MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representatives Clark, Hudson

To: Education

HOUSE BILL NO. 259

AN ACT TO REQUIRE THE STATE BOARD OF EDUCATION TO ESTABLISH A TRIMESTER SCHOOL YEAR PILOT PROGRAM; TO REQUIRE THE BOARD TO SELECT UP TO TWELVE SCHOOL DISTRICTS FOR PARTICIPATION IN THE PROGRAM; TO REQUIRE THE BOARD TO REPORT TO THE CHAIRMEN OF THE EDUCATION COMMITTEES BEFORE JANUARY 1, 2024, ON THE RESULTS OF THE PILOT PROGRAM AND THE DESIRABILITY OF IMPLEMENTING A TRIMESTER CALENDAR IN ALL MISSISSIPPI SCHOOL DISTRICTS; TO REQUIRE THE BOARD TO ESTABLISH THE ANNUAL SCHOOL CALENDAR, WHICH MUST BE NO LESS THAN 225 DAYS, FOR SCHOOL DISTRICTS PARTICIPATING IN THE PILOT PROGRAM; TO PRESCRIBE THE CORE CURRICULUM FOR STUDENTS IN SCHOOL DISTRICTS PARTICIPATING IN THE PILOT PROGRAM; TO REQUIRE THE BOARD TO INCREASE THE ADEQUATE EDUCATION PROGRAM ALLOTMENT TO SCHOOL DISTRICTS PARTICIPATING IN THE PILOT PROGRAM; TO AMEND SECTIONS 37-9-24, 37-13-63, 37-13-67, 37-13-91, 37-151-5 AND 37-151-7, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) The State Board of Education shall establish a Trimester School Year Pilot Program to determine the feasibility and desirability of implementing a trimester school year in all public school districts in the state.

(2) During the 2021-2022 school year, the State Board of Education shall adopt rules and regulations for the implementation of the pilot program and an application process for interested school districts to apply for participation in the pilot program.

The board may select up to twelve (12) eligible school districts in which the trimester school year calendar will be implemented. In selecting participants for the program, the board shall endeavor to include school districts representative of all Mississippi school districts, with consideration given to factors including, but not necessarily limited to, each applying school district's: size; accreditation level; urban or rural nature; demographic profile; and geographical location. At least one (1) school district in each congressional district, as those districts exist on July 1, 2021, must be selected for participation in the pilot program unless no application is received by the board from an eligible school district within a particular congressional district.

(3) School districts participating in the Trimester School Year Pilot Program must agree to adhere to the trimester school year calendar adopted by the State Board of Education for the 2022-2023 and 2023-2024 school years.

(4) Before January 1, 2023, the State Board of Education shall submit a report to the Chairmen of the Education Committees of the House of Representatives and Senate on the results of the Trimester School Year Pilot Program. The report must include recommendations on whether or not the trimester calendar should be implemented on a permanent basis in all or certain public school districts of the state.

SECTION 2. The State Board of Education shall establish a school year calendar to be observed by those school districts participating in the Trimester School Year Pilot Program. The opening day of the school term must be the Tuesday immediately succeeding the first Monday of September (National Memorial Day). Each trimester must consist of no less than seventy-five (75) days in which students and teachers are in regular attendance for scheduled school work. Upon the conclusion of each trimester, there must be a break of no less than fifteen (15) calendar days; however, the State Board of Education may designate a total of fourteen (14) days during the breaks as teacher work days or in-service training days. The complete scholastic year for school districts participating in the pilot program must be no less than two hundred twenty-five (225) days. The State Board of Education shall designate the legal holidays that may be observed in school districts participating in the pilot program.

SECTION 3. (1) The core curriculum for students in Grades 4 through 12 in the school districts participating in the Trimester School Year Pilot Program shall consist of the following five (5) core courses, each consisting of a minimum of eighteen (18) trimester units of developmental, content-mastery instruction:

(a) Language Arts -- Reading Recognition, Reading Comprehension, Spelling, Grammar, Written Expression and Literature;

(b) Math -- Math Calculations, Math Reasoning, Business Math, Algebra, Geometry, Algebra II, Trigonometry and Calculus;

(c) Foreign Language -- Written Expression, Verbal Expression and Literature;

(d) Social Studies:

(i) Grades 8 and 9 -- World History, consisting of four (4) trimesters with each course following an established timeline and incorporating major social, political and economic issues for South and Central America, North America, the Far East, the Middle East, Africa, Australia and Europe, with all courses to include related geography segments;

(ii) Grades 10 and 11 -- American History, consisting of two (2) trimesters from the Indigenous People through the Civil War and two (2) trimesters from the Civil War to the present; and

(iii) Grade 12 -- United States Government and two (2) trimesters of Current Political and Social Issues; and

(e) Science -- Earth Science, Biology, Zoology, Chemistry and Physics.

