

By: Senator(s) Wilemon, Chaney, Hewes, Lee
(47th), Nunnelee, White

To: Education;
Appropriations

SENATE BILL NO. 2295

1 AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM
3 APPROPRIATION BILL TO IDENTIFY PROGRAM FUNDING CATEGORIES; TO
4 AMEND SECTION 37-61-9, MISSISSIPPI CODE OF 1972, TO REQUIRE LOCAL
5 SCHOOL DISTRICT BUDGETS TO CONTAIN A DETAILED STATEMENT OF THE
6 ESTIMATED AMOUNTS TO BE EXPENDED BY PROGRAM BUDGET CATEGORIES AND
7 THE AMOUNT OF SUCH CATEGORIES TO BE PAID FROM ADEQUATE EDUCATION
8 PROGRAM FUNDS AND FROM LOCAL REVENUE AND OTHER SOURCES; TO AMEND
9 SECTION 37-61-19, MISSISSIPPI CODE OF 1972, TO REQUIRE SCHOOL
10 DISTRICT EXPENDITURES TO BE LIMITED TO THE SPECIFIC BUDGET
11 CATEGORIES AND TO PROVIDE PERSONAL LIABILITY THEREFOR; AND FOR
12 RELATED PURPOSES.

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

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

16 37-151-7. The annual allocation to each school district for
17 the operation of the adequate education program shall be
18 determined as follows:

19 (1) **Computation of the basic amount to be included for**
20 **current operation in the adequate education program.** The
21 following procedure shall be followed in determining the annual
22 allocation to each school district:

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

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

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

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

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

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

93 Multiply the average daily attendance of the district by the
94 base student cost as established by the Legislature, which yields
95 the total base program cost for each school district.

96 Beginning with fiscal year 2005-2006 and each fiscal year
97 thereafter, the annual appropriation bill to fund the Mississippi
98 Adequate Education Program shall identify the amount appropriated

99 to fund each component of instructional cost, including teacher
100 salaries, administrative cost, plant and maintenance and ancillary
101 support, as provided under paragraphs (b) and (c).

102 (d) **Adjustment to the base student cost for at-risk**
103 **pupils.** The amount to be included for at-risk pupil programs for
104 each school district shall be computed as follows: Multiply the
105 base student cost for the appropriate fiscal year as determined
106 under paragraph (b) by five percent (5%), and multiply that
107 product by the number of pupils participating in the federal free
108 school lunch program in such school district, which yields the
109 total adjustment for at-risk pupil programs for such school
110 district. Beginning with fiscal year 2005-2006 and each fiscal
111 year thereafter, the appropriation bill to fund the Mississippi
112 Adequate Education Program shall identify the amount appropriated
113 to fund the at-risk pupil program component provided under this
114 paragraph (d).

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

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

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

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

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

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

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

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

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

144 The sum of the items listed above (i) transportation, (ii)
145 vocational or technical education, (iii) special education, (iv)
146 gifted education, (v) alternative school, (vi) extended school
147 year, (vii) university-based, and (viii) bus driver training shall
148 yield the add-on cost for each school district. Beginning with
149 fiscal year 2005-2006 and each fiscal year thereafter, the
150 appropriation bill to fund the Mississippi Adequate Education
151 Program shall identify the amount appropriated to fund each add-on
152 cost component provided under this paragraph (e).

153 (f) **Total projected adequate education program cost.**

154 The total Mississippi Adequate Education Program Cost shall be the
155 sum of the total basic adequate education program cost (paragraph
156 (c)), and the adjustment to the base student cost for at-risk
157 pupils (paragraph (d)) for each school district.

158 (g) **Supplemental grant to school districts.** In
159 addition to the adequate education program grant, the State
160 Department of Education shall annually distribute an additional
161 amount as follows: Multiply the base student cost for the
162 appropriate fiscal year as determined under paragraph (b) by
163 thirteen one-hundredths percent (.13%) and multiply that product

164 by the average daily attendance of each school district. Such
165 grant shall not be subject to the local revenue requirement
166 provided in subsection (2).

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

171 (a) The State Board of Education shall certify to each
172 school district that twenty-eight (28) mills, less the estimated
173 amount of the yield of the School Ad Valorem Tax Reduction Fund
174 grants as determined by the State Department of Education, is the
175 millage rate required to provide the district required local
176 effort for that year, or twenty-seven percent (27%) of the basic
177 adequate education program cost for such school district as
178 determined under subsection (c), whichever is a lesser amount. In
179 the case of an agricultural high school the millage requirement
180 shall be set at a level which generates an equitable amount per
181 pupil to be determined by the State Board of Education.

