have a parent or legal guardian who is a lawful
108 resident of the State of Mississippi;

109 (c) Be enrolled in a public, private or home school in
110 this state; and

111 (d) (i) Possess an IEP through a school district in
112 this state; or

113 (ii) Possess a diagnosis of dyslexia from a
114 licensed professional.

115 (4) Monies from the fund may be used for the following
116 allowable expenses:

117 (a) In-home or out-of-home respite care;

118 (b) Clinical services provided by licensed therapists,
119 including behavioral, occupational, physical, speech, art and
120 music therapists;

121 (c) Enrichment programs and special purpose camps that
122 support the child's special needs;

123 (d) Private tutoring;

124 (e) Assistive technology software and hardware which is
125 not covered by private insurance or Medicaid but prescribed by a
126 licensed therapist or physician; and



127 (f) Therapeutic and life skills equipment and
128 technology software and hardware not covered by private insurance
129 or Medicaid but prescribed by a licensed therapist or physician.

130 (5) Tuition and fees to private, parochial or other
131 nonpublic schools are not allowable expenditures for monies from
132 the fund.

133 (6) The State Department of Health, in cooperation with the
134 special education advisory panel, shall develop guidelines for the
135 administration and distribution of monies from the fund. The
136 guidelines must include, but need not be limited to, the
137 following:

138 (a) Application procedures that will not present an
139 undue burden on families;

140 (b) Application procedures that establish a timeline
141 for submission and a means of prioritizing applications by the
142 order in which the applications are received;

143 (c) An application form that requires:

144 (i) The name and address of the applicant, which
145 must be the child's parent or legal guardian;

146 (ii) The household income of the applicant,
147 verified by a copy of the parent or guardian's most recent federal
148 income tax return;

149 (iii) The name, age, gender and date of birth of
150 the child for whom services are requested;



151 (iv) A description of the services for which funds
152 are requested, including the name and address of the service
153 provider and the expected length of time or frequency of the
154 service. If funds are requested for equipment, the application
155 must include: the name and address of the equipment provider;
156 whether the equipment is new or used; if the requested funds will
157 be used for renting, leasing or purchasing the equipment; and if
158 the equipment will not be purchased, the period of time for which
159 any rental or lease is planned.

160 (v) The reason for requesting the funds;

161 (vi) The amount of funds being requested, subject
162 to the following limitations:

163 1. Families with a household income over four
164 hundred percent (400%) of the federal poverty level may apply
165 annually for assistance not exceeding One Thousand Dollars
166 (\$1,000.00).

167 2. Families with a household income over
168 three hundred percent (300%) but not more than four hundred
169 percent (400%) of the federal poverty level may apply annually for
170 assistance not exceeding Two Thousand Dollars (\$2,000.00).

171 3. Families with a household income over two
172 hundred percent (200%) but not more than three hundred percent
173 (300%) of the federal poverty level may apply annually for
174 assistance not exceeding Three Thousand Dollars (\$3,000.00).



175 4. Families with a household income at or
176 below two hundred percent (200%) of the federal poverty level may
177 apply annually for assistance not exceeding Four Thousand Dollars
178 (\$4,000.00); and

179 (vii) Supporting materials that must include, at a
180 minimum, the following:

181 1. A copy of the child's treatment plan
182 submitted by a licensed therapist or physician;

183 2. In the case of a request for equipment, a
184 prescription submitted by a licensed therapist or physician;

185 3. Copies of written statements regarding the
186 diagnosis or observation of the child by clinical or educational
187 professionals who have evaluated, treated, taught or tutored the
188 child within the most recent period of twenty-four (24) months;

189 4. Copies of the child's relevant medical
190 records; and

191 5. A complete copy of the child's most recent
192 IEP;

193 (d) A requirement that no less than fifty percent (50%)
194 of the fund's annual appropriation be reserved for applicants who
195 are at or below four hundred percent (400%) of the federal poverty
196 level;

197 (e) A procedure for online and paper-based application
198 submissions;



199 (f) A streamlined annual renewal process for those
200 applicants wishing to reapply which requires submission, along
201 with a renewal application, of: documentation of completion of at
202 least seventy-five percent (75%) of services outlined in the
203 preceding year's application; a description of the effectiveness
204 of services; and the anticipated treatment plan for continuation
205 of services; and

206 (g) A clear process for the denial of an application
207 and an appeal of any denial.

