To: Education; Appropriations

MISSISSIPPI LEGISLATURE REGULAR SESSION 2002

By: Senator(s) Cuevas

SENATE BILL NO. 2423

AN ACT TO AMEND SECTIONS 37-13-81, 37-13-91, 37-13-89 AND 19-19-5, MISSISSIPPI CODE OF 1972, TO TRANSFER THE FUNCTIONS AND DUTIES OF SCHOOL ATTENDANCE OFFICERS TO THE CONSTABLES OF THE VARIOUS COUNTIES, TO PROVIDE THAT CONSTABLES SHALL HAVE THE AUTHORITY AND RESPONSIBILITY OF ENFORCING THE MISSISSIPPI COMPULSORY SCHOOL ATTENDANCE LAW FOR ANY CHILD RESIDING OR FOUND IN THE COUNTY IN WHICH THE CONSTABLE HAS JURISDICTION, TO PROVIDE THAT THE CONSTABLE IS AUTHORIZED TO FILE PETITIONS IN THE YOUTH COURT OF HIS COUNTY IN ORDER TO ENFORCE THE PROVISIONS OF THE COMPULSORY SCHOOL ATTENDANCE LAW, AND TO CLARIFY THE FUNCTIONS AND RESPONSIBILITIES OF CONSTABLES RELATIVE TO THE ENFORCEMENT OF THE COMPULSORY SCHOOL ATTENDANCE LAW; TO AMEND SECTION 25-7-27, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CONSTABLES SHALL RECEIVE A FEE FOR ENFORCING THE COMPULSORY SCHOOL ATTENDANCE LAW WHICH SHALL BE PAID BY THE LOCAL SCHOOL DISTRICT IN WHICH THE CHILD IS ENROLLED OR SHOULD BE ENROLLED; TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE LOCAL SCHOOL DISTRICT COST OF PAYING THE FEES OF CONSTABLES FOR ENFORCING THE COMPULSORY SCHOOL ATTENDANCE LAW IN THEIR DISTRICT SHALL BE INCLUDED IN THE BASE STUDENT COST PAID BY THE STATE TO SCHOOL DISTRICTS UNDER THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 37-13-81, Mississippi Code of 1972, is amended as follows:

37-13-81. Until June 30, 2002, there is created the Office of Compulsory School Attendance Enforcement within the State Department of Education. The office shall be responsible for the administration of a statewide system of enforcement of the Mississippi Compulsory School Attendance Law (Section 37-13-91) and for the supervision of school attendance officers throughout the state. From and after July 1, 2002, the authority, duties and responsibilities of school attendance officers shall be transferred to the elected constable of the county in which the compulsory-school-age child resides or is to be found, and the statewide system of supervision of school attendance officers by the State Department of Education is hereby abolished.
SECTION 2. 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 (5) 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 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, 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.

(g) "Constable" means the elected constable of the county in which the compulsory-school-age child resides or is to be found. From and after July 1, 2002, such constables shall assume the authority and responsibilities of school attendance.
officers formerly 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 nonpublic school, or the appropriate school official for any or all children attending a 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 State Department of Education for distribution to the local school districts 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 nonpublic school, the signature of the appropriate school official and the date signed.

The certificate of enrollment shall be returned to the constable of the county in which the child resides on or before September 15 of each year. Any parent, guardian or custodian found by the constable to be in noncompliance with this section shall comply, after written notice of the noncompliance by the constable, 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 constable 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 during a school day
by a compulsory-school-age child, which absence is not due to a
valid excuse for temporary nonattendance. 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 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 where an approval of the superintendent of the school district or his designee is gained before the absence, except in the case of emergency.

(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.

(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 constable 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 shall report, within
two (2) school days or within five (5) calendar days, whichever is
less, the absences to any constable of the county in which the
school or school district is located. In the event the school
district is located in two (2) or more school districts, the
superintendent shall make such report to any constable of the county in which the child resides or is to be found. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the constable. The superintendent, or his designee, also shall report any student suspensions or student expulsions to the constable when they occur.