182 (b) The State Board of Education shall determine (i)
183 the total assessed valuation of nonexempt property for school
184 purposes in each school district; (ii) assessed value of exempt
185 property owned by homeowners aged sixty-five (65) or older or
186 disabled as defined in Section 27-33-67(2), Mississippi Code of
187 1972; (iii) the school district's tax loss from exemptions
188 provided to applicants under the age of sixty-five (65) and not
189 disabled as defined in Section 27-33-67(1), Mississippi Code of
190 1972; and (iv) the school district's homestead reimbursement
191 revenues.

192 (c) The amount of the total adequate education program
193 funding which shall be contributed by each school district shall
194 be the sum of the ad valorem receipts generated by the millage
195 required under this subsection plus the following local revenue

196 sources for the appropriate fiscal year which are or may be
197 available for current expenditure by the school district:

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

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

202 (a) The required state effort in support of the
203 adequate education program shall be determined by subtracting the
204 sum of the required local tax effort as set forth in subsection
205 (2)(a) of this section and the other local revenue sources as set
206 forth in subsection (2)(c) of this section in an amount not to
207 exceed twenty-seven percent (27%) of the total projected adequate
208 education program cost as set forth in subsection (1)(f) of this
209 section from the total projected adequate education program cost
210 as set forth in subsection (1)(f) of this section.

211 (b) Provided, however, that in fiscal year 1998 and in
212 the fiscal year in which the adequate education program is fully
213 funded by the Legislature, any increase in the said state
214 contribution, including the supplemental grant to school districts
215 provided under subsection (1)(g), to any district calculated under
216 this section shall be not less than eight percent (8%) in excess
217 of the amount received by said district from state funds for the
218 fiscal year immediately preceding. For purposes of this paragraph
219 (b), state funds shall include minimum program funds less the
220 add-on programs, state Uniform Millage Assistance Grant funds,
221 Education Enhancement Funds appropriated for Uniform Millage
222 Assistance Grants and state textbook allocations, and State
223 General Funds allocated for textbooks.

224 (c) If the appropriation is less than full funding for
225 fiscal year 2003, allocations for state contributions to school
226 districts in support of the adequate education program will be
227 determined by the State Department of Education in the following
228 manner:

229 (i) Calculation of the full funding amount under
230 this chapter, with proportionate reductions as required by the
231 appropriation level.

232 (ii) Calculation of the amount equal to the state
233 funds allocated to school districts for fiscal year 2002 plus the
234 estimated amount to fund the adequate education program salary
235 schedule for fiscal year 2003. For purposes of this item (ii),
236 state funds shall be those described in paragraph (b) and an
237 amount equal to the allocation for the adequate education program
238 in fiscal year 2002, plus any additional amount required to
239 satisfy fiscal year 2003 pledges in accordance with paragraphs
240 (d), (e) and (f) of subsection (5) of this section. If a school
241 district's fiscal year 2003 pledge is different than the pledge
242 amount for fiscal year 2002, the district shall receive an amount
243 equal to the fiscal year 2003 pledge or the amount of funds
244 calculated under the adequate education formula for fiscal year
245 2002 before any pledge guarantee for fiscal year 2002, whichever
246 is greater. If the pledge is no longer in effect, the district
247 shall receive the amount of funds calculated under the formula for
248 fiscal year 2002 before any pledge guarantee for fiscal year 2002.

249 (iii) The portion of any district's allocation
250 calculated in item (i) of this paragraph which exceeds amounts as
251 calculated in item (ii) shall be reduced by an amount not to
252 exceed twenty-one percent (21%). The amount of funds generated by
253 this reduction of funds shall be redistributed proportionately
254 among those districts receiving insufficient funds to meet the
255 amount calculated in item (ii). In no case may any district
256 receive funds in an amount greater than the amount that the
257 district would have received under full funding of the program for
258 fiscal year 2003.

259 (d) If the school board of any school district shall
260 determine that it is not economically feasible or practicable to
261 operate any school within the district for the full one hundred

262 eighty (180) days required for a school term of a scholastic year
263 as required in Section 37-13-63, Mississippi Code of 1972, due to
264 an enemy attack, a manmade, technological or natural disaster in
265 which the Governor has declared a disaster emergency under the
266 laws of this state or the President of the United States has
267 declared an emergency or major disaster to exist in this state,
268 said school board may notify the State Department of Education of
269 such disaster and submit a plan for altering the school term. If
270 the State Board of Education finds such disaster to be the cause
271 of the school not operating for the contemplated school term and
272 that such school was in a school district covered by the
273 Governor's or President's disaster declaration, it may permit said
274 school board to operate the schools in its district for less than
275 one hundred eighty (180) days and, in such case, the State
276 Department of Education shall not reduce the state contributions
277 to the adequate education program allotment for such district,
278 because of the failure to operate said schools for one hundred
279 eighty (180) days.

