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To: Education;
Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 741

1 AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE DEFINITION OF CURRENT SCHOOL YEAR IN DETERMINING THE
3 AVERAGE DAILY ATTENDANCE UNDER THE ADEQUATE EDUCATION PROGRAM; TO
4 DELETE THE REPEALER ON THE PROVISION OF LAW THAT ESTABLISHES THE
5 HIGH-GROWTH SCHOOL DISTRICT FORMULA UNDER THE ADEQUATE EDUCATION
6 PROGRAM; AND FOR RELATED PURPOSES.

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

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

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

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

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

25 (b) **Determination of base student cost.** The State
26 Board of Education, on or before August 1, with adjusted estimate
27 no later than January 2, shall annually submit to the Legislative
28 Budget Office and the Governor a proposed base student cost
29 adequate to provide the following cost components of educating a

30 pupil in an average school district meeting Level III
31 accreditation standards required by the Commission on School
32 Accreditation: (i) Instructional Cost; (ii) Administrative Cost;
33 (iii) Operation and Maintenance of Plant; and (iv) Ancillary
34 Support Cost. The department shall utilize a statistical
35 methodology which considers such factors as, but not limited to,
36 (i) school size; (ii) assessed valuation per pupil; (iii) the
37 percentage of students receiving free lunch; (iv) the local
38 district maintenance tax levy; (v) other local school district
39 revenues; and (vi) the district's accreditation level, in the
40 selection of the representative Mississippi school districts for
41 which cost information shall be obtained for each of the above
42 listed cost areas.

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

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

83 (c) **Determination of the basic adequate education**

84 **program cost.** The basic amount for current operation to be
85 included in the Mississippi Adequate Education Program for each
86 school district shall be computed as follows:

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

90 (d) **Adjustment to the base student cost for at-risk**

91 **pupils.** The amount to be included for at-risk pupil programs for
92 each school district shall be computed as follows: Multiply the
93 base student cost for the appropriate fiscal year as determined
94 under paragraph (b) by five percent (5%), and multiply that
95 product by the number of pupils participating in the federal free

96 school lunch program in such school district, which yields the
97 total adjustment for at-risk pupil programs for such school
98 district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

160 shall be set at a level which generates an equitable amount per
161 pupil to be determined by the State Board of Education.

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

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

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

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

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

191 (b) Provided, however, that in fiscal year 1998 and in
192 the fiscal year in which the adequate education program is fully

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

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

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

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

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

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

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

258 because of the failure to operate said schools for one hundred
259 eighty (180) days.

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

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

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

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

286 If the funds available to the Department of Education are not
287 sufficient to fully fund the additional allocations to school
288 districts eligible for those allocations, then the department
289 shall prorate the available funds among the eligible school
290 districts, using the same percentage of the total funds that the

291 school district would have received if the allocations were fully
292 funded.

293 * * *

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

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

324 long-range plan. The State Board of Education shall promulgate
325 minimum requirements for the approval of school district capital
326 expenditure plans.

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

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

334 (d) From and after October 1, 1997, through June 30,
335 1998, pursuant to a school district capital expenditure plan
336 approved by the State Department of Education, a school district
337 may pledge such funds until July 1, 2002, plus funds provided for
338 in paragraph (e) of this subsection (5) that are not otherwise
339 permanently pledged under such paragraph (e) to pay all or a
340 portion of the debt service on debt issued by the school district
341 under Sections 37-59-1 through 37-59-45, 37-59-101 through
342 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
343 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
344 issued by boards of supervisors for agricultural high schools
345 pursuant to Section 37-27-65, Mississippi Code of 1972, or
346 lease-purchase contracts entered into pursuant to Section 31-7-13,
347 Mississippi Code of 1972, or to retire or refinance outstanding
348 debt of a district, if such pledge is accomplished pursuant to a
349 written contract or resolution approved and spread upon the
350 minutes of an official meeting of the district's school board or
351 board of supervisors. It is the intent of this provision to allow
352 school districts to irrevocably pledge their Interim School
353 District Capital Expenditure Fund allotments as a constant stream
354 of revenue to secure a debt issued under the foregoing code
355 sections. To allow school districts to make such an irrevocable
356 pledge, the state shall take all action necessary to ensure that

357 the amount of a district's Interim School District Capital
358 Expenditure Fund allotments shall not be reduced below the amount
359 certified by the department or the district's total allotment
360 under the Interim Capital Expenditure Fund if fully funded, so
361 long as such debt remains outstanding.

362 (e) From and after October 1, 1997, through June 30,
363 1998, in addition to any other authority a school district may
364 have, any school district may issue State Aid Capital Improvement
365 Bonds secured in whole by a continuing annual pledge of any
366 Mississippi Adequate Education Program funds available to the
367 district, in an amount not to exceed One Hundred Sixty Dollars
368 (\$160.00) per pupil based on the latest completed average daily
369 attendance count certified by the department prior to the issuance
370 of the bonds. Such State Aid Capital Improvement Bonds may be
371 issued for the purposes enumerated in subsections (a), (b), (c)
372 and (g) of this section. Prior to issuing such bonds, the school
373 board of the district shall adopt a resolution declaring the
374 necessity for and its intention of issuing such bonds and
375 borrowing such money, specifying the approximate amount to be so
376 borrowed, how such money is to be used and how such indebtedness
377 is to be evidenced. Any capital improvement project financed with
378 State Aid Capital Improvement Bonds shall be approved by the
379 department, and based on an approved long-range plan. The State
380 Board of Education shall promulgate minimum requirements for the
381 approval of such school district capital expenditure plans. The
382 State Board of Education shall not approve any capital expenditure
383 plan for a pledge of funds under this paragraph unless it
384 determines (i) that the quality of instruction in such district
385 will not be reduced as a result of this pledge, and (ii) the
386 district has other revenue available to attain and maintain at
387 least Level III accreditation.

388 A district issuing State Aid Capital Improvement Bonds may
389 pledge for the repayment of such bonds all funds received by the

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

421 Any such State Aid Capital Improvement bonds shall mature as
422 determined by the district's school bond over a period not to

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

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

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

437 This paragraph (e) shall stand repealed from and after June
438 30, 1998.

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

453 (g) The State Board of Education may authorize the
454 school district to expend not more than twenty percent (20%) of
455 its annual allotment of such funds or Twenty Thousand Dollars

456 (\$20,000.00), whichever is greater, for technology needs of the
457 school district, including computers, software,
458 telecommunications, cable television, interactive video, film
459 low-power television, satellite communications, microwave
460 communications, technology-based equipment installation and
461 maintenance, and the training of staff in the use of such
462 technology-based instruction. Any such technology expenditure
463 shall be reflected in the local district technology plan approved
464 by the State Board of Education under Section 37-151-17,
465 Mississippi Code of 1972.

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

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

486 Any interest accruing on any unexpended balance in the
487 Interim School District Capital Expenditure Fund shall be invested

488 by the State Treasurer and placed to the credit of each school
489 district participating in such fund in its proportionate share.

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

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