

By: Representative Saucier

To: Education; Ways and
Means

HOUSE BILL NO. 630

1 AN ACT TO AMEND SECTION 75-76-129, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT MONIES COLLECTED BY THE STATE TAX COMMISSION UNDER
3 THE MISSISSIPPI GAMING CONTROL ACT SHALL BE USED TO FUND THE
4 REQUIRED STATE EFFORT IN SUPPORT OF THE MISSISSIPPI ADEQUATE
5 EDUCATION PROGRAM; TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF
6 1972, IN CONFORMITY THERETO; TO REQUIRE A MINIMUM PERCENTAGE OF
7 THE STATE'S GENERAL FUNDS AVAILABLE FOR APPROPRIATION TO BE
8 ANNUALLY APPROPRIATED TO THE STATE DEPARTMENT OF EDUCATION, THE
9 STATE BOARD FOR COMMUNITY AND JUNIOR COLLEGES AND THE BOARD OF
10 TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING; TO EXCLUDE
11 EDUCATION ENHANCEMENT FUNDS AND APPROPRIATIONS TO THE BOARD OF
12 TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING FOR THE SUPPORT
13 OF AGRICULTURE UNITS FROM THE MINIMUM APPROPRIATION PERCENTAGE; TO
14 PROVIDE THAT FUNDS NOT EXPENDED AT THE CLOSE OF THE FISCAL YEAR
15 SHALL REVERT TO THE GENERAL FUND; AND FOR RELATED PURPOSES.

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

17 SECTION 1. Section 75-76-129, Mississippi Code of 1972, is
18 amended as follows:

19 **[Through June 30, 2012, this section shall read as follows:]**

20 75-76-129. On or before the last day of each month all
21 taxes, fees, interest, penalties, damages, fines or other monies
22 collected by the State Tax Commission during that month under the
23 provisions of this chapter shall be paid by the State Tax
24 Commission to the State Treasurer to be deposited in the State
25 General Fund, with the exception of: (a) the local government
26 fees imposed under Section 75-76-195; (b) an amount equal to Three
27 Million Dollars (\$3,000,000.00) of the revenue collected pursuant
28 to the fee imposed under Section 75-76-177(1)(c), or an amount
29 equal to twenty-five percent (25%) of the revenue collected
30 pursuant to the fee imposed under Section 75-76-177(1)(c),
31 whichever is the greater amount; and (c) an amount equal to
32 one-twelfth (1/12) of the total state contribution required to
33 fund the Mississippi Adequate Education Program, as established

34 under Chapter 151, Title 37, Mississippi Code of 1972, for the
35 then current fiscal year. The local government fees shall be
36 distributed by the State Tax Commission pursuant to Section
37 75-76-197. An amount equal to Three Million Dollars
38 (\$3,000,000.00) of the revenue collected during that month
39 pursuant to the fee imposed under Section 75-76-177(1)(c) shall be
40 deposited by the State Tax Commission into the bond sinking fund
41 created in Section 65-39-3. The revenue collected during that
42 month pursuant to the fee imposed under Section 75-76-177(1)(c)
43 that is in excess of Three Million Dollars (\$3,000,000.00), but is
44 less than twenty-five percent (25%) of the amount of revenue
45 collected during that month, shall be deposited into the State
46 Highway Fund to be used exclusively for the reconstruction and
47 maintenance of highways of the State of Mississippi. An amount
48 equal to one-twelfth (1/12) of the total state contribution
49 required to fund the Mississippi Adequate Education Program
50 pursuant to the funding formula prescribed in Sections 37-151-3
51 through 37-151-7 for the then current fiscal year shall be
52 deposited into the Interim School District Capital Expenditure
53 Fund in the State Treasury until fiscal year 2003, at which time
54 such funds shall be deposited into the State Adequate Education
55 Program Fund in the State Treasury.

56 **[From and after July 1, 2012, this section shall read as**
57 **follows:]**

58 75-76-129. On or before the last day of each month, all
59 taxes, fees, interest, penalties, damages, fines or other monies
60 collected by the State Tax Commission during that month under the
61 provisions of this chapter shall be paid by the State Tax
62 Commission to the State Treasurer to be deposited in the State
63 General Fund, with the exception of the local government fees
64 imposed under Section 75-76-195, and an amount equal to
65 one-twelfth (1/12) of the total state contribution required to
66 fund the Mississippi Adequate Education Program, as established
67 under Chapter 151, Title 37, Mississippi Code of 1972, for the
68 then current fiscal year. The local government fees shall be
69 distributed by the State Tax Commission pursuant to Section
70 75-76-197. An amount equal to one-twelfth (1/12) of the total
71 state contribution required to fund the Mississippi Adequate

Education Program pursuant to the funding formula prescribed in Sections 37-151-3 through 37-151-7 for the then current fiscal year shall be deposited into the State Adequate Education Program Fund in the State Treasury.