280 (4) If during the year for which adequate education program
281 funds are appropriated, any school district experiences a three
282 percent (3%) or greater increase in average daily attendance
283 during the second and third month over the preceding year's second
284 and third month and the school district has requested a minimum
285 increase of four percent (4%) in local ad valorem revenues over
286 the previous year as authorized in Sections 37-57-104 and
287 37-57-105, an additional allocation of adequate education program
288 funds calculated in the following manner shall be granted to that
289 district, using any additional funds available to the Department
290 of Education that exceed the amount of funds due to the school
291 districts under the basic adequate education program distribution
292 as provided for in this chapter:

293 (a) Determine the percentage increase in average daily
294 attendance for the second and third months of the year for which

295 adequate education program funds are appropriated over the
296 preceding year's second and third month average daily attendance.

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

304 (c) Subtract the percentage of the district's local
305 contribution arrived at in subsection (2) of this section from the
306 amount calculated in paragraph (b) of this subsection. The
307 remainder is the additional allocation in adequate education
308 program funds for that district.

309 If the funds available to the Department of Education are not
310 sufficient to fully fund the additional allocations to school
311 districts eligible for those allocations, then the department
312 shall prorate the available funds among the eligible school
313 districts, using the same percentage of the total funds that the
314 school district would have received if the allocations were fully
315 funded. The State Department of Education shall study and develop
316 a report to the Chairmen of the Senate and House Committees on
317 Education by January 1, 2005, with options for legislative
318 consideration that will insure that the Mississippi Adequate
319 Education Program funds are distributed to school districts based
320 on current year student attendance or enrollment.

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

322 (5) The Interim School District Capital Expenditure Fund is
323 hereby established in the State Treasury which shall be used to
324 distribute any funds specifically appropriated by the Legislature
325 to such fund to school districts entitled to increased allocations
326 of state funds under the adequate education program funding
327 formula prescribed in Sections 37-151-3 through 37-151-7,

328 Mississippi Code of 1972, until such time as the said adequate
329 education program is fully funded by the Legislature. The
330 following percentages of the total state cost of increased
331 allocations of funds under the adequate education program funding
332 formula shall be appropriated by the Legislature into the Interim
333 School District Capital Expenditure Fund to be distributed to all
334 school districts under the formula: Nine and two-tenths percent
335 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
336 (20%) shall be appropriated in fiscal year 1999, forty percent
337 (40%) shall be appropriated in fiscal year 2000, sixty percent
338 (60%) shall be appropriated in fiscal year 2001, eighty percent
339 (80%) shall be appropriated in fiscal year 2002, and one hundred
340 percent (100%) shall be appropriated in fiscal year 2003 into the
341 State Adequate Education Program Fund created in subsection (4).
342 Until July 1, 2002, such money shall be used by school districts
343 for the following purposes:

344 (a) Purchasing, erecting, repairing, equipping,
345 remodeling and enlarging school buildings and related facilities,
346 including gymnasiums, auditoriums, lunchrooms, vocational training
347 buildings, libraries, school barns and garages for transportation
348 vehicles, school athletic fields and necessary facilities
349 connected therewith, and purchasing land therefor. Any such
350 capital improvement project by a school district shall be approved
351 by the State Board of Education, and based on an approved
352 long-range plan. The State Board of Education shall promulgate
353 minimum requirements for the approval of school district capital
354 expenditure plans.

355 (b) Providing necessary water, light, heating, air
356 conditioning, and sewerage facilities for school buildings, and
357 purchasing land therefor.

358 (c) Paying debt service on existing capital improvement
359 debt of the district or refinancing outstanding debt of a district

360 if such refinancing will result in an interest cost savings to the
361 district.

362 (d) From and after October 1, 1997, through June 30,
363 1998, pursuant to a school district capital expenditure plan
364 approved by the State Department of Education, a school district
365 may pledge such funds until July 1, 2002, plus funds provided for
366 in paragraph (e) of this subsection (5) that are not otherwise
367 permanently pledged under such paragraph (e) to pay all or a
368 portion of the debt service on debt issued by the school district
369 under Sections 37-59-1 through 37-59-45, 37-59-101 through
370 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
371 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
372 issued by boards of supervisors for agricultural high schools
373 pursuant to Section 37-27-65, Mississippi Code of 1972, or
374 lease-purchase contracts entered into pursuant to Section 31-7-13,
375 Mississippi Code of 1972, or to retire or refinance outstanding
376 debt of a district, if such pledge is accomplished pursuant to a
377 written contract or resolution approved and spread upon the
378 minutes of an official meeting of the district's school board or
379 board of supervisors. It is the intent of this provision to allow
380 school districts to irrevocably pledge their Interim School
381 District Capital Expenditure Fund allotments as a constant stream
382 of revenue to secure a debt issued under the foregoing code
383 sections. To allow school districts to make such an irrevocable
384 pledge, the state shall take all action necessary to ensure that
385 the amount of a district's Interim School District Capital
386 Expenditure Fund allotments shall not be reduced below the amount
387 certified by the department or the district's total allotment
388 under the Interim Capital Expenditure Fund if fully funded, so
389 long as such debt remains outstanding.

