

By: Representative Watson

To: Education;
Appropriations

HOUSE BILL NO. 440

1 AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE REPEALER ON THE PROVISION OF LAW THAT ESTABLISHES
3 THE HIGH-GROWTH SCHOOL DISTRICT FORMULA UNDER THE ADEQUATE
4 EDUCATION PROGRAM; 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
145 thirteen one-hundredths percent (.13%) and multiply that product
146 by the average daily attendance of each school district. Such
147 grant shall not be subject to the local revenue requirement
148 provided in subsection (2).

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

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



160 determined under subsection (c), whichever is a lesser amount. In
161 the case of an agricultural high school the millage requirement
162 shall be set at a level which generates an equitable amount per
163 pupil to be determined by the State Board of Education.

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

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

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

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

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



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

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

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

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



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

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

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



259 to the adequate education program allotment for such district,
260 because of the failure to operate said schools for one hundred
261 eighty (180) days.

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

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

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

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

288 If the funds available to the Department of Education are not
289 sufficient to fully fund the additional allocations to school
290 districts eligible for those allocations, then the department
291 shall prorate the available funds among the eligible school



292 districts, using the same percentage of the total funds that the
293 school district would have received if the allocations were fully
294 funded.

295 This subsection (4) shall stand repealed on July 1, 2006.

296 (5) The Interim School District Capital Expenditure Fund is
297 hereby established in the State Treasury which shall be used to
298 distribute any funds specifically appropriated by the Legislature
299 to such fund to school districts entitled to increased allocations
300 of state funds under the adequate education program funding
301 formula prescribed in Sections 37-151-3 through 37-151-7,
302 Mississippi Code of 1972, until such time as the said adequate
303 education program is fully funded by the Legislature. The
304 following percentages of the total state cost of increased
305 allocations of funds under the adequate education program funding
306 formula shall be appropriated by the Legislature into the Interim
307 School District Capital Expenditure Fund to be distributed to all
308 school districts under the formula: Nine and two-tenths percent
309 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
310 (20%) shall be appropriated in fiscal year 1999, forty percent
311 (40%) shall be appropriated in fiscal year 2000, sixty percent
312 (60%) shall be appropriated in fiscal year 2001, eighty percent
313 (80%) shall be appropriated in fiscal year 2002, and one hundred
314 percent (100%) shall be appropriated in fiscal year 2003 into the
315 State Adequate Education Program Fund created in subsection (4).
316 Until July 1, 2002, such money shall be used by school districts
317 for the following purposes:

318 (a) Purchasing, erecting, repairing, equipping,
319 remodeling and enlarging school buildings and related facilities,
320 including gymnasiums, auditoriums, lunchrooms, vocational training
321 buildings, libraries, school barns and garages for transportation
322 vehicles, school athletic fields and necessary facilities
323 connected therewith, and purchasing land therefor. Any such
324 capital improvement project by a school district shall be approved



325 by the State Board of Education, and based on an approved
326 long-range plan. The State Board of Education shall promulgate
327 minimum requirements for the approval of school district capital
328 expenditure plans.

329 (b) Providing necessary water, light, heating, air
330 conditioning, and sewerage facilities for school buildings, and
331 purchasing land therefor.

332 (c) Paying debt service on existing capital improvement
333 debt of the district or refinancing outstanding debt of a district
334 if such refinancing will result in an interest cost savings to the
335 district.

336 (d) From and after October 1, 1997, through June 30,
337 1998, pursuant to a school district capital expenditure plan
338 approved by the State Department of Education, a school district
339 may pledge such funds until July 1, 2002, plus funds provided for
340 in paragraph (e) of this subsection (5) that are not otherwise
341 permanently pledged under such paragraph (e) to pay all or a
342 portion of the debt service on debt issued by the school district
343 under Sections 37-59-1 through 37-59-45, 37-59-101 through
344 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
345 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
346 issued by boards of supervisors for agricultural high schools
347 pursuant to Section 37-27-65, Mississippi Code of 1972, or
348 lease-purchase contracts entered into pursuant to Section 31-7-13,
349 Mississippi Code of 1972, or to retire or refinance outstanding
350 debt of a district, if such pledge is accomplished pursuant to a
351 written contract or resolution approved and spread upon the
352 minutes of an official meeting of the district's school board or
353 board of supervisors. It is the intent of this provision to allow
354 school districts to irrevocably pledge their Interim School
355 District Capital Expenditure Fund allotments as a constant stream
356 of revenue to secure a debt issued under the foregoing code
357 sections. To allow school districts to make such an irrevocable



358 pledge, the state shall take all action necessary to ensure that
359 the amount of a district's Interim School District Capital
360 Expenditure Fund allotments shall not be reduced below the amount
361 certified by the department or the district's total allotment
362 under the Interim Capital Expenditure Fund if fully funded, so
363 long as such debt remains outstanding.