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

(b) **Determination of base student cost.** The State Board of Education, on or before August 1, with adjusted estimate no later than January 2, shall annually 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 an average school district meeting Level III accreditation standards required by the Commission on School Accreditation: (i) Instructional Cost; (ii) Administrative Cost; (iii) Operation and Maintenance of Plant; and (iv) Ancillary Support Cost. The department shall utilize a statistical methodology which considers such factors as, but not limited to, (i) school size; (ii) assessed valuation per pupil; (iii) the percentage of students receiving free lunch; (iv) the local

district maintenance tax levy; (v) other local school district revenues; and (vi) the district's accreditation level, in the selection of the representative Mississippi school districts for which cost information shall be obtained for each of the above listed cost areas.

For the instructional cost component, the department shall determine the instructional cost of each of the representative school districts selected above, excluding instructional cost of self-contained special education programs and vocational education programs, and the average daily attendance in the selected school districts. The instructional cost is then totalled and divided by the total average daily attendance for the selected school districts to yield the instructional cost component. For the administrative cost component, the department shall determine the administrative cost of each of the representative school districts selected above, excluding administrative cost of self-contained special education programs and vocational education programs, and the average daily attendance in the selected school districts. The administrative cost is then totalled and divided by the total average daily attendance for the selected school districts to yield the administrative cost component. For the plant and maintenance cost component, the department shall determine the plant and maintenance cost of each of the representative school districts selected above, excluding plant and maintenance cost of self-contained special education programs and vocational education programs, and the average daily attendance in the selected school districts. The plant and maintenance cost is then totalled and divided by the total average daily attendance for the selected school districts to yield the plant and maintenance cost component. For the ancillary support cost component, the department shall determine the ancillary support cost of each of the representative school districts selected above, excluding ancillary support cost of self-contained special education programs and vocational education programs, and the average daily

attendance in the selected school districts. The ancillary support cost is then totalled and divided by the total average daily attendance for the selected school districts to yield the ancillary support cost component. 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).

(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.

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

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, and (vii) university-based 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.

(g) Supplemental grant to school districts. In addition to the adequate education program grant, the State

Department of Education shall annually distribute an additional amount as follows: Multiply the base student cost for the appropriate fiscal year as determined under paragraph (b) by .13% and multiply that product by the average daily attendance of each school district. Such grant shall not be subject to the local revenue requirement provided in subsection (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 Board 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 subsection (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.

(b) The State Board of Education shall determine (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); (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); 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.

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

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.

Provided, however, that in fiscal year 1998 and in the fiscal year in which the adequate education program is fully funded * * *, any increase in the * * * state contribution, including the supplemental grant to school districts provided under subsection (1)(g), 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 section, 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.

(4) The State Adequate Education Program Fund is hereby established in the State Treasury which shall be used to distribute * * * funds * * * to school districts entitled to increased allocations of state funds under the adequate education program funding formula prescribed in Sections 37-151-3, 37-151-5 and 37-151-7 of this article. If the balance of funds in the

State Adequate Education Program Fund is less * * * than the total state funds needed for support of such increased allocations under the adequate education program, the State Department of Education shall reduce all elements of the cost of the adequate education program proportionately. Any such adequate education program funds shall be transferred to the school district maintenance fund of such district in the manner prescribed in Section 37-19-47, and shall be expended in the manner provided by law.

