By: Representative Busby

To: Education

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 821

AN ACT TO AMEND SECTION 37-28-23, MISSISSIPPI CODE OF 1972, TO AUTHORIZE STUDENTS RESIDING IN A "D" OR "F" SCHOOL DISTRICT TO SEEK ENROLLMENT IN A CHARTER SCHOOL THAT IS GEOGRAPHICALLY LOCATED IN ANOTHER SCHOOL DISTRICT; TO AMEND SECTION 37-28-45, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO AMEND SECTION 37-28-35, MISSISSIPPI CODE OF 1972, TO REQUIRE UNSPENT GOVERNMENT FUNDS TO REVERT TO THOSE SCHOOL DISTRICTS IN WHICH STUDENTS ATTENDING A CHARTER SCHOOL RESIDE IF THE CHARTER SCHOOL CLOSES; TO AMEND SECTION 37-28-53, MISSISSIPPI CODE OF 1972, TO REQUIRE CHARTER SCHOOLS TO CERTIFY TO EACH LOCAL SCHOOL DISTRICT IN WHICH STUDENTS ENROLLED IN THE CHARTER SCHOOL RESIDE THE NUMBER OF CHARTER SCHOOL STUDENTS RESIDING IN THAT DISTRICT; TO AMEND SECTION 37-28-55, MISSISSIPPI CODE OF 1972, TO REVISE THE MANNER BY WHICH THE STATE DEPARTMENT OF EDUCATION DETERMINES THE AMOUNT OF ADEQUATE EDUCATION PROGRAM FUNDS WHICH IS TO BE PAID TO A CHARTER SCHOOL TO REFLECT THAT A CHARTER SCHOOL'S STUDENTS MAY RESIDE IN SCHOOL DISTRICTS OTHER THAN THAT IN WHICH THE CHARTER SCHOOL IS LOCATED, AND TO REQUIRE EACH SCHOOL DISTRICT IN WHICH CHARTER SCHOOL STUDENTS RESIDE TO MAKE LOCAL CONTRIBUTION PAYMENTS TO THE CHARTER SCHOOL; TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972, TO REVISE THE FORMULA FOR CALCULATING A CHARTER SCHOOL'S LOCAL CONTRIBUTION TO THE ADEQUATE EDUCATION PROGRAM TO REFLECT THAT THE CHARTER SCHOOL'S STUDENTS MAY RESIDE IN SCHOOL DISTRICTS OTHER THAN THAT IN WHICH THE CHARTER SCHOOL IS LOCATED; TO AMEND SECTION 37-57-107, MISSISSIPPI CODE OF 1972, TO REQUIRE EACH SCHOOL DISTRICT IN WHICH STUDENTS ENROLLED IN A CHARTER SCHOOL RESIDE TO MAKE AD VALOREM TAX RECEIPTS PAYMENTS TO THE CHARTER SCHOOL; AND FOR RELATED PURPOSES.

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

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

37-28-23. (1) A charter school must be open to:

(a) Any student residing in the geographical boundaries of the school district in which the charter school is located; and

(b) Any student residing in the geographical boundaries of a "D" or "F" school district, as designated by the State Board of Education.

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

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

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

(5) The underserved student composition of a charter school's enrollment collectively must reflect that of students of all ages attending the school district in which the charter school is located, to be defined for the purposes of this chapter as being at least eighty percent (80%) of that population. If the underserved student composition of an applicant's or charter school's enrollment is less than eighty percent (80%) of the enrollment of students of all ages in the school district in which

the charter school is located, despite the school's best efforts, the authorizer must consider the applicant's or charter school's recruitment efforts and the underserved student composition of the applicant pool in determining whether the applicant or charter school is operating in a nondiscriminatory manner. A finding by the authorizer that a charter school is operating in a discriminatory manner justifies the revocation of a charter.

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

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

(8) (a) Any noncharter public school or part of a noncharter public school converting to a charter school shall adopt and maintain a policy giving an enrollment preference to students who reside within the former attendance area of that public school. If the charter school has excess capacity after enrolling students residing within the former attendance area of the school, students outside of the former attendance area of the school, but within the geographical boundaries of the school district in which the charter school is located <u>or a "D" or "F" school district, as designated by the State Board of Education</u>, are eligible for enrollment. If the number of students applying for admission exceeds the capacity of a program, class, grade

level or building of the charter school, the charter school must admit students on the basis of a lottery.

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

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

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

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

37-28-45. (1) Charter schools are subject to the same civil rights, health and safety requirements applicable to noncharter

public schools in the state, except as otherwise specifically provided in this chapter.