208 (7) The Office of the State Auditor shall be responsible for
209 oversight of the fund's operations. Before October 1 of each
210 year, the State Auditor shall submit a report to the Legislature
211 outlining the fund's expenditures during the preceding fiscal
212 year, which report must include no less than the following:

213 (a) A detailed listing of services and equipment
214 provided to participants; and

215 (b) Demographic data, including:

216 (i) The number of children served by year of age;

217 (ii) The number of children served by school
218 district in which they reside;

219 (iii) The number of children served by each public
220 and private provider of services or equipment for participants;

221 (iv) The number of adults and children in
222 households of children served by household size;



223 (v) Household income in households of children
224 served by the income ranges prescribed in subparagraph (c)(vii) of
225 subsection (6); and

226 (vi) The number of children served by enrollment
227 in public, private and home schools.

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

230 37-151-5. As used in Sections 37-151-5 and 37-151-7:

231 (a) "Adequate program" or "adequate education program"
232 or "Mississippi Adequate Education Program (MAEP)" shall mean the
233 program to establish adequate current operation funding levels
234 necessary for the programs of such school district to meet at
235 least a successful Level III rating of the accreditation system as
236 established by the State Board of Education using current
237 statistically relevant state assessment data.

238 (b) "Educational programs or elements of programs not
239 included in the adequate education program calculations, but which
240 may be included in appropriations and transfers to school
241 districts" shall mean:

242 (i) "Capital outlay" shall mean those funds used
243 for the constructing, improving, equipping, renovating or major
244 repairing of school buildings or other school facilities, or the
245 cost of acquisition of land whereon to construct or establish such
246 school facilities.



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

251 (iii) "Adult education" shall mean public
252 education dealing primarily with students above eighteen (18)
253 years of age not enrolled as full-time public school students and
254 not classified as students of technical schools, colleges or
255 universities of the state.

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

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

263 (d) "Base student cost" shall mean the funding level
264 necessary for providing an adequate education program for one (1)
265 base student, subject to any minimum amounts prescribed in Section
266 37-151-7(1).

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



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

273 (ii) "Vocational or technical education program"
274 shall mean a secondary vocational or technical program approved by
275 the State Department of Education and provided for from state
276 funds.

277 * * *

278 (* * * iii) "Gifted education program" shall mean
279 those programs for the instruction of intellectually or
280 academically gifted children as defined and provided for in
281 Section 37-23-175 et seq.

282 (* * * iv) "Alternative school program" shall mean
283 those programs for certain compulsory-school-age students as
284 defined and provided for in Sections 37-13-92 and 37-19-22.

285 (* * * y) "Extended school year programs" shall
286 mean those programs authorized by law which extend beyond the
287 normal school year.

288 (* * * vi) "University-based programs" shall mean
289 those university-based programs for handicapped children as
290 defined and provided for in Section 37-23-131 et seq.

291 (* * * vii) "Bus driver training" programs shall
292 mean those driver training programs as provided for in Section
293 37-41-1.



294 (f) "Teacher" shall include any employee of a local
295 school who is required by law to obtain a teacher's license from
296 the State Board of Education and who is assigned to an
297 instructional area of work as defined by the State Department of
298 Education.

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

301 (h) "Superintendent" shall mean the head of a school
302 district.

303 (i) "School district" shall mean any type of school
304 district in the State of Mississippi, and shall include
305 agricultural high schools.

306 (j) "Minimum school term" shall mean a term of at least
307 one hundred eighty (180) days of school in which both teachers and
308 pupils are in regular attendance for scheduled classroom
309 instruction for not less than sixty-three percent (63%) of the
310 instructional day, as fixed by the local school board for each
311 school in the school district. It is the intent of the
312 Legislature that any tax levies generated to produce additional
313 local funds required by any school district to operate school
314 terms in excess of one hundred seventy-five (175) days shall not
315 be construed to constitute a new program for the purposes of
316 exemption from the limitation on tax revenues as allowed under
317 Sections 27-39-321 and 37-57-107 for new programs mandated by the
318 Legislature.



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

323 (l) The term "transported children" shall mean children
324 being transported to school who live within legal limits for
325 transportation and who are otherwise qualified for being
326 transported to school at public expense as fixed by Mississippi
327 state law.