(2) In each school in those school districts participating in the Trimester School Year Pilot Program, the content area teachers shall develop skill progression-based course outlines identifying the primary and secondary data to be mastered. The principal of the school shall collate and assimilate the information into one (1) outline, which shall be forwarded to the

school district's central office. The local school board then shall collate and assimilate the data gathered from the various schools in that school district into one (1) outline to be submitted to the State Department of Education. The State Department of Education shall collate and assimilate the data gathered from the various school districts participating in the pilot program into one (1) outline. The department shall submit the final outline to a panel of university and college educators for revision.

(3) The State Department of Education shall provide standardized tests for the core curriculum defined in this section. Local school districts shall administer the standardized tests in particular subject areas to all students in the public schools on the same day, as designated by the State Department of Education. In administering the tests, a classroom teacher may not be permitted to monitor the testing of that teacher's students. All tests must be scored by machine, and the test results may be posted only in a pass or fail format.

(4) The State Board of Education shall establish the number of hours of actual teaching which constitutes a school day in those school districts participating in the Trimester School Year Pilot Program. The number of hours of each school day must be sufficient to satisfy the core curriculum requirements established in this section.

SECTION 4. In order to sufficiently fund school districts participating in the Trimester School Year Pilot Program, the State Board of Education shall increase the annual funding for the participating school districts under the Mississippi Adequate Education Program by an amount determined by the following formula: The annual allocation to the particular school district under the Mississippi Adequate Education Program will be divided by the average number of days that teachers and students are in actual attendance in all Mississippi school districts that are not participating in the pilot program. This sum, which represents the Mississippi Adequate Education Program daily allotment, will be multiplied by the difference between two hundred twenty-five (225) and the average number of days that teachers and students are in actual attendance in all Mississippi school districts that are not participating in the pilot program. The result of the last calculation will be added to the annual allocation to the particular school district under the Mississippi Adequate Education Program.

SECTION 5. Section 37-9-24, Mississippi Code of 1972, is amended as follows:

37-9-24. (1) Except as otherwise provided in this section, no school district shall contract with any licensed personnel for a number of employment days which shall be less than one hundred eighty-five (185).

Beginning with the 1994-1995 school year, no school district shall contract with any licensed personnel for less than one hundred eighty-seven (187) employment days.

(2) Licensed personnel may be employed for less than a full school year if the contract states the exact period of time for which the licensed person is to be employed.

(3) Each school district participating in the Trimester School Year Pilot Program and executing employment contracts before July 1, 2022, having a term of two hundred thirty-two (232) or more employment days for the 2022-2023 school year, shall increase the term of the standard one hundred eighty-seven-day contract by no less than forty-five (45) employment days; however, the annual salary established in the contract for the licensed personnel may be increased using any local supplement or state funds made available to the participating school district due to the number of employment days required under this subsection. This subsection shall stand repealed on July 1, 2024.

SECTION 6. Section 37-13-63, Mississippi Code of 1972, is amended as follows:

37-13-63. (1) Except as otherwise provided under subsections (2) and (3) of this section, and Sections 2 and 4 of this act, all public schools in the state shall be kept in session for at least one hundred eighty (180) days in each scholastic year.

(2) 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 scholastic year as contemplated due to an enemy attack, a man-made, technological or natural disaster or extreme weather emergency in which the Governor has declared a disaster or state of 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, the school board may notify the State Department of Education of the disaster or weather emergency and submit a plan for altering the school term. If the State Board of Education finds the disaster or extreme weather emergency 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 or state of emergency declaration, it may permit that school board to operate the schools in its district for less than one hundred eighty (180) days; however, in no instance of a declared disaster or state of emergency under the provisions of this subsection shall a school board receive payment from the State Department of Education for per pupil expenditure for pupils in average daily attendance in excess of ten (10) days.

