

By: Senator(s) Chamberlin

To: Education;
Appropriations

SENATE BILL NO. 2837

1 AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE DETERMINATION OF AVERAGE DAILY ATTENDANCE OF
3 STUDENTS FOR PURPOSES OF THE MISSISSIPPI ADEQUATE EDUCATION
4 PROGRAM FUNDING FORMULA; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 37-151-7, Mississippi Code of 1972, is
7 amended as follows:

8 37-151-7. The annual allocation to each school district for
9 the operation of the adequate education program shall be
10 determined as follows:

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

15 (a) **Determination of average daily attendance.** During
16 months two (2) and three (3) of the current school year, the
17 average daily attendance of a school district shall be computed,
18 or the average daily attendance for the prior school year shall be
19 used, whichever is greater. For purposes of this calculation,
20 "current" school year shall mean the school year for which
21 appropriations are made by the Legislature, and "prior" school
22 year shall mean the school year immediately preceding the year for
23 which appropriations are made by the Legislature. The district's
24 average daily attendance shall be computed and currently
25 maintained in accordance with regulations promulgated by the State
26 Board of Education.

27 (b) **Determination of base student cost.** The State
28 Board of Education, on or before August 1, with adjusted estimate



29 no later than January 2, shall annually submit to the Legislative
30 Budget Office and the Governor a proposed base student cost
31 adequate to provide the following cost components of educating a
32 pupil in an average school district meeting Level III
33 accreditation standards required by the Commission on School
34 Accreditation: (i) Instructional Cost; (ii) Administrative Cost;
35 (iii) Operation and Maintenance of Plant; and (iv) Ancillary
36 Support Cost. The department shall utilize a statistical
37 methodology which considers such factors as, but not limited to,
38 (i) school size; (ii) assessed valuation per pupil; (iii) the
39 percentage of students receiving free lunch; (iv) the local
40 district maintenance tax levy; (v) other local school district
41 revenues; and (vi) the district's accreditation level, in the
42 selection of the representative Mississippi school districts for
43 which cost information shall be obtained for each of the above
44 listed cost areas.

45 For the instructional cost component, the department shall
46 determine the instructional cost of each of the representative
47 school districts selected above, excluding instructional cost of
48 self-contained special education programs and vocational education
49 programs, and the average daily attendance in the selected school
50 districts. The instructional cost is then totaled and divided by
51 the total average daily attendance for the selected school
52 districts to yield the instructional cost component. For the
53 administrative cost component, the department shall determine the
54 administrative cost of each of the representative school districts
55 selected above, excluding administrative cost of self-contained
56 special education programs and vocational education programs, and
57 the average daily attendance in the selected school districts.
58 The administrative cost is then totaled and divided by the total
59 average daily attendance for the selected school districts to
60 yield the administrative cost component. For the plant and
61 maintenance cost component, the department shall determine the



62 plant and maintenance cost of each of the representative school
63 districts selected above, excluding plant and maintenance cost of
64 self-contained special education programs and vocational education
65 programs, and the average daily attendance in the selected school
66 districts. The plant and maintenance cost is then totaled and
67 divided by the total average daily attendance for the selected
68 school districts to yield the plant and maintenance cost
69 component. For the ancillary support cost component, the
70 department shall determine the ancillary support cost of each of
71 the representative school districts selected above, excluding
72 ancillary support cost of self-contained special education
73 programs and vocational education programs, and the average daily
74 attendance in the selected school districts. The ancillary
75 support cost is then totaled and divided by the total average
76 daily attendance for the selected school districts to yield the
77 ancillary support cost component. The total base cost for each
78 year shall be the sum of the instructional cost component,
79 administrative cost component, plant and maintenance cost
80 component and ancillary support cost component, and any estimated
81 adjustments for additional state requirements as determined by the
82 State Board of Education. Provided, however, that the base
83 student cost in fiscal year 1998 shall be Two Thousand Six Hundred
84 Sixty-four Dollars (\$2,664.00).