(7) When a constable 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 constable 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 reenroll 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 3. Section 37-13-89, Mississippi Code of 1972, is
amended as follows:

37-13-89. * * *

(1) It shall be the duty of each constable in carrying out
the provisions of the Mississippi Compulsory School Attendance Law
relative to compulsory-school-age children residing or found in
the elected constable's county to:

(a) Cooperate with any public agency to locate and
identify all compulsory-school-age children who are not attending
school;

(b) Cooperate with all courts of competent
jurisdiction;

(c) Investigate all cases of nonattendance and unlawful
absences by compulsory-school-age children not enrolled in a
nonpublic school;
(d) Provide appropriate counseling to encourage all school-age children to attend school until they have completed high school;
(e) Attempt to secure the provision of social or welfare services that may be required to enable any child to attend school;
(f) Contact the home or place of residence of a compulsory-school-age child and any other place in which the constable is likely to find any compulsory-school-age child when the child is absent from school during school hours without a valid written excuse from school officials, and when the child is found, the constable shall notify the parents and school officials as to where the child was physically located;
(g) Contact promptly the home of each compulsory-school-age child in the school district(s) within the supervisors district from which the constable was elected who is not enrolled in school or is not in attendance at public school and is without a valid written excuse from school officials; if no valid reason is found for the nonenrollment or absence from the school, the constable shall give written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance;
(h) Collect and maintain information concerning absenteeism, dropouts and other attendance-related problems, as may be required by law or the State Board of Education; and
(i) Perform all other duties relating to compulsory school attendance established by law or by the State Board of Education.
(2) While engaged in the performance of his compulsory school attendance duties, each constable shall carry on his person a badge identifying him as a constable **. **
SECTION 4. Section 19-19-5, Mississippi Code of 1972, is amended as follows:

19-19-5. (1) It shall be the duty of every constable to keep and preserve the peace within his county, by faithfully aiding and assisting in executing the criminal laws of the state; to give information, without delay, to some justice court judge or other proper officer, of all riots, routs and unlawful assemblies, and of every violation of the penal laws which may come to his knowledge in any manner whatsoever; to execute and return all process, civil and criminal, lawfully directed to him, according to the command thereof; and to pay over all monies, when collected by him to the person lawfully authorized to receive the same. No constable shall receive any fee provided by law for making an arrest, or attending any trial, wherein the defendant has been arrested, or is being tried for any violation of the motor vehicle laws committed on any designated United States highway located within the district or county of the constable.

(2) From and after July 1, 2002, it shall be the duty of every constable to enforce the provisions of the Mississippi Compulsory School Attendance Law, Section 37-13-91, Mississippi Code of 1972, relative to all compulsory-school-age children residing or found in the county in which he has jurisdiction, and to file petitions in the youth court or other court of proper jurisdiction as required by law.

(3) (a) During a constable's term of office, each constable shall attend and, to the extent to which he is physically able, participate in a curriculum having a duration of two (2) weeks which addresses the nature and scope of specific duties and responsibilities of a constable and which includes firearm use and safety training, to be established by the Board on Law Enforcement Officers Standards and Training in the field of law enforcement at the Mississippi Law Enforcement Officers' Training Academy or such other training programs that are approved by the Board on Law Enforcement.
Enforcement Officers Standards and Training pursuant to Section 45-6-9. No physical fitness test shall be required to be successfully completed in order to complete the training program. The board of supervisors of the county shall be responsible for paying, only one (1) time, the tuition, living and travel expenses incurred by any constable of that county in attendance at such training program or curriculum. If such constable does not attend and, to the extent to which he is physically able, participate in the entirety of the required program or curriculum, any further training which may be required by this section shall be completed at the expense of such constable. No constable shall be entitled to the receipt of any fees, costs or compensation authorized by law after the first twenty-four (24) months in office if he fails to attend the required training and, to the extent to which he is physically able, participate in the entirety of the appropriate program or curriculum. Any constable who does not complete the required training when required may execute and return civil process but thereafter shall not be paid any fees, costs or compensation for executing such process and shall not be allowed to exercise any law enforcement functions or to carry a firearm in the performance of his duties until he has completed such training.

(b) (i) The Board of Law Enforcement Officers Standards and Training shall develop a program of continuing education training for constables to attend consisting of eight (8) hours annually. The program shall be divided equally between firearms training and safety and instruction in both substantive and procedural law, and from and after July 1, 2002, shall include instruction in the authority, duties and responsibilities of constables in the enforcement of the Mississippi Compulsory School Attendance Law, Section 37-13-91, Mississippi Code of 1972. The training program shall be conducted by the Mississippi Constables Association, and appropriate parts of the program may be conducted
by members who have been certified by the board to conduct the
training program. The cost of travel, tuition and living expenses
in attending the continuing training shall be paid out of the Law
Enforcement Officers Training Fund created in Section 45-6-15.

(ii) No constable elected prior to January 1, 2000, shall be required to comply with the continuing education
requirements of this paragraph (b); however, any constable may
elect to attend the annual training and shall be reimbursed
therefor as provided in this paragraph (b).