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

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

(4) Whenever the provisions of Title 37, Mississippi Code of 1972, relating to the elementary and secondary education of public school students establish a requirement for or grant authority to local school districts, their school boards and the schools within the respective school districts, the language "school districts," "school boards," "boards of trustees," "the schools within a

school district," or any other similar phraseology does not include a charter school and the governing board of a charter school unless the statute specifically is made applicable to charter schools as well as noncharter public schools.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37-28-35. (1) Before implementing a charter school closure decision, the authorizer must develop a charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property and assets in accordance with the requirements of this chapter. The protocol must specify tasks, timelines and responsible parties, including delineating the respective duties of the school and the authorizer. If a charter school is to be closed for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol.

(2) If a charter school closes, all unspent government funds, unspent earnings from those funds and assets purchased with government funds must revert to the local school districts in which students enrolled in the charter school * * * reside, in such amounts that are proportionate to the number of students enrolled in the charter school from each school district to the charter school's total enrollment. Unless otherwise provided for in the charter or a debt instrument, unspent funds from nongovernmental sources, unspent earnings from those funds, assets purchased with those funds and debts of the school must revert to the nonprofit entity created to operate the school and may be

disposed of according to applicable laws for nonprofit corporations.

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

37-28-53. (1) Each charter school shall certify annually to the State Department of Education its student enrollment, average daily attendance and student participation in the national school lunch program, special education, vocational education, gifted education, alternative school program and federal programs in the same manner as school districts.

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

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

37-28-55. (1) (a) The State Department of Education shall make payments to charter schools for each student in average daily attendance at the charter school in an amount equal to the state share of the adequate education program payments for each student in average daily attendance at the respective school district in which * * * a particular charter school * * * student resides. The total payment from the department to a charter school shall be calculated by adding together, for each school district in which a student enrolled in the charter school resides, an amount equal to

the state's share, per student, of the adequate education program payments to that school district multiplied by the total number of students enrolled in the charter school from that school district. In calculating the local contribution for purposes of determining the state share of the adequate education program payments, the department shall deduct the pro rata local contribution of the school district in which the student resides, to be determined as provided in Section 37-151-7(2)(a).

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

(2) The school district in which a charter school * * * student resides shall pay directly to the charter school, * * * for each student residing in that school district who is enrolled in the charter school, an amount equal to the ad valorem tax

receipts and in-lieu payments received per pupil for the support of the local school district in which the student resides. The pro rata ad valorem receipts and in-lieu receipts to be transferred to the charter school shall include all levies for the support of the local school district under Sections 37-57-1 (local contribution to the adequate education program) and 37-57-105 (school district operational levy) and may not include any taxes levied for the retirement of the local school district's bonded indebtedness or short-term notes or any taxes levied for the support of vocational-technical education programs. In no event may the payment exceed the pro rata amount of the local ad valorem payment for the local contribution to the adequate education program under Section 37-57-1 for the school district in which the student resides. Payments made under this section by a school district to a charter school must be made before the expiration of three (3) business days after the funds are distributed to the school district by the tax collector.

(3) (a) The State Department of Education shall direct the proportionate share of monies generated under federal and state categorical aid programs, including special education, vocational, gifted and alternative school programs, to charter schools serving students eligible for such aid. The department shall ensure that charter schools with rapidly expanding enrollments are treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars. Each charter school that

serves students who may be eligible to receive services provided through such programs shall comply with all reporting requirements to receive the aid.

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

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

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

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

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

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

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

(a) **Determination of average daily attendance.** Effective with fiscal year 2011, the State Department of Education shall determine the percentage change from the prior year of each year of each school district's average of months two (2) and three (3) average daily attendance (ADA) for the three (3) immediately preceding school years of the year for which funds are being appropriated. For any school district that experiences a positive growth in the average of months two (2) and three (3) ADA each year of the three (3) years, the average percentage growth over the three-year period shall be multiplied times the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated. The resulting amount shall be added to the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated to arrive at the ADA to be used in determining a

school district's MAEP allocation. Otherwise, months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated will be used in determining a school district's MAEP allocation. In any fiscal year prior to 2010 in which the MAEP formula is not fully funded, for those districts that do not demonstrate a three-year positive growth in months two (2) and three (3) ADA, months one (1) through nine (9) ADA of the second preceding year for which funds are being appropriated or months two (2) and three (3) ADA of the preceding year for which funds are being appropriated, whichever is greater, shall be used to calculate the district's MAEP allocation. The district's average daily attendance shall be computed and currently maintained in accordance with regulations promulgated by the State Board of Education. The district's average daily attendance shall include any student enrolled in a Dual Enrollment-Dual Credit Program as defined and provided in Section 37-15-38(19). The State Department of Education shall make payments for Dual Enrollment-Dual Credit Programs to the home school in which the student is enrolled, in accordance with regulations promulgated by the State Board of Education. The community college providing services to students in a Dual Enrollment-Dual Credit Program shall require payment from the home school district for services provided to such students at a rate of one hundred percent (100%) of ADA. All MAEP/state funding

shall cease upon completion of high school graduation requirements.