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

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

92 (d) **Adjustment to the base student cost for at-risk**
93 **pupils.** The amount to be included for at-risk pupil programs for
94 each school district shall be computed as follows: Multiply the



95 base student cost for the appropriate fiscal year as determined
96 under paragraph (b) by five percent (5%), and multiply that
97 product by the number of pupils participating in the federal free
98 school lunch program in such school district, which yields the
99 total adjustment for at-risk pupil programs for such school
100 district.

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

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

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

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

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

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

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

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



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

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

135 (f) **Total projected adequate education program cost.**
136 The total Mississippi Adequate Education Program Cost shall be the
137 sum of the total basic adequate education program cost (paragraph
138 (c)), and the adjustment to the base student cost for at-risk
139 pupils (paragraph (d)) for each school district.

140 (g) **Supplemental grant to school districts.** In
141 addition to the adequate education program grant, the State
142 Department of Education shall annually distribute an additional
143 amount as follows: Multiply the base student cost for the
144 appropriate fiscal year as determined under paragraph (b) by .13%
145 and multiply that product by the average daily attendance of each
146 school district. Such grant shall not be subject to the local
147 revenue requirement provided in subsection (2).

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

152 (a) The State Board of Education shall certify to each
153 school district that twenty-eight (28) mills, less the estimated
154 amount of the yield of the School Ad Valorem Tax Reduction Fund
155 grants as determined by the State Department of Education, is the
156 millage rate required to provide the district required local
157 effort for that year, or twenty-seven percent (27%) of the basic
158 adequate education program cost for such school district as
159 determined under subsection (c), whichever is a lesser amount. In



160 the case of an agricultural high school the millage requirement
161 shall be set at a level which generates an equitable amount per
162 pupil to be determined by the State Board of Education.

163 (b) The State Board of Education shall determine (i)
164 the total assessed valuation of nonexempt property for school
165 purposes in each school district; (ii) assessed value of exempt
166 property owned by homeowners aged sixty-five (65) or older or
167 disabled as defined in Section 27-33-67(2), Mississippi Code of
168 1972; (iii) the school district's tax loss from exemptions
169 provided to applicants under the age of sixty-five (65) and not
170 disabled as defined in Section 27-33-67(1), Mississippi Code of
171 1972; and (iv) the school district's homestead reimbursement
172 revenues.

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

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

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

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



192 (b) Provided, however, that in fiscal year 1998 and in
193 the fiscal year in which the adequate education program is fully
194 funded by the Legislature, any increase in the said state
195 contribution, including the supplemental grant to school districts
196 provided under subsection (1)(g), to any district calculated under
197 this section shall be not less than eight percent (8%) in excess
198 of the amount received by said district from state funds for the
199 fiscal year immediately preceding. For purposes of this paragraph
200 (b), state funds shall include minimum program funds less the
201 add-on programs, state Uniform Millage Assistance Grant funds,
202 Education Enhancement Funds appropriated for Uniform Millage
203 Assistance Grants and state textbook allocations, and State
204 General Funds allocated for textbooks.

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

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

213 (ii) Calculation of the amount equal to the state
214 funds allocated to school districts for fiscal year 2002 plus the
215 estimated amount to fund the adequate education program salary
216 schedule for fiscal year 2003. For purposes of this item (ii),
217 state funds shall be those described in paragraph (b) and an
218 amount equal to the allocation for the adequate education program
219 in fiscal year 2002, plus any additional amount required to
220 satisfy fiscal year 2003 pledges in accordance with paragraphs
221 (d), (e) and (f) of subsection (5) of this section. If a school
222 district's fiscal year 2003 pledge is different than the pledge
223 amount for fiscal year 2002, the district shall receive an amount
224 equal to the fiscal year 2003 pledge or the amount of funds



225 calculated under the adequate education formula for fiscal year
226 2002 before any pledge guarantee for fiscal year 2002, whichever
227 is greater. If the pledge is no longer in effect, the district
228 shall receive the amount of funds calculated under the formula for
229 fiscal year 2002 before any pledge guarantee for fiscal year 2002.

