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To: Education;
Appropriations

HOUSE BILL NO. 741
(As Passed the House)

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.

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 thirteen one-hundredths percent (.13%) and multiply that product by the average daily attendance of each school district. Such grant shall not be subject to the local revenue requirement provided in subsection (2).

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

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

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

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

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

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

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

(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 and the school district has requested a minimum increase of four percent (4%) in local ad valorem revenues over the previous year as authorized in Sections 37-57-104 and 37-57-105, 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 contribution 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

291 districts eligible for those allocations, then the department
292 shall prorate the available funds among the eligible school
293 districts, using the same percentage of the total funds that the
294 school district would have received if the allocations were fully
295 funded.

296 * * *

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

319 (a) Purchasing, erecting, repairing, equipping,
320 remodeling and enlarging school buildings and related facilities,
321 including gymnasiums, auditoriums, lunchrooms, vocational training
322 buildings, libraries, school barns and garages for transportation
323 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

357 of revenue to secure a debt issued under the foregoing code
358 sections. To allow school districts to make such an irrevocable
359 pledge, the state shall take all action necessary to ensure that
360 the amount of a district's Interim School District Capital
361 Expenditure Fund allotments shall not be reduced below the amount
362 certified by the department or the district's total allotment
363 under the Interim Capital Expenditure Fund if fully funded, so
364 long as such debt remains outstanding.

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

389 district has other revenue available to attain and maintain at
390 least Level III accreditation.

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

422 repay debt as set forth herein shall not be reduced so long as any
423 State Aid Capital Improvement Bonds are outstanding.

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

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

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

440 This paragraph (e) shall stand repealed from and after June
441 30, 1998.

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

district under this paragraph. This paragraph (f) shall stand repealed from and after June 30, 1998.

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

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

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

487 covered under this subsection shall be approved by the State
488 Department of Education.

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

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

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