(b) **Determination of base student cost.** Effective with fiscal year 2011 and every fourth fiscal year thereafter, the State Board of Education, on or before August 1, with adjusted estimate no later than January 2, shall submit to the Legislative Budget Office and the Governor a proposed base student cost adequate to provide the following cost components of educating a pupil in a successful school district: (i) Instructional Cost; (ii) Administrative Cost; (iii) Operation and Maintenance of Plant; and (iv) Ancillary Support Cost. For purposes of these calculations, the Department of Education shall utilize financial data from the second preceding year of the year for which funds are being appropriated.

For the instructional cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of a number of teachers per one thousand (1,000) students that is between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average of teachers per one thousand (1,000) students. The instructional cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA into the instructional expenditures of these selected districts. For the purpose of this calculation, the

Department of Education shall use the following funds, functions and objects:

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

Fund 1130 All Functions, Object Code 210 and 215;

Fund 2001 Functions 1110-1199 Objects 100-999;

Fund 2070 Functions 1110-1199 Objects 100-999;

Fund 2420 Functions 1110-1199 Objects 100-999;

Fund 2711 All Functions, Object Code 210 and 215.

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

For the administrative cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of an administrative staff to nonadministrative staff between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average administrative staff to nonadministrative staff. The administrative cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA of the selected districts into the administrative expenditures of these selected districts. For the

purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

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

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

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

Fund 1120 Functions 2600-2699, Objects 100-699 and Objects 800-999;

Fund 2711 Functions 2600-2699, Objects 100-699 and Objects 800-999;

Fund 2430 Functions 2600-2699, Objects 100-699

and Objects 800-999.

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

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

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

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

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

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

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

The total base cost for each year shall be the sum of the instructional cost component, administrative cost component, plant and maintenance cost component and ancillary support cost component, and any estimated adjustments for additional state

requirements as determined by the State Board of Education. Provided, however, that the base student cost in fiscal year 1998 shall be Two Thousand Six Hundred Sixty-four Dollars ($2,664.00).

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

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

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

(d) **Adjustment to the base student cost for at-risk pupils.** The amount to be included for at-risk pupil programs for each school district shall be computed as follows: Multiply the base student cost for the appropriate fiscal year as determined under paragraph (b) by five percent (5%), and multiply that product by the number of pupils participating in the federal free

school lunch program in such school district, which yields the total adjustment for at-risk pupil programs for such school district.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The State Department of Education shall certify to each school district that twenty-eight (28) mills, less the estimated amount of the yield of the School Ad Valorem Tax Reduction Fund grants as determined by the State Department of Education, is the millage rate required to provide the district required local effort for that year, or twenty-seven percent (27%) of the basic adequate education program cost for such school district as determined under paragraph (c), whichever is a lesser amount. In the case of an agricultural high school, the millage requirement shall be set at a level which generates an equitable amount per pupil to be determined by the State Board of Education. The local contribution amount for school districts in which *** * *** charter school students reside will be calculated using the following methodology: using the adequate education program twenty-eight (28) mill value, or the twenty-seven percent (27%) cap amount (whichever is less) for each school district in which students enrolled in a charter school *** * *** reside, an average per pupil amount for that particular school district will be calculated. This average per pupil amount will be multiplied times the number of students attending the charter school who reside in that school district. The sum of all school districts'

products (average per pupil amount multiplied times the number of students attending the charter school from that district) becomes the charter school's local contribution to the adequate education program.

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

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

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

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

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

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

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

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

(4) The Interim School District Capital Expenditure Fund is hereby established in the State Treasury which shall be used to distribute any funds specifically appropriated by the Legislature to such fund to school districts entitled to increased allocations

of state funds under the adequate education program funding formula prescribed in Sections 37-151-3 through 37-151-7, Mississippi Code of 1972, until such time as the said adequate education program is fully funded by the Legislature. The following percentages of the total state cost of increased allocations of funds under the adequate education program funding formula shall be appropriated by the Legislature into the Interim School District Capital Expenditure Fund to be distributed to all school districts under the formula: Nine and two-tenths percent (9.2%) shall be appropriated in fiscal year 1998, twenty percent (20%) shall be appropriated in fiscal year 1999, forty percent (40%) shall be appropriated in fiscal year 2000, sixty percent (60%) shall be appropriated in fiscal year 2001, eighty percent (80%) shall be appropriated in fiscal year 2002, and one hundred percent (100%) shall be appropriated in fiscal year 2003 into the State Adequate Education Program Fund. Until July 1, 2002, such money shall be used by school districts for the following purposes:

(a) Purchasing, erecting, repairing, equipping, remodeling and enlarging school buildings and related facilities, including gymnasiums, auditoriums, lunchrooms, vocational training buildings, libraries, school barns and garages for transportation vehicles, school athletic fields and necessary facilities connected therewith, and purchasing land therefor. Any such capital improvement project by a school district shall be approved

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

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

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

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

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

(e) [Repealed]

(f) [Repealed]

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

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

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

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

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

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

(5) The State Department of Education shall make payments to charter schools for each student in average daily attendance at the charter school equal to the state share of the adequate education program payments for each student in average daily attendance at the school district in which the * * * respective charter school * * * student resides. In calculating the local contribution for purposes of determining the state share of the adequate education program payments, the department shall deduct the pro rata local contribution of the school district in which the student resides as determined in subsection (2)(a) of this section.