(3) A school district that is selected for participation in the Trimester School Year Pilot Program, established under Sections 1 through 4 of this act, must be kept in session for at

least two hundred twenty-five (225) days for the duration of the pilot program beginning with the 2022-2023 school year, and may only be reduced in the event it is determined by the school board of the participating school district that it is not economically feasible or practicable to do so for reasons outlined in subsection (2) of this section.

SECTION 7. Section 37-13-67, Mississippi Code of 1972, is amended as follows:

37-13-67. Except as otherwise provided under Section 3 of House Bill No. , 2021 Regular Session, for school districts participating in the Trimester School Year Pilot Program, the number of hours of actual teaching which shall constitute a school day shall be determined and fixed by the board of trustees of the school district at not less than five and one-half (5-1/2) hours.

SECTION 8. Section 37-13-91, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

(d) "School day" means not less than five and one-half (5-1/2) and not more than eight (8) hours of actual teaching in which both teachers and pupils are in regular attendance for scheduled schoolwork.

(e) "School" means any public school, including a charter school, in this state or any nonpublic school in this state which is in session each school year for at least one hundred eighty (180) school days, or in the case of school districts participating in the Trimester School Year Pilot Program established under Sections 1 through 4 of this act, two hundred twenty-five days (225) of school, except that the "nonpublic" school term shall be the number of days that each school shall require for promotion from grade to grade.

(f) "Compulsory-school-age child" means a child who has attained or will attain the age of six (6) years on or before September 1 of the calendar year and who has not attained the age of seventeen (17) years on or before September 1 of the calendar year; and shall include any child who has attained or will attain

the age of five (5) years on or before September 1 and has enrolled in a full-day public school kindergarten program.

(g) "School attendance officer" means a person employed by the State Department of Education pursuant to Section 37-13-89.

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

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

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

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

(b) When a compulsory-school-age child is enrolled in and pursuing a course of special education, remedial education or

education for handicapped or physically or mentally disadvantaged children.

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

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

The form of the certificate of enrollment shall be prepared by the Office of Compulsory School Attendance Enforcement of the State Department of Education and shall be designed to obtain the following information only:

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

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

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

(iv) The signature of the parent, guardian or custodian of the compulsory-school-age child or, for any or all

compulsory-school-age child or children attending a charter school or nonpublic school, the signature of the appropriate school official and the date signed.

The certificate of enrollment shall be returned to the school attendance officer where the child resides on or before September 15 of each year. Any parent, guardian or custodian found by the school attendance officer to be in noncompliance with this section shall comply, after written notice of the noncompliance by the school attendance officer, with this subsection within ten (10) days after the notice or be in violation of this section. However, in the event the child has been enrolled in a public school within fifteen (15) calendar days after the first day of the school year as required in subsection (6), the parent or custodian may, at a later date, enroll the child in a legitimate nonpublic school or legitimate home instruction program and send the certificate of enrollment to the school attendance officer and be in compliance with this subsection.

For the purposes of this subsection, a legitimate nonpublic school or legitimate home instruction program shall be those not operated or instituted for the purpose of avoiding or circumventing the compulsory attendance law.

(4) An "unlawful absence" is an absence for an entire school day or during part of a school day by a compulsory-school-age child, which absence is not due to a valid excuse for temporary nonattendance. For purposes of reporting absenteeism under

subsection (6) of this section, if a compulsory-school-age child has an absence that is more than thirty-seven percent (37%) of the instructional day, as fixed by the school board for the school at which the compulsory-school-age child is enrolled, the child must be considered absent the entire school day. Days missed from school due to disciplinary suspension shall not be considered an "excused" absence under this section. This subsection shall not apply to children enrolled in a nonpublic school.

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

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

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

(c) An absence is excused when isolation of a compulsory-school-age child is ordered by the county health

officer, by the State Board of Health or appropriate school official.

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

(e) An absence is excused when it results from a medical or dental appointment of a compulsory-school-age child.

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

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

(h) An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that the purpose of the absence is to take advantage of a valid educational opportunity such as travel,

including vacations or other family travel. Approval of the absence must be gained from the superintendent of the school district, or his designee, before the absence, but the approval shall not be unreasonably withheld.

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

(j) An absence is excused when it results from the attendance of a compulsory-school-age child participating in official organized events sponsored by the 4-H or Future Farmers of America (FFA). The excuse for the 4-H or FFA event must be provided in writing to the appropriate school superintendent by the Extension Agent or High School Agricultural Instructor/FFA Advisor.