(c) The provisions of this subsection shall not apply
to a constable who has received a certificate from the Board on
Law Enforcement Officers Standards and Training evidencing
satisfaction of subsections (2) and (3) of Section 45-6-11, or who
is exempt from the requirements of subsections (2) and (3) of
Section 45-6-11 by the provisions of subsection (1) of Section
45-6-11.

SECTION 5. Section 25-7-27, Mississippi Code of 1972, is
amended as follows:

25-7-27. (1) Marshals and constables shall charge the
following fees:

(a) A uniform total fee in all cases, civil and
criminal, whether contested or uncontested, which shall include
all services in connection therewith, except as hereinafter
stated, each................................................ $25.00

Provided, however, that in all cases where there is more than
one (1) defendant, for service on each additional
defendant.................................................. $ 5.00

Provided further, that when a complaining party has provided
erroneous information to the clerk of the court relating to the
service of process on the defendant or defendants and process
cannot be served after diligent search and inquiry, the uniform
fee shall be assessed upon subsequent successful service and an
additional fee shall be due in the following amount........ $15.00
(b) Provided, however, that after final judgment has
been enrolled, further proceedings involving levy of execution on
judgments, and attachment and garnishment proceedings shall be a
new suit for which the marshal or constable shall be entitled to
the following fee........................................... $25.00

(c) For conveying a person charged with a crime to
jail, mileage reimbursement in an amount not to exceed the rate
established under Section 25-3-41(2).

To be paid out of the county treasury on the allowance of the
board of supervisors, when the state fails in the prosecution, or
the person is convicted but is not able to pay the costs.

(d) For other service, the same fees allowed sheriffs
for similar services.

(e) For service as a bailiff in any court in a civil
case, to be paid by the county on allowance of the court on
issuance of a warrant therefor, an amount equal to the per diem
compensation provided under Section 25-3-69 for each day, or part
thereof, for which he serves as bailiff when the court is in
session.

(f) For serving all warrants and other process,
attending all trials in state cases in which the state fails in
the prosecution, to be paid out of the county treasury on the
allowance of the board of supervisors without itemization,
subject, however, to the condition that the marshal or constable
must not have overcharged in the collection of fees for costs,
contrary to the provisions of this section, annually not to
exceed.................................................. $1,000.00

(g) For filing petitions or information before the
youth court or other court with competent jurisdiction reporting
violations of the Mississippi Compulsory School Attendance Law,
Section 37-13-91, Mississippi Code of 1972, and for serving each
written notice of noncompliance with the compulsory attendance law
as required under said Section 37-13-91, to be paid from local
school district maintenance funds on the allowance of the local
school board, or when any person is convicted but is not able to
pay the costs.............................................$ 25.00

(2) Marshals and constables shall be paid all uncollected
fees levied under subsection (1) of this section in full from the
first proceeds received by the court from the guilty party or from
any other source of payment in connection with the case.

(3) In addition to the fees authorized to be paid to a
constable under subsection (1) of this section, a constable may
receive payments for collecting delinquent criminal fines in
justice court pursuant to the provisions of Section 19-3-41(3).

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

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

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

(a) Determination of average daily attendance. 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; * * * (iv) Ancillary Support Cost; and (v) Cost of Compulsory School Attendance Law by Local Constables. 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 totaled 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 totaled 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 totaled 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 totaled and divided by the total average daily attendance for the selected school districts to yield the ancillary support cost component. For the cost of Compulsory School Attendance Enforcement by the Local Constables, the department shall survey the aggregate fees paid to constables for serving notices of noncompliance and for filing petitions in the youth or other court for violations of the Mississippi School Attendance Law as required under Sections 37-13-91 and 25-7-27(1)(g) in the selected school districts, and divide the total by the total average daily attendance for the selected school districts to yield the compulsory school attendance 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, ancillary support cost component, the compulsory school attendance enforcement paid to local constables 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., 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, 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), 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.

(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 by the Legislature, any increase in the said 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 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, 37-151-5 and 37-151-7 of this article. If the Legislature provides less funds 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, Mississippi Code of 1972, 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 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 created in subsection (4). Until such time as the adequate education program is fully funded by the Legislature, 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, 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) 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 Dollars ($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), Mississippi Code of 1972. 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, Mississippi Code of 1972. 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 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 pursuant to this act 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 shall be cumulative and
supplemental to any existing funding programs or other authority
conferred upon school districts or school boards.

SECTION 7. This act shall take effect and be in force from
and after July 1, 2002.