SENATE BILL NO. 2404
(As Sent to Governor)

AN ACT TO AMEND SECTIONS 37-13-63 AND 37-151-7, MISSISSIPPI CODE OF 1972, TO CLARIFY THE AUTHORITY OF THE STATE BOARD OF EDUCATION TO EXEMPT SCHOOLS FROM THE REQUIRED 180-DAY MINIMUM SCHOOL CALENDAR FOR TIME MISSED DUE TO EMERGENCIES AND TO CONTINUE TO PAY SCHOOL DISTRICTS FULL ADEQUATE EDUCATION PROGRAM ALLOTMENTS; TO CLARIFY THE DETERMINATION OF AVERAGE DAILY ATTENDANCE OF STUDENTS FOR PURPOSES OF THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM FUNDING FORMULA; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 37-13-63, Mississippi Code of 1972, is amended as follows:

37-13-63. (1) 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 manmade, technological or natural disaster in which the Governor has declared a disaster emergency under the laws of this state or the President of the United States has declared an emergency or major disaster to exist in this state, said school board may notify the State Department of Education of such disaster and submit a plan for altering the school term. If the State Board of Education finds such disaster to be the cause of the school not operating for the contemplated school term and that such school was in a school district covered by the Governor's or President's disaster declaration, it may permit said school board to operate the schools in its district for less than one hundred eighty (180) days.
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. For purposes of this calculation, "current" school year shall mean the school year for which appropriations are made by the Legislature, and "prior" school year shall mean the school year immediately preceding the year for which appropriations are made by the Legislature. 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 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. 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., 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.

(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.
(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.**

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

(b) Provided, however, that in fiscal year 1998 and in the fiscal year in which the adequate education program is fully funded by the Legislature, any increase in the said state contribution, 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 paragraph (b), state funds shall include minimum program funds less the add-on programs, state Uniform Millage Assistance Grant funds,
Education Enhancement Funds appropriated for Uniform Millage Assistance Grants and state textbook allocations, and State General Funds allocated for textbooks.

(c) If the appropriation is less than full funding for fiscal year 2003, allocations for state contributions to school districts in support of the adequate education program will be determined by the State Department of Education in the following manner:

(i) Calculation of the full funding amount under this chapter, with proportionate reductions as required by the appropriation level.

(ii) Calculation of the amount equal to the state funds allocated to school districts for fiscal year 2002 plus the estimated amount to fund the adequate education program salary schedule for fiscal year 2003. For purposes of this item (ii), state funds shall be those described in paragraph (b) and an amount equal to the allocation for the adequate education program in fiscal year 2002, plus any additional amount required to satisfy fiscal year 2003 pledges in accordance with paragraphs (d), (e) and (f) of subsection (5) of this section. If a school district's fiscal year 2003 pledge is different than the pledge amount for fiscal year 2002, the district shall receive an amount equal to the fiscal year 2003 pledge or the amount of funds calculated under the adequate education formula for fiscal year 2002 before any pledge guarantee for fiscal year 2002, whichever is greater. If the pledge is no longer in effect, the district shall receive the amount of funds calculated under the formula for fiscal year 2002 before any pledge guarantee for fiscal year 2002.

(iii) The portion of any district's allocation calculated in item (i) of this paragraph which exceeds amounts as calculated in item (ii) shall be reduced by an amount not to exceed twenty-one percent (21%). The amount of funds generated by this reduction of funds shall be redistributed proportionately
among those districts receiving insufficient funds to meet the amount calculated in item (ii). In no case may any district receive funds in an amount greater than the amount that the district would have received under full funding of the program for fiscal year 2003.

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

(4) If during the year for which adequate education program funds are appropriated, any school district experiences a three percent (3%) or greater increase in average daily attendance during the second and third month over the preceding year's second and third month, an additional allocation of adequate education program funds calculated in the following manner shall be granted to that district, using any additional funds available to the
Department of Education that exceed the amount of funds due to the
school districts under the basic adequate education program
distribution as provided for in this chapter:

(a) Determine the percentage increase in average daily
attendance for the second and third months of the year for which
adequate education program funds are appropriated over the
preceding year's second and third month average daily attendance.

(b) For those districts that have a three percent (3%) or greater increase as calculated in paragraph (a) of this
subsection, multiply the total increase in students in average
daily attendance for the second and third months of the year for
which adequate education program funds are appropriated over the
preceding year's second and third month average daily attendance
times the base student cost used in the appropriation.

(c) Subtract the percentage of the district's local
collection arrived at in subsection (2) of this section from the
amount calculated in paragraph (b) of this subsection. The
remainder is the additional allocation in adequate education
program funds for that district.

If the funds available to the Department of Education are not
sufficient to fully fund the additional allocations to school
districts eligible for those allocations, then the department
shall prorate the available funds among the eligible school
districts, using the same percentage of the total funds that the
school district would have received if the allocations were fully
funded.

This subsection (4) shall stand repealed on July 1, 2004.

(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 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 (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,


(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 (5) shall be cumulative and
supplemental to any existing funding programs or other authority
conferred upon school districts or school boards.

SECTION 3. This act shall take effect and be in force from
and after its passage.