328 (m) The term "year of teaching experience" shall mean
329 nine (9) months of actual teaching in the public or private
330 schools. In no case shall more than one (1) year of teaching
331 experience be given for all services in one (1) calendar or school
332 year. In determining a teacher's experience, no deduction shall
333 be made because of the temporary absence of the teacher because of
334 illness or other good cause, and the teacher shall be given credit
335 therefor. Beginning with the 2003-2004 school year, the State
336 Board of Education shall fix a number of days, not to exceed
337 forty-five (45) consecutive school days, during which a teacher
338 may not be under contract of employment during any school year and
339 still be considered to have been in full-time employment for a
340 regular scholastic term. If a teacher exceeds the number of days
341 established by the State Board of Education that a teacher may not
342 be under contract but may still be employed, that teacher shall
343 not be credited with a year of teaching experience. In



344 determining the experience of school librarians, each complete
345 year of continuous, full-time employment as a professional
346 librarian in a public library in this or some other state shall be
347 considered a year of teaching experience. If a full-time school
348 administrator returns to actual teaching in the public schools,
349 the term "year of teaching experience" shall include the period of
350 time he or she served as a school administrator. In determining
351 the salaries of teachers who have experience in any branch of the
352 military, the term "year of teaching experience" shall include
353 each complete year of actual classroom instruction while serving
354 in the military. In determining the experience of speech-language
355 pathologists and audiologists, each complete year of continuous
356 full-time post master's degree employment in an educational
357 setting in this or some other state shall be considered a year of
358 teaching experience. Provided, however, that school districts are
359 authorized, in their discretion, to negotiate the salary levels
360 applicable to certificated employees employed after July 1, 2009,
361 who are receiving retirement benefits from the retirement system
362 of another state, and the annual experience increment provided in
363 Section 37-19-7 shall not be applicable to any such retired
364 certificated employee.

365 (n) (i) The term "average daily attendance" shall be
366 the figure which results when the total aggregate full-day
367 attendance during the period or months counted is divided by the
368 number of days during the period or months counted upon which both



369 teachers and pupils are in regular attendance for scheduled
370 classroom instruction, unless a pupil's absence is excused due to
371 participation in an activity authorized by the State Board of
372 Education under subparagraph (ii) of this paragraph * * *. For
373 purposes of determining and reporting attendance, a pupil must be
374 present for at least sixty-three percent (63%) of the
375 instructional day, as fixed by the local school board for each
376 school in the school district, in order to be considered in
377 full-day attendance. Prior to full implementation of the adequate
378 education program the department shall deduct the average daily
379 attendance for the alternative school program provided for in
380 Section 37-19-22.

381 (ii) The State Board of Education shall define
382 those activities necessitating a pupil's absence that, for
383 purposes of determining and reporting attendance for average daily
384 attendance purposes, must be considered an excused absence. Such
385 activities include, but are not limited to: official organized
386 events sponsored by the 4-H or Future Farmers of America (FFA);
387 official organized junior livestock shows and rodeo events;
388 official employment as a page at the State Capitol for the
389 Mississippi House of Representatives or Senate; subject-matter
390 field trips; athletic contests; student conventions; music
391 festivals or contests; and any similar school-related activity
392 designated by the State Board of Education. The State Board of
393 Education shall prescribe the means by which a pupil's absence due



394 to participation in an activity authorized by the board pursuant
395 to this subparagraph must be verified. This subparagraph (ii)
396 shall stand repealed on July 1, 2016.

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

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

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

407 (r) "Department" shall mean the State Department of
408 Education.

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

411 (t) The term "successful school district" shall mean a
412 Level III school district as designated by the State Board of
413 Education using current statistically relevant state assessment
414 data.

415 (u) "Dual enrollment-dual credit programs" shall mean
416 programs for potential or recent high school student dropouts to
417 dually enroll in their home high school and a local community
418 college in a dual credit program consisting of high school



419 completion coursework and a credential, certificate or degree
420 program at the community college, as provided in Section
421 37-15-38(19).

422 (v) "Charter school" means a public school that is
423 established and operating under the terms of a charter contract
424 between the school's governing board and the Mississippi Charter
425 School Authorizer Board.

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

428 37-151-7. The annual allocation to each school district for
429 the operation of the adequate education program shall be
430 determined as follows:

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

435 (a) **Determination of average daily attendance.**
436 Effective with fiscal year 2011, the State Department of Education
437 shall determine the percentage change from the prior year of each
438 year of each school district's average of months two (2) and three
439 (3) average daily attendance (ADA) for the three (3) immediately
440 preceding school years of the year for which funds are being
441 appropriated. For any school district that experiences a positive
442 growth in the average of months two (2) and three (3) ADA each
443 year of the three (3) years, the average percentage growth over