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

240 (4) The State Adequate Education Program Fund is hereby
241 established in the State Treasury which shall be used to
242 distribute any funds specifically appropriated by the Legislature
243 to such fund, to school districts entitled to increased
244 allocations of state funds under the adequate education program
245 funding formula prescribed in Sections 37-151-3, 37-151-5 and
246 37-151-7 of this article. If the Legislature provides less funds
247 than the total state funds needed for support of such increased
248 allocations under the adequate education program, the State
249 Department of Education shall reduce all elements of the cost of
250 the adequate education program proportionately. Any such adequate
251 education program funds shall be transferred to the school
252 district maintenance fund of such district in the manner
253 prescribed in Section 37-19-47, Mississippi Code of 1972, and
254 shall be expended in the manner provided by law.

255 (5) The Interim School District Capital Expenditure Fund is
256 hereby established in the State Treasury which shall be used to
257 distribute any funds specifically appropriated by the Legislature



258 to such fund to school districts entitled to increased allocations
259 of state funds under the adequate education program funding
260 formula prescribed in Sections 37-151-3 through 37-151-7,
261 Mississippi Code of 1972, until such time as the said adequate
262 education program is fully funded by the Legislature. The
263 following percentages of the total state cost of increased
264 allocations of funds under the adequate education program funding
265 formula shall be appropriated by the Legislature into the Interim
266 School District Capital Expenditure Fund to be distributed to all
267 school districts under the formula: Nine and two-tenths percent
268 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
269 (20%) shall be appropriated in fiscal year 1999, forty percent
270 (40%) shall be appropriated in fiscal year 2000, sixty percent
271 (60%) shall be appropriated in fiscal year 2001, eighty percent
272 (80%) shall be appropriated in fiscal year 2002, and one hundred
273 percent (100%) shall be appropriated in fiscal year 2003 into the
274 State Adequate Education Program Fund created in subsection (4).
275 Until July 1, 2002, such money shall be used by school districts
276 for the following purposes:

277 (a) Purchasing, erecting, repairing, equipping,
278 remodeling and enlarging school buildings and related facilities,
279 including gymnasiums, auditoriums, lunchrooms, vocational training
280 buildings, libraries, school barns and garages for transportation
281 vehicles, school athletic fields and necessary facilities
282 connected therewith, and purchasing land therefor. Any such
283 capital improvement project by a school district shall be approved
284 by the State Board of Education, and based on an approved
285 long-range plan. The State Board of Education shall promulgate
286 minimum requirements for the approval of school district capital
287 expenditure plans.

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



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

295 (d) From and after October 1, 1997, through June 30,
296 1998, pursuant to a school district capital expenditure plan
297 approved by the State Department of Education, a school district
298 may pledge such funds until July 1, 2002, plus funds provided for
299 in paragraph (e) of this subsection (5) that are not otherwise
300 permanently pledged under such paragraph (e) to pay all or a
301 portion of the debt service on debt issued by the school district
302 under Sections 37-59-1 through 37-59-45, 37-59-101 through
303 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
304 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
305 issued by boards of supervisors for agricultural high schools
306 pursuant to Section 37-27-65, Mississippi Code of 1972, or
307 lease-purchase contracts entered into pursuant to Section 31-7-13,
308 Mississippi Code of 1972, or to retire or refinance outstanding
309 debt of a district, if such pledge is accomplished pursuant to a
310 written contract or resolution approved and spread upon the
311 minutes of an official meeting of the district's school board or
312 board of supervisors. It is the intent of this provision to allow
313 school districts to irrevocably pledge their Interim School
314 District Capital Expenditure Fund allotments as a constant stream
315 of revenue to secure a debt issued under the foregoing code
316 sections. To allow school districts to make such an irrevocable
317 pledge, the state shall take all action necessary to ensure that
318 the amount of a district's Interim School District Capital
319 Expenditure Fund allotments shall not be reduced below the amount
320 certified by the department or the district's total allotment
321 under the Interim Capital Expenditure Fund if fully funded, so
322 long as such debt remains outstanding.