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

37-57-107. (1) Beginning with the tax levy for the 1997 fiscal year and for each fiscal year thereafter, the aggregate receipts from taxes levied for school district purposes pursuant to Sections 37-57-105 and 37-57-1 shall not exceed the aggregate receipts from those sources during any one (1) of the immediately

preceding three (3) fiscal years, as determined by the school board, plus an increase not to exceed seven percent (7%). For the purpose of this limitation, the term "aggregate receipts" when used in connection with the amount of funds generated in a preceding fiscal year shall not include excess receipts required by law to be deposited into a special account. However, the term "aggregate receipts" includes any receipts required by law to be paid to a charter school. The additional revenue from the ad valorem tax on any newly constructed properties or any existing properties added to the tax rolls or any properties previously exempt which were not assessed in the next preceding year may be excluded from the seven percent (7%) increase limitation set forth herein. Taxes levied for payment of principal of and interest on general obligation school bonds issued heretofore or hereafter shall be excluded from the seven percent (7%) increase limitation set forth herein. Any additional millage levied to fund any new program mandated by the Legislature shall be excluded from the limitation for the first year of the levy and included within such limitation in any year thereafter. For the purposes of this section, the term "new program" shall include, but shall not be limited to, (a) the Early Childhood Education Program required to commence with the 1986-1987 school year as provided by Section 37-21-7 and any additional millage levied and the revenue generated therefrom, which is excluded from the limitation for the first year of the levy, to support the mandated Early Childhood

Education Program shall be specified on the minutes of the school board and of the governing body making such tax levy; (b) any additional millage levied and the revenue generated therefrom which shall be excluded from the limitation for the first year of the levy, for the purpose of generating additional local contribution funds required for the adequate education program for the 2003 fiscal year and for each fiscal year thereafter under Section 37-151-7(2); and (c) any additional millage levied and the revenue generated therefrom which shall be excluded from the limitation for the first year of the levy, for the purpose of support and maintenance of any agricultural high school which has been transferred to the control, operation and maintenance of the school board by the board of trustees of the community college district under provisions of Section 37-29-272.

(2) The seven percent (7%) increase limitation prescribed in this section may be increased an additional amount only when the school board has determined the need for additional revenues and has held an election on the question of raising the limitation prescribed in this section. The limitation may be increased only if three-fifths (3/5) of those voting in the election shall vote for the proposed increase. The resolution, notice and manner of holding the election shall be as prescribed by law for the holding of elections for the issuance of bonds by the respective school boards. Revenues collected for the fiscal year in excess of the seven percent (7%) increase limitation pursuant to an election

shall be included in the tax base for the purpose of determining aggregate receipts for which the seven percent (7%) increase limitation applies for subsequent fiscal years.

(3) Except as otherwise provided for excess revenues generated pursuant to an election, if revenues collected as the result of the taxes levied for the fiscal year pursuant to this section and Section 37-57-1 exceed the increase limitation, then it shall be the mandatory duty of the school board of the school district to deposit such excess receipts over and above the increase limitation into a special account and credit it to the fund for which the levy was made. It will be the further duty of such board to hold said funds and invest the same as authorized by law. Such excess funds shall be calculated in the budgets for the school districts for the purpose for which such levies were made, for the succeeding fiscal year. Taxes imposed for the succeeding year shall be reduced by the amount of excess funds available. Under no circumstances shall such excess funds be expended during the fiscal year in which such excess funds are collected.

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

(5) Beginning with the * * * 2014-2015 school year, each school district in which a charter school * * * student resides shall pay to the charter school an amount for each student

enrolled in the charter school equal to the ad valorem taxes levied per pupil for the support of the school district in which the charter school *** * *** student resides. The pro rata ad valorem taxes to be transferred to the charter school must include all levies for the support of the school district under Sections 37-57-1 (local contribution to the adequate education program) and 37-57-105 (school district operational levy) but may not include any taxes levied for the retirement of school district bonded indebtedness or short-term notes or any taxes levied for the support of vocational-technical education programs. Payments made pursuant to this subsection by a school district to a charter school must be made before the expiration of three (3) business days after the funds are distributed to the school district.

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