444 the three-year period shall be multiplied times the school
445 district's average of months two (2) and three (3) ADA for the
446 year immediately preceding the year for which MAEP funds are being
447 appropriated. The resulting amount shall be added to the school
448 district's average of months two (2) and three (3) ADA for the
449 year immediately preceding the year for which MAEP funds are being
450 appropriated to arrive at the ADA to be used in determining a
451 school district's MAEP allocation. Otherwise, months two (2) and
452 three (3) ADA for the year immediately preceding the year for
453 which MAEP funds are being appropriated will be used in
454 determining a school district's MAEP allocation. In any fiscal
455 year prior to 2010 in which the MAEP formula is not fully funded,
456 for those districts that do not demonstrate a three-year positive
457 growth in months two (2) and three (3) ADA, months one (1) through
458 nine (9) ADA of the second preceding year for which funds are
459 being appropriated or months two (2) and three (3) ADA of the
460 preceding year for which funds are being appropriated, whichever
461 is greater, shall be used to calculate the district's MAEP
462 allocation. The district's average daily attendance shall be
463 computed and currently maintained in accordance with regulations
464 promulgated by the State Board of Education. The district's
465 average daily attendance shall include any student enrolled in a
466 Dual Enrollment-Dual Credit Program as defined and provided in
467 Section 37-15-38(19). The State Department of Education shall
468 make payments for Dual Enrollment-Dual Credit Programs to the home



469 school in which the student is enrolled, in accordance with
470 regulations promulgated by the State Board of Education. The
471 community college providing services to students in a Dual
472 Enrollment-Dual Credit Program shall require payment from the home
473 school district for services provided to such students at a rate
474 of one hundred percent (100%) of ADA. All MAEP/state funding
475 shall cease upon completion of high school graduation
476 requirements.

477 (b) **Determination of base student cost.** Effective with
478 fiscal year 2011 and every fourth fiscal year thereafter, the
479 State Board of Education, on or before August 1, with adjusted
480 estimate no later than January 2, shall submit to the Legislative
481 Budget Office and the Governor a proposed base student cost
482 adequate to provide the following cost components of educating a
483 pupil in a successful school district: (i) instructional cost;
484 (ii) administrative cost; (iii) operation and maintenance of
485 plant; and (iv) ancillary support cost. For purposes of these
486 calculations, the Department of Education shall utilize financial
487 data from the second preceding year of the year for which funds
488 are being appropriated.

489 For the instructional cost component, the Department of
490 Education shall select districts that have been identified as
491 instructionally successful and have a ratio of a number of
492 teachers per one thousand (1,000) students that is between one (1)
493 standard deviation above the mean and two (2) standard deviations



494 below the mean of the statewide average of teachers per one
495 thousand (1,000) students. The instructional cost component shall
496 be calculated by dividing the latest available months one (1)
497 through nine (9) ADA into the instructional expenditures of these
498 selected districts. For the purpose of this calculation, the
499 Department of Education shall use the following funds, functions
500 and objects:

501 Fund 1120 Functions 1110-1199 Objects 100-999, Functions
502 1210, 1220, 2150-2159 Objects 210 and 215;

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

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

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

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

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

508 Prior to the calculation of the instructional cost component,
509 there shall be subtracted from the above expenditures any revenue
510 received for Chickasaw Cession payments, Master Teacher
511 Certification payments and the district's portion of state revenue
512 received from the MAEP at-risk allocation.

513 For the administrative cost component, the Department of
514 Education shall select districts that have been identified as
515 instructionally successful and have a ratio of an administrative
516 staff to nonadministrative staff between one (1) standard
517 deviation above the mean and two (2) standard deviations below the
518 mean of the statewide average administrative staff to



519 nonadministrative staff. The administrative cost component shall
520 be calculated by dividing the latest available months one (1)
521 through nine (9) ADA of the selected districts into the
522 administrative expenditures of these selected districts. For the
523 purpose of this calculation, the Department of Education shall use
524 the following funds, functions and objects:

525 Fund 1120 Functions 2300-2599, Functions 2800-2899,
526 Objects 100-999;

527 Fund 2711 Functions 2300-2599, Functions 2800-2899,
528 Objects 100-999.

529 For the plant and maintenance cost component, the Department
530 of Education shall select districts that have been identified as
531 instructionally successful and have a ratio of plant and
532 maintenance expenditures per one hundred thousand (100,000) square
533 feet of building space and a ratio of maintenance workers per one
534 hundred thousand (100,000) square feet of building space that are
535 both between one (1) standard deviation above the mean and two (2)
536 standard deviations below the mean of the statewide average. The
537 plant and maintenance cost component shall be calculated by
538 dividing the latest available months one (1) through nine (9) ADA
539 of the selected districts into the plant and maintenance
540 expenditures of these selected districts. For the purpose of this
541 calculation, the Department of Education shall use the following
542 funds, functions and objects:

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



544 and Objects 800-999;
545 Fund 2711 Functions 2600-2699, Objects 100-699
546 and Objects 800-999;
547 Fund 2430 Functions 2600-2699, Objects 100-699
548 and Objects 800-999.