390 (e) From and after October 1, 1997, through June 30,
391 1998, in addition to any other authority a school district may
392 have, any school district may issue State Aid Capital Improvement

393 Bonds secured in whole by a continuing annual pledge of any
394 Mississippi Adequate Education Program funds available to the
395 district, in an amount not to exceed One Hundred Sixty Dollars
396 (\$160.00) per pupil based on the latest completed average daily
397 attendance count certified by the department prior to the issuance
398 of the bonds. Such State Aid Capital Improvement Bonds may be
399 issued for the purposes enumerated in subsections (a), (b), (c)
400 and (g) of this section. Prior to issuing such bonds, the school
401 board of the district shall adopt a resolution declaring the
402 necessity for and its intention of issuing such bonds and
403 borrowing such money, specifying the approximate amount to be so
404 borrowed, how such money is to be used and how such indebtedness
405 is to be evidenced. Any capital improvement project financed with
406 State Aid Capital Improvement Bonds shall be approved by the
407 department, and based on an approved long-range plan. The State
408 Board of Education shall promulgate minimum requirements for the
409 approval of such school district capital expenditure plans. The
410 State Board of Education shall not approve any capital expenditure
411 plan for a pledge of funds under this paragraph unless it
412 determines (i) that the quality of instruction in such district
413 will not be reduced as a result of this pledge, and (ii) the
414 district has other revenue available to attain and maintain at
415 least Level III accreditation.

416 A district issuing State Aid Capital Improvement Bonds may
417 pledge for the repayment of such bonds all funds received by the
418 district from the state, in an amount not to exceed One Hundred
419 Sixty Dollars (\$160.00) per pupil in average daily attendance in
420 the school district as set forth above, and not otherwise
421 permanently pledged under paragraph (d) of this subsection or
422 under Section 37-61-33(2)(d), Mississippi Code of 1972. The
423 district's school board shall specify by resolution the amount of
424 state funds, which are being pledged by the district for the
425 repayment of the State Aid Capital Improvement Bonds. Once such a

426 pledge is made to secure the bonds, the district shall notify the
427 department of such pledge. Upon making such a pledge, the school
428 district may request the department which may agree to irrevocably
429 transfer a specified amount or percentage of the district's state
430 revenue pledged to repay the district's State Aid Capital
431 Improvement Bonds directly to a state or federally chartered bank
432 serving as a trustee or paying agent on such bonds for the payment
433 of all or portion of such State Aid Capital Improvement Bonds.
434 Such instructions shall be incorporated into a resolution by the
435 school board for the benefit of holders of the bonds and may
436 provide that such withholding and transfer of such other available
437 funds shall be made only upon notification by a trustee or paying
438 agent on such bonds that the amounts available to pay such bonds
439 on any payment date will not be sufficient. It is the intent of
440 this provision to allow school districts to irrevocably pledge a
441 certain, constant stream of revenue as security for State Aid
442 Capital Improvement Bonds issued hereunder. To allow school
443 districts to make such an irrevocable pledge, the state shall take
444 all action necessary to ensure that the amount of a district's
445 state revenues up to an amount equal to One Hundred Sixty Dollars
446 (\$160.00) per pupil as set forth above which have been pledged to
447 repay debt as set forth herein shall not be reduced so long as any
448 State Aid Capital Improvement Bonds are outstanding.

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

456 The provisions of this subsection shall be cumulative and
457 supplemental to any existing funding programs or other authority
458 conferred upon school districts or school boards. Debt of a

459 school district secured in whole by a pledge of revenue pursuant
460 to this section shall not be subject to any debt limitation.

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

465 This paragraph (e) shall stand repealed from and after June
466 30, 1998.

467 (f) As an alternative to the authority granted under
468 paragraph (e), a school district, in its discretion, may authorize
469 the State Board of Education to withhold an amount of the
470 district's adequate education program allotment equal to up to One
471 Hundred Sixty Dollars (\$160.00) per student in average daily
472 attendance in the district to