323 (e) From and after October 1, 1997, through June 30,
324 1998, in addition to any other authority a school district may
325 have, any school district may issue State Aid Capital Improvement
326 Bonds secured in whole by a continuing annual pledge of any
327 Mississippi Adequate Education Program funds available to the
328 district, in an amount not to exceed One Hundred Sixty Dollars
329 (\$160.00) per pupil based on the latest completed average daily
330 attendance count certified by the department prior to the issuance
331 of the bonds. Such State Aid Capital Improvement Bonds may be
332 issued for the purposes enumerated in subsections (a), (b), (c)
333 and (g) of this section. Prior to issuing such bonds, the school
334 board of the district shall adopt a resolution declaring the
335 necessity for and its intention of issuing such bonds and
336 borrowing such money, specifying the approximate amount to be so
337 borrowed, how such money is to be used and how such indebtedness
338 is to be evidenced. Any capital improvement project financed with
339 State Aid Capital Improvement Bonds shall be approved by the
340 department, and based on an approved long-range plan. The State
341 Board of Education shall promulgate minimum requirements for the
342 approval of such school district capital expenditure plans. The
343 State Board of Education shall not approve any capital expenditure
344 plan for a pledge of funds under this paragraph unless it
345 determines (i) that the quality of instruction in such district
346 will not be reduced as a result of this pledge, and (ii) the
347 district has other revenue available to attain and maintain at
348 least Level III accreditation.

349 A district issuing State Aid Capital Improvement Bonds may
350 pledge for the repayment of such bonds all funds received by the
351 district from the state, in an amount not to exceed One Hundred
352 Sixty Dollars (\$160.00) per pupil in average daily attendance in
353 the school district as set forth above, and not otherwise
354 permanently pledged under paragraph (d) of this subsection or
355 under Section 37-61-33(2)(d), Mississippi Code of 1972. The



356 district's school board shall specify by resolution the amount of
357 state funds, which are being pledged by the district for the
358 repayment of the State Aid Capital Improvement Bonds. Once such a
359 pledge is made to secure the bonds, the district shall notify the
360 department of such pledge. Upon making such a pledge, the school
361 district may request the department which may agree to irrevocably
362 transfer a specified amount or percentage of the district's state
363 revenue pledged to repay the district's State Aid Capital
364 Improvement Bonds directly to a state or federally chartered bank
365 serving as a trustee or paying agent on such bonds for the payment
366 of all or portion of such State Aid Capital Improvement Bonds.
367 Such instructions shall be incorporated into a resolution by the
368 school board for the benefit of holders of the bonds and may
369 provide that such withholding and transfer of such other available
370 funds shall be made only upon notification by a trustee or paying
371 agent on such bonds that the amounts available to pay such bonds
372 on any payment date will not be sufficient. It is the intent of
373 this provision to allow school districts to irrevocably pledge a
374 certain, constant stream of revenue as security for State Aid
375 Capital Improvement Bonds issued hereunder. To allow school
376 districts to make such an irrevocable pledge, the state shall take
377 all action necessary to ensure that the amount of a district's
378 state revenues up to an amount equal to One Hundred Sixty Dollars
379 (\$160.00) per pupil as set forth above which have been pledged to
380 repay debt as set forth herein shall not be reduced so long as any
381 State Aid Capital Improvement Bonds are outstanding.

382 Any such State Aid Capital Improvement bonds shall mature as
383 determined by the district's school bond over a period not to
384 exceed twenty (20) years. Such bonds shall not bear a greater
385 overall maximum interest rate to maturity than that allowed in
386 Section 75-17-101, Mississippi Code of 1972. The further details
387 and terms of such bonds shall be as determined by the school board
388 of the district.



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

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

398 This paragraph (e) shall stand repealed from and after June
399 30, 1998.

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

414 (g) The State Board of Education may authorize the
415 school district to expend not more than twenty percent (20%) of
416 its annual allotment of such funds or Twenty Thousand Dollars
417 (\$20,000.00), whichever is greater, for technology needs of the
418 school district, including computers, software,
419 telecommunications, cable television, interactive video, film
420 low-power television, satellite communications, microwave
421 communications, technology-based equipment installation and



422 maintenance, and the training of staff in the use of such
423 technology-based instruction. Any such technology expenditure
424 shall be reflected in the local district technology plan approved
425 by the State Board of Education under Section 37-151-17,
426 Mississippi Code of 1972.

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

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

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

451 The provisions of this subsection (5) shall be cumulative and
452 supplemental to any existing funding programs or other authority
453 conferred upon school districts or school boards.



454 **SECTION 2.** This act shall take effect and be in force from
455 and after its passage.