549 For the ancillary support cost component, the Department of
550 Education shall select districts that have been identified as
551 instructionally successful and have a ratio of a number of
552 librarians, media specialists, guidance counselors and
553 psychologists per one thousand (1,000) students that is between
554 one (1) standard deviation above the mean and two (2) standard
555 deviations below the mean of the statewide average of librarians,
556 media specialists, guidance counselors and psychologists per one
557 thousand (1,000) students. The ancillary cost component shall be
558 calculated by dividing the latest available months one (1) through
559 nine (9) ADA into the ancillary expenditures instructional
560 expenditures of these selected districts. For the purpose of this
561 calculation, the Department of Education shall use the following
562 funds, functions and objects:

563 Fund 1120 Functions 2110-2129, Objects 100-999;
564 Fund 1120 Functions 2140-2149, Objects 100-999;
565 Fund 1120 Functions 2220-2229, Objects 100-999;
566 Fund 2001 Functions 2100-2129, Objects 100-999;
567 Fund 2001 Functions 2140-2149, Objects 100-999;
568 Fund 2001 Functions 2220-2229, Objects 100-999.



569 The total base cost for each year shall be the sum of the
570 instructional cost component, administrative cost component, plant
571 and maintenance cost component and ancillary support cost
572 component, and any estimated adjustments for additional state
573 requirements as determined by the State Board of Education.

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

576 For each of the fiscal years between the recalculation of the
577 base student cost under the provisions of this paragraph (b), the
578 base student cost shall be increased by an amount equal to forty
579 percent (40%) of the base student cost for the previous fiscal
580 year, multiplied by the latest annual rate of inflation for the
581 State of Mississippi as determined by the State Economist, plus
582 any adjustments for additional state requirements such as, but not
583 limited to, teacher pay raises and health insurance premium
584 increases.

585 (c) **Determination of the basic adequate education**
586 **program cost.** The basic amount for current operation to be
587 included in the Mississippi Adequate Education Program for each
588 school district shall be computed as follows:

589 Multiply the average daily attendance of the district by the
590 base student cost as established by the Legislature, which yields
591 the total base program cost for each school district.

592 (d) **Adjustment to the base student cost for at-risk**
593 **pupils.** The amount to be included for at-risk pupil programs for



594 each school district shall be computed as follows: Multiply the
595 base student cost for the appropriate fiscal year as determined
596 under paragraph (b) by five percent (5%), and multiply that
597 product by the number of pupils participating in the federal free
598 school lunch program in such school district, which yields the
599 total adjustment for at-risk pupil programs for such school
600 district.

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

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

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

611 * * *

612 (* * *iii) Gifted education program cost shall be
613 the amount allocated to such school district from state funds for
614 the operational support of such programs.

615 (* * *iv) Alternative school program cost shall
616 be the amount allocated to such school district from state funds
617 for the operational support of such programs.



618 (* * *y) Extended school year programs shall be
619 the amount allocated to school districts for those programs
620 authorized by law which extend beyond the normal school year.

621 (* * *vi) University-based programs shall be the
622 amount allocated to school districts for those university-based
623 programs for handicapped children as defined and provided for in
624 Section 37-23-131 et seq., Mississippi Code of 1972.

625 (* * *vii) Bus driver training programs shall be
626 the amount provided for those driver training programs as provided
627 for in Section 37-41-1 * * *.

628 The sum of the items listed above (i) transportation, (ii)
629 vocational or technical education, * * *(* * *iii) gifted
630 education, (* * *iv) alternative school, (* * *v) extended
631 school year, (* * *vi) university-based, and (* * *vii) bus
632 driver training shall yield the add-on cost for each school
633 district.