(5) The Interim School District Capital Expenditure Fund is hereby established in the State Treasury which shall be used to distribute * * * funds * * * 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 until such time as the * * * adequate education program is fully funded * * *. The following percentages of the total state cost of increased allocations of funds under the adequate education program funding formula shall be deposited pursuant to Section 75-76-129 into the Interim School District Capital Expenditure Fund to be distributed to all school districts under the formula: * * * Twenty percent (20%) shall be deposited in fiscal year 1999; forty percent (40%) shall be deposited in fiscal year 2000; sixty percent (60%) shall be deposited in fiscal year 2001; eighty percent (80%) shall be deposited in fiscal year 2002; and one hundred percent (100%) shall be deposited in fiscal year 2003 into the State Adequate Education Program Fund created in subsection (4). Until such time as the adequate education program is fully funded * * *, 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 (5) 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 or debt issued by boards of supervisors for agricultural high schools pursuant to Section 37-27-65 or lease-purchase contracts entered into pursuant to Section 31-7-13 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) From and after October 1, 1997, through June 30, 1998, in addition to any other authority a school district may have, any school district may issue State Aid Capital Improvement Bonds secured in whole by a continuing annual pledge of any Mississippi Adequate Education Program funds available to the district, in an amount not to exceed One Hundred Sixty (\$160.00) per pupil based on the latest completed average daily attendance count certified by the department prior to the issuance of the bonds. Such State Aid Capital Improvement Bonds may be issued for the purposes enumerated in subsections (a), (b), (c) and (g) of this section. Prior to issuing such bonds, the school board of the district shall adopt a resolution declaring the necessity for and its intention of issuing such bonds and borrowing such money, specifying the approximate amount to be so borrowed, how such money is to be used and how such indebtedness is to be evidenced.

Any capital improvement project financed with State Aid Capital Improvement Bonds shall be approved by the department, and based on an approved long-range plan. The State Board of Education shall promulgate minimum requirements for the approval of such school district capital expenditure plans. The State Board of Education shall not approve any capital expenditure plan for a pledge of funds under this paragraph unless it determines (i) that the quality of instruction in such district will not be reduced as a result of this pledge, and (ii) the district has other revenue available to attain and maintain at least Level III accreditation.

A district issuing State Aid Capital Improvement Bonds may pledge for the repayment of such bonds all funds received by the district from the state, in an amount not to exceed One Hundred Sixty Dollars (\$160.00) per pupil in average daily attendance in

the school district as set forth above, and not otherwise permanently pledged under paragraph (d) of this subsection or under Section 37-61-33(2)(d). The district's school board shall specify by resolution the amount of state funds, which are being pledged by the district for the repayment of the State Aid Capital Improvement Bonds. Once such a pledge is made to secure the bonds, the district shall notify the department of such pledge. Upon making such a pledge, the school district may request the department which may agree to irrevocably transfer a specified amount or percentage of the district's state revenue pledged to repay the district's State Aid Capital Improvement Bonds directly to a state or federally chartered bank serving as a trustee or paying agent on such bonds for the payment of all or portion of such State Aid Capital Improvement Bonds. Such instructions shall be incorporated into a resolution by the school board for the benefit of holders of the bonds and may provide that such withholding and transfer of such other available funds shall be made only upon notification by a trustee or paying agent on such bonds that the amounts available to pay such bonds on any payment date will not be sufficient. It is the intent of this provision to allow school districts to irrevocably pledge a certain, constant stream of revenue as security for State Aid Capital Improvement Bonds issued hereunder. 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 state revenues up to an amount equal to One Hundred Sixty Dollars (\$160.00) per pupil as set forth above which have been pledged to repay debt as set forth herein shall not be reduced so long as any State Aid Capital Improvement Bonds are outstanding.

Any such State Aid Capital Improvement bonds shall mature as determined by the district's school bond over a period not to exceed twenty (20) years. Such bonds shall not bear a greater overall maximum interest rate to maturity than that allowed in Section 75-17-101. The further details and terms of such bonds

shall be as determined by the school board of the district.

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

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

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

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

(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

446 maintenance, and the training of staff in the use of such
447 technology-based instruction. Any such technology expenditure
448 shall be reflected in the local district technology plan approved
449 by the State Board of Education under Section 37-151-17.

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

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

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

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

477 SECTION 3. (1) For the purpose of funding the support and
478 maintenance of public education and any related educational
479 activities and programs in the State of Mississippi, beginning

480 with the 2000 fiscal year appropriations, the Legislature shall
481 appropriate annually no less than fifty-seven percent (57%) of the
482 state's general funds that are available for appropriation to the
483 State Department of Education, the State Board for Community and
484 Junior Colleges and the Board of Trustees of State Institutions of
485 Higher Learning.

486 (2) Any funds from the Education Enhancement Fund and any
487 appropriation made to the Board of Trustees of State Institutions
488 of Higher Learning for the support of agriculture units shall not
489 be included in the minimum appropriation percentage established
490 under this section.

491 (3) Any monies appropriated by the Legislature for the
492 purpose set forth in subsection (1) of this section which are not
493 expended during the fiscal year for which those funds were
494 appropriated shall revert to the State General Fund at the close
495 of that fiscal year.

496 SECTION 4. Sections 1 and 2 of this act shall take effect
497 and be in force from and after July 1, 1999. Section 3 of this
498 act will take effect and be in force from and after its passage.