364 (e) From and after October 1, 1997, through June 30,
365 1998, in addition to any other authority a school district may
366 have, any school district may issue State Aid Capital Improvement
367 Bonds secured in whole by a continuing annual pledge of any
368 Mississippi Adequate Education Program funds available to the
369 district, in an amount not to exceed One Hundred Sixty Dollars
370 (\$160.00) per pupil based on the latest completed average daily
371 attendance count certified by the department prior to the issuance
372 of the bonds. Such State Aid Capital Improvement Bonds may be
373 issued for the purposes enumerated in subsections (a), (b), (c)
374 and (g) of this section. Prior to issuing such bonds, the school
375 board of the district shall adopt a resolution declaring the
376 necessity for and its intention of issuing such bonds and
377 borrowing such money, specifying the approximate amount to be so
378 borrowed, how such money is to be used and how such indebtedness
379 is to be evidenced. Any capital improvement project financed with
380 State Aid Capital Improvement Bonds shall be approved by the
381 department, and based on an approved long-range plan. The State
382 Board of Education shall promulgate minimum requirements for the
383 approval of such school district capital expenditure plans. The
384 State Board of Education shall not approve any capital expenditure
385 plan for a pledge of funds under this paragraph unless it
386 determines (i) that the quality of instruction in such district
387 will not be reduced as a result of this pledge, and (ii) the
388 district has other revenue available to attain and maintain at
389 least Level III accreditation.



390 A district issuing State Aid Capital Improvement Bonds may
391 pledge for the repayment of such bonds all funds received by the
392 district from the state, in an amount not to exceed One Hundred
393 Sixty Dollars (\$160.00) per pupil in average daily attendance in
394 the school district as set forth above, and not otherwise
395 permanently pledged under paragraph (d) of this subsection or
396 under Section 37-61-33(2)(d), Mississippi Code of 1972. The
397 district's school board shall specify by resolution the amount of
398 state funds, which are being pledged by the district for the
399 repayment of the State Aid Capital Improvement Bonds. Once such a
400 pledge is made to secure the bonds, the district shall notify the
401 department of such pledge. Upon making such a pledge, the school
402 district may request the department which may agree to irrevocably
403 transfer a specified amount or percentage of the district's state
404 revenue pledged to repay the district's State Aid Capital
405 Improvement Bonds directly to a state or federally chartered bank
406 serving as a trustee or paying agent on such bonds for the payment
407 of all or portion of such State Aid Capital Improvement Bonds.
408 Such instructions shall be incorporated into a resolution by the
409 school board for the benefit of holders of the bonds and may
410 provide that such withholding and transfer of such other available
411 funds shall be made only upon notification by a trustee or paying
412 agent on such bonds that the amounts available to pay such bonds
413 on any payment date will not be sufficient. It is the intent of
414 this provision to allow school districts to irrevocably pledge a
415 certain, constant stream of revenue as security for State Aid
416 Capital Improvement Bonds issued hereunder. To allow school
417 districts to make such an irrevocable pledge, the state shall take
418 all action necessary to ensure that the amount of a district's
419 state revenues up to an amount equal to One Hundred Sixty Dollars
420 (\$160.00) per pupil as set forth above which have been pledged to
421 repay debt as set forth herein shall not be reduced so long as any
422 State Aid Capital Improvement Bonds are outstanding.



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

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

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

439 This paragraph (e) shall stand repealed from and after June
440 30, 1998.

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



455 (g) The State Board of Education may authorize the
456 school district to expend not more than twenty percent (20%) of
457 its annual allotment of such funds or Twenty Thousand Dollars
458 (\$20,000.00), whichever is greater, for technology needs of the
459 school district, including computers, software,
460 telecommunications, cable television, interactive video, film
461 low-power television, satellite communications, microwave
462 communications, technology-based equipment installation and
463 maintenance, and the training of staff in the use of such
464 technology-based instruction. Any such technology expenditure
465 shall be reflected in the local district technology plan approved
466 by the State Board of Education under Section 37-151-17,
467 Mississippi Code of 1972.

468 (h) To the extent a school district has not utilized
469 twenty percent (20%) of its annual allotment for technology
470 purposes under paragraph (g), a school district may expend not
471 more than twenty percent (20%) of its annual allotment or Twenty
472 Thousand Dollars (\$20,000.00), whichever is greater, for
473 instructional purposes. The State Board of Education may
474 authorize a school district to expend more than said twenty
475 percent (20%) of its annual allotment for instructional purposes
476 if it determines that such expenditures are needed for
477 accreditation purposes.

478 (i) The State Department of Education or the State
479 Board of Education may require that any project commenced pursuant
480 to this act with an estimated project cost of not less than Five
481 Million Dollars (\$5,000,000.00) shall be done only pursuant to
482 program management of the process with respect to design and
483 construction. Any individuals, partnerships, companies or other
484 entities acting as a program manager on behalf of a local school
485 district and performing program management services for projects
486 covered under this subsection shall be approved by the State
487 Department of Education.



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

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

495 **SECTION 2.** This act shall take effect and be in force from
496 and after July 1, 2004.