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

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



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

647 (2) **Computation of the required local revenue in support of**
648 **the adequate education program.** The amount that each district
649 shall provide toward the cost of the adequate education program
650 shall be calculated as follows:

651 (a) The State Department of Education shall certify to
652 each school district that twenty-eight (28) mills, less the
653 estimated amount of the yield of the School Ad Valorem Tax
654 Reduction Fund grants as determined by the State Department of
655 Education, is the millage rate required to provide the district
656 required local effort for that year, or twenty-seven percent (27%)
657 of the basic adequate education program cost for such school
658 district as determined under paragraph (c), whichever is a lesser
659 amount. In the case of an agricultural high school, the millage
660 requirement shall be set at a level which generates an equitable
661 amount per pupil to be determined by the State Board of Education.
662 The local contribution amount for school districts in which there
663 is located one or more charter schools will be calculated using
664 the following methodology: using the adequate education program
665 twenty-eight (28) mill value, or the twenty-seven percent (27%)
666 cap amount (whichever is less) for each school district in which a



667 charter school is located, an average per pupil amount will be
668 calculated. This average per pupil amount will be multiplied
669 times the number of students attending the charter school in that
670 school district. The sum becomes the charter school's local
671 contribution to the adequate education program.

672 (b) The State Department of Education shall determine
673 the following from the annual assessment information submitted to
674 the department by the tax assessors of the various counties: (i)
675 the total assessed valuation of nonexempt property for school
676 purposes in each school district; (ii) assessed value of exempt
677 property owned by homeowners aged sixty-five (65) or older or
678 disabled as defined in Section 27-33-67(2) * * *; (iii) the school
679 district's tax loss from exemptions provided to applicants under
680 the age of sixty-five (65) and not disabled as defined in Section
681 27-33-67(1) * * *; and (iv) the school district's homestead
682 reimbursement revenues.

683 (c) The amount of the total adequate education program
684 funding which shall be contributed by each school district shall
685 be the sum of the ad valorem receipts generated by the millage
686 required under this subsection plus the following local revenue
687 sources for the appropriate fiscal year which are or may be
688 available for current expenditure by the school district:

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



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

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

695 (a) The required state effort in support of the
696 adequate education program shall be determined by subtracting the
697 sum of the required local tax effort as set forth in subsection
698 (2)(a) of this section and the other local revenue sources as set
699 forth in subsection (2)(c) of this section in an amount not to
700 exceed twenty-seven percent (27%) of the total projected adequate
701 education program cost as set forth in subsection (1)(f) of this
702 section from the total projected adequate education program cost
703 as set forth in subsection (1)(f) of this section.

704 (b) Provided, however, that in fiscal year 2015, any
705 increase in the said state contribution to any district calculated
706 under this section shall be not less than six percent (6%) in
707 excess of the amount received by said district from state funds
708 for fiscal year 2002; in fiscal year 2016, any increase in the
709 said state contribution to any district calculated under this
710 section shall be not less than four percent (4%) in excess of the
711 amount received by said district from state funds for fiscal year
712 2002; in fiscal year 2017, any increase in the said state
713 contribution to any district calculated under this section shall
714 be not less than two percent (2%) in excess of the amount received
715 by said district from state funds for fiscal year 2002; and in



716 fiscal year 2018 and thereafter, any increase in the said state
717 contribution to any district calculated under this section shall
718 be zero percent (0%). For purposes of this paragraph (b), state
719 funds shall include minimum program funds less the add-on
720 programs, State Uniform Millage Assistance Grant Funds, Education
721 Enhancement Funds appropriated for Uniform Millage Assistance
722 Grants and state textbook allocations, and State General Funds
723 allocated for textbooks.

724 (c) If the school board of any school district shall
725 determine that it is not economically feasible or practicable to
726 operate any school within the district for the full one hundred
727 eighty (180) days required for a school term of a scholastic year,
728 as required in Section 37-13-63, * * *due to an enemy attack, a
729 man-made, technological or natural disaster in which the Governor
730 has declared a disaster emergency under the laws of this state or
731 the President of the United States has declared an emergency or
732 major disaster to exist in this state, said school board may
733 notify the State Department of Education of such disaster and
734 submit a plan for altering the school term. If the State Board of
735 Education finds such disaster to be the cause of the school not
736 operating for the contemplated school term and that such school
737 was in a school district covered by the Governor's or President's
738 disaster declaration, it may permit said school board to operate
739 the schools in its district for less than one hundred eighty (180)
740 days and, in such case, the State Department of Education shall



741 not reduce the state contributions to the adequate education
742 program allotment for such district, because of the failure to
743 operate said schools for one hundred eighty (180) days.