(k) An absence is excused when it results from the compulsory-school-age child officially being employed to serve as a page at the State Capitol for the Mississippi House of Representatives or Senate.

(5) Any parent, guardian or custodian of a compulsory-school-age child subject to this section who refuses or willfully fails to perform any of the duties imposed upon him or

her under this section or who intentionally falsifies any information required to be contained in a certificate of enrollment, shall be guilty of contributing to the neglect of a child and, upon conviction, shall be punished in accordance with Section 97-5-39.

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

(6) If a compulsory-school-age child has not been enrolled in a school within fifteen (15) calendar days after the first day of the school year of the school which the child is eligible to

attend or the child has accumulated five (5) unlawful absences during the school year of the public school in which the child is enrolled, the school district superintendent, or his designee, shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officer. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer. The superintendent, or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur.

(7) When a school attendance officer has made all attempts to secure enrollment and/or attendance of a compulsory-school-age child and is unable to effect the enrollment and/or attendance, the attendance officer shall file a petition with the youth court under Section 43-21-451 or shall file a petition in a court of competent jurisdiction as it pertains to parent or child. Sheriffs, deputy sheriffs and municipal law enforcement officers shall be fully authorized to investigate all cases of nonattendance and unlawful absences by compulsory-school-age children, and shall be authorized to file a petition with the youth court under Section 43-21-451 or file a petition or information in the court of competent jurisdiction as it pertains to parent or child for violation of this section. The youth court shall expedite a hearing to make an appropriate adjudication and a

disposition to ensure compliance with the Compulsory School Attendance Law, and may order the child to enroll or re-enroll in school. The superintendent of the school district to which the child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

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

(9) Notwithstanding any provision or implication herein to the contrary, it is not the intention of this section to impair the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the proper education and training for such child, and nothing in this section shall ever be construed to grant, by implication or otherwise, to the State of Mississippi, any of its officers, agencies or subdivisions any right or authority to control, manage, supervise or make any suggestion as to the control, management or supervision of any private or parochial school or institution for the education or training of children, of any kind whatsoever that is not a public school according to the laws of this state; and this section shall never be construed so as to grant, by implication or otherwise, any right or authority to any state agency or other entity to control, manage, supervise,

provide for or affect the operation, management, program, curriculum, admissions policy or discipline of any such school or home instruction program.

SECTION 9. Section 37-151-5, Mississippi Code of 1972, is amended as follows:

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

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

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

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

(ii) "Pilot programs" shall mean programs of a pilot or experimental nature usually designed for special purposes

and for a specified period of time other than those included in the adequate education program.

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

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

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

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

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

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

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

(iii) "Special education program" shall mean a program for exceptional children as defined and authorized by Sections 37-23-1 through 37-23-9, and approved by the State Department of Education and provided from state funds.

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

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

(vi) "Extended school year programs" shall mean those programs authorized by law which extend beyond the normal school year.

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

(viii) "Bus driver training" programs shall mean those driver training programs as provided for in Section 37-41-1.

(f) "Teacher" shall include any employee of a local school who is required by law to obtain a teacher's license from

the State Board of Education and who is assigned to an instructional area of work as defined by the State Department of Education.

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

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

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

(j) "Minimum school term" shall mean a term of at least one hundred eighty (180) days of school<u>, or in the case of school districts participating in the Trimester School Year Pilot Program established under Sections 1 through 4 of this act, two hundred twenty-five days (225) of school,</u> in which both teachers and pupils are in regular attendance for scheduled classroom instruction for not less than sixty-three percent (63%) of the instructional day, as fixed by the local school board for each school in the school district. It is the intent of the Legislature that any tax levies generated to produce additional local funds required by any school district to operate school terms in excess of one hundred seventy-five (175) days shall not be construed to constitute a new program for the purposes of exemption from the limitation on tax revenues as allowed under

Sections 27-39-321 and 37-57-107 for new programs mandated by the Legislature.

