

By: Senator(s) Chaney

To: Education;
Appropriations

SENATE BILL NO. 2303

1 AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE AUTOMATIC REPEALER ON THE MISSISSIPPI ADEQUATE
3 EDUCATION PROGRAM FUNDING PROVISION FOR HIGH-GROWTH SCHOOL
4 DISTRICTS, AND TO CLARIFY THE CALCULATION OF AVERAGE DAILY
5 ATTENDANCE; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

292 * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

455 (\$20,000.00), whichever is greater, for technology needs of the
456 school district, including computers, software,
457 telecommunications, cable television, interactive video, film
458 low-power television, satellite communications, microwave
459 communications, technology-based equipment installation and
460 maintenance, and the training of staff in the use of such
461 technology-based instruction. Any such technology expenditure
462 shall be reflected in the local district technology plan approved
463 by the State Board of Education under Section 37-151-17,
464 Mississippi Code of 1972.

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

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

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

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

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

492 **SECTION 2.** This act shall take effect and be in force from
493 and after June 30, 2004.