744 (4) The Interim School District Capital Expenditure Fund is
745 hereby established in the State Treasury which shall be used to
746 distribute any funds specifically appropriated by the Legislature
747 to such fund to school districts entitled to increased allocations
748 of state funds under the adequate education program funding
749 formula prescribed in Sections 37-151-3 through * * * this section
750 until such time as the said adequate education program is fully
751 funded by the Legislature. The following percentages of the total
752 state cost of increased allocations of funds under the adequate
753 education program funding formula shall be appropriated by the
754 Legislature into the Interim School District Capital Expenditure
755 Fund to be distributed to all school districts under the formula:
756 Nine and two-tenths percent (9.2%) shall be appropriated in fiscal
757 year 1998, twenty percent (20%) shall be appropriated in fiscal
758 year 1999, forty percent (40%) shall be appropriated in fiscal
759 year 2000, sixty percent (60%) shall be appropriated in fiscal
760 year 2001, eighty percent (80%) shall be appropriated in fiscal
761 year 2002, and one hundred percent (100%) shall be appropriated in
762 fiscal year 2003 into the State Adequate Education Program Fund.
763 Until July 1, 2002, such money shall be used by school districts
764 for the following purposes:



765 (a) Purchasing, erecting, repairing, equipping,
766 remodeling and enlarging school buildings and related facilities,
767 including gymnasiums, auditoriums, lunchrooms, vocational training
768 buildings, libraries, school barns and garages for transportation
769 vehicles, school athletic fields and necessary facilities
770 connected therewith, and purchasing land therefor. Any such
771 capital improvement project by a school district shall be approved
772 by the State Board of Education, and based on an approved
773 long-range plan. The State Board of Education shall promulgate
774 minimum requirements for the approval of school district capital
775 expenditure plans.

776 (b) Providing necessary water, light, heating,
777 air-conditioning, and sewerage facilities for school buildings,
778 and purchasing land therefor.

779 (c) Paying debt service on existing capital improvement
780 debt of the district or refinancing outstanding debt of a district
781 if such refinancing will result in an interest cost savings to the
782 district.

783 (d) From and after October 1, 1997, through June 30,
784 1998, pursuant to a school district capital expenditure plan
785 approved by the State Department of Education, a school district
786 may pledge such funds until July 1, 2002, plus funds provided for
787 in paragraph (e) of this subsection (4) that are not otherwise
788 permanently pledged under such paragraph (e) to pay all or a
789 portion of the debt service on debt issued by the school district



790 under Sections 37-59-1 through 37-59-45, 37-59-101 through
791 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
792 37-7-301, 37-7-302 and 37-41-81, * * * or debt issued by boards of
793 supervisors for agricultural high schools pursuant to Section
794 37-27-65, * * * or lease-purchase contracts entered into pursuant
795 to Section 31-7-13, * * * or to retire or refinance outstanding
796 debt of a district, if such pledge is accomplished pursuant to a
797 written contract or resolution approved and spread upon the
798 minutes of an official meeting of the district's school board or
799 board of supervisors. It is the intent of this provision to allow
800 school districts to irrevocably pledge their Interim School
801 District Capital Expenditure Fund allotments as a constant stream
802 of revenue to secure a debt issued under the foregoing code
803 sections. To allow school districts to make such an irrevocable
804 pledge, the state shall take all action necessary to ensure that
805 the amount of a district's Interim School District Capital
806 Expenditure Fund allotments shall not be reduced below the amount
807 certified by the department or the district's total allotment
808 under the Interim Capital Expenditure Fund if fully funded, so
809 long as such debt remains outstanding.

810 (e) [Repealed]

811 (f) [Repealed]

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



815 (\$20,000.00), whichever is greater, for technology needs of the
816 school district, including computers, software,
817 telecommunications, cable television, interactive video, film,
818 low-power television, satellite communications, microwave
819 communications, technology-based equipment installation and
820 maintenance, and the training of staff in the use of such
821 technology-based instruction. Any such technology expenditure
822 shall be reflected in the local district technology plan approved
823 by the State Board of Education under Section 37-151-17 * * *.

824 (h) To the extent a school district has not utilized
825 twenty percent (20%) of its annual allotment for technology
826 purposes under paragraph (g), a school district may expend not
827 more than twenty percent (20%) of its annual allotment or Twenty
828 Thousand Dollars (\$20,000.00), whichever is greater, for
829 instructional purposes. The State Board of Education may
830 authorize a school district to expend more than said twenty
831 percent (20%) of its annual allotment for instructional purposes
832 if it determines that such expenditures are needed for
833 accreditation purposes.

834 (i) The State Department of Education or the State
835 Board of Education may require that any project commenced under
836 this section with an estimated project cost of not less than Five
837 Million Dollars (\$5,000,000.00) shall be done only pursuant to
838 program management of the process with respect to design and
839 construction. Any individuals, partnerships, companies or other



840 entities acting as a program manager on behalf of a local school
841 district and performing program management services for projects
842 covered under this subsection shall be approved by the State
843 Department of Education.