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

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

(m) The term "year of teaching experience" shall mean nine (9) months of actual teaching in the public or private elementary and secondary schools and shall also include nine (9) months of actual teaching at postsecondary institutions accredited by the Southern Association of Colleges and Schools (SACS) or equivalent regional accrediting body for degree-granting postsecondary institutions. In no case shall more than one (1) year of teaching experience be given for all services in one (1) calendar or school year. In determining a teacher's experience, no deduction shall be made because of the temporary absence of the teacher because of illness or other good cause, and the teacher shall be given credit therefor. *** * *** The State Board of Education shall fix a number of days, not to exceed forty-five (45) consecutive school days, during which a teacher may not be

under contract of employment during any school year and still be considered to have been in full-time employment for a regular scholastic term. If a teacher exceeds the number of days established by the State Board of Education that a teacher may not be under contract but may still be employed, that teacher shall not be credited with a year of teaching experience. In determining the experience of school librarians, each complete year of continuous, full-time employment as a professional librarian in a public library in this or some other state shall be considered a year of teaching experience. If a full-time school administrator returns to actual teaching in the public schools, the term "year of teaching experience" shall include the period of time he or she served as a school administrator. In determining the salaries of teachers who have experience in any branch of the military, the term "year of teaching experience" shall include each complete year of actual classroom instruction while serving in the military. In determining the experience of speech-language pathologists and audiologists, each complete year of continuous full-time post master's degree employment in an educational setting in this or some other state shall be considered a year of teaching experience. *** * *** However, *** * *** school districts are authorized, in their discretion, to negotiate the salary levels applicable to *** * *** licensed employees employed after July 1, 2009, who are receiving retirement benefits from the retirement system of another state, and the annual experience increment

provided in Section 37-19-7 shall not be applicable to any such retired * * * licensed employee.

(n) * * * The term "average daily attendance" shall be the figure which results when the total aggregate full-day attendance during the period or months counted is divided by the number of days during the period or months counted upon which both teachers and pupils are in regular attendance for scheduled classroom instruction, * * * less the average daily attendance for self-contained special education classes. For purposes of determining and reporting attendance, a pupil must be present for at least sixty-three percent (63%) of the instructional day, as fixed by the local school board for each school in the school district, in order to be considered in full-day attendance. * * * Before full implementation of the adequate education program the department shall deduct the average daily attendance for the alternative school program provided for in Section 37-19-22.

* * *

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

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

(q) The term "adequate education program funds" shall mean all funds, both state and local, constituting the

requirements for meeting the cost of the adequate program as provided for in Section 37-151-7.

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

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

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

(u) "Dual enrollment-dual credit programs" shall mean programs for potential or recent high school student dropouts to dually enroll in their home high school and a local community college in a dual credit program consisting of high school completion coursework and a credential, certificate or degree program at the community college, as provided in Section 37-15-38(19).

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

SECTION 10. 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.

*** * *** Before 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 there is located one or more charter schools 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 a charter school is located, an average per pupil amount will be calculated. This average per pupil amount will be multiplied times the number of students attending the charter school in that school district. The sum 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) * * * However, * * * in fiscal year 2015, any increase in the * * * state contribution to any district calculated under this section shall be not less than six percent (6%) in excess of the amount received by * * * that district from state funds for fiscal year 2002; in fiscal year 2016, any increase in the said state contribution to any district calculated under this section shall be not less than four percent (4%) in excess of the amount received by said district from state funds for fiscal year 2002; in fiscal year 2017, any increase in the said state contribution to any district calculated under this section shall be not less than two percent (2%) in excess of the amount received by said district from state funds for fiscal year 2002; and in fiscal year 2018 and thereafter, any increase in the said state contribution to any district calculated under this section shall be zero percent (0%). 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) (i) 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 * * * established for a * * * scholastic year * * * under Section 37-13-63(1) and (2), * * * 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, * * * the 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 * * * the 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 * * * the district, because of the failure to operate said schools for one hundred eighty (180) days.

(ii) If the school board of any school district participating in the Trimester School Year Pilot Program,

established under Sections 1 through 4 of this act, shall determine that it is not economically feasible or practicable to operate any school within the district for the full two hundred twenty-five (225) days established for a scholastic year under Section 37-13-63 (3), 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, the participating 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 statutorily required school term, and that such school was in a school district covered by the Governor's or President's disaster declaration, it may permit the participating school board to operate the schools in its district for less than two hundred twenty-five (225) 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 the schools for two hundred twenty-five (225) 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 public charter school is located. 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 11. This act shall take effect and be in force from and after July 1, 2021.