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

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

851 (5) The State Department of Education shall make payments to
852 charter schools for each student in average daily attendance at
853 the charter school equal to the state share of the adequate
854 education program payments for each student in average daily
855 attendance at the school district in which the public charter
856 school is located. In calculating the local contribution for
857 purposes of determining the state share of the adequate education
858 program payments, the department shall deduct the pro rata local
859 contribution of the school district in which the student resides
860 as determined in subsection (2)(a) of this section.

861 **SECTION 7.** Section 37-151-81, Mississippi Code of 1972, is
862 amended as follows:

863 37-151-81. (1) * * * In addition to the allowances provided
864 above, for each handicapped child who is being educated by a



865 public school district or is placed in accord with Section
866 37-23-77 * * * and whose individualized educational program (IEP)
867 requires an extended school year in accord with the State
868 Department of Education criteria, a sufficient amount of funds
869 shall be allocated for the purpose of providing the educational
870 services the student requires. The State Board of Education shall
871 promulgate such regulations as are required to insure the
872 equitable distribution of these funds. All costs for the extended
873 school year for a particular summer shall be reimbursed from funds
874 appropriated for the fiscal year beginning July 1 of that summer.
875 If sufficient funds are not made available to finance all of the
876 required educational services, the State Department of Education
877 shall expend available funds in such a manner that it does not
878 limit the availability of appropriate education to handicapped
879 students more severely than it does to nonhandicapped students.

880 (* * *2) The State Department of Education is hereby
881 authorized to match adequate education program and other funds
882 allocated for provision of services to handicapped children with
883 Division of Medicaid funds to provide language-speech services,
884 physical therapy and occupational therapy to handicapped students
885 who meet State Department of Education or Division of Medicaid
886 standards and who are Medicaid eligible. Provided further, that
887 the State Department of Education is authorized to pay such funds
888 as may be required as a match directly to the Division of Medicaid



889 pursuant to an agreement to be developed between the State
890 Department of Education and the Division of Medicaid.

891 (* * *3) In addition to other funds provided for in this
892 chapter, there shall be added to the allotment for each school
893 district for each teacher employed in a State Department of
894 Education approved program for gifted education, as defined in
895 Sections 37-23-173 through 37-23-181, * * * the value of one
896 hundred percent (100%) of the adequate education program salary
897 schedule prescribed in Section 37-19-7 * * * based on the type of
898 certificate and number of years' teaching experience held by each
899 approved gifted education teacher plus one hundred percent (100%)
900 of the applicable employer's rate for social security and state
901 retirement.

902 (* * *4) When any children who are residents of the State
903 of Mississippi and qualify under the provisions of Section
904 37-23-31 * * * shall be provided a program of education,
905 instruction and training within a school under the provisions of
906 said section, the State Department of Education shall allocate the
907 value of one hundred percent (100%) of the adequate education
908 program salary schedule prescribed in Section 37-19-7 * * * for
909 each approved program based on the type of certificate and number
910 of years' teaching experience held by each approved teacher plus
911 one hundred percent (100%) of the applicable employer's rate for
912 social security and state retirement. The university or college
913 shall be eligible for state and federal funds for such programs on



914 the same basis as local school districts. The university or
915 college shall be responsible for providing for the additional
916 costs of the program.

917 (* * *5) In addition to the allotments provided above, a
918 school district may provide a program of education and instruction
919 to children ages five (5) years through twenty-one (21) years,
920 who are resident citizens of the State of Mississippi, who cannot
921 have their educational needs met in a regular public school
922 program and who have not finished or graduated from high school,
923 if those children are determined by competent medical authorities
924 and psychologists to need placement in a state licensed facility
925 for inpatient treatment, day treatment or residential treatment or
926 a therapeutic group home. Such program shall operate under rules,
927 regulations, policies and standards of school districts as
928 determined by the State Board of Education. If a private school
929 approved by the State Board of Education is operated as an
930 integral part of the state licensed facility that provides for the
931 treatment of such children, the private school within the facility
932 may provide a program of education, instruction and training to
933 such children by requesting the State Department of Education to
934 allocate one (1) teacher unit or a portion of a teacher unit for
935 each approved class. The facility shall be responsible for
936 providing any additional costs of the program.

937 Such funds will be allotted based on the type of certificate
938 and number of years' teaching experience held by each approved



939 teacher. Such children shall not be counted in average daily
940 attendance when determining regular teacher unit allocation.

941 **SECTION 8.** This act shall take effect and be in force from
942 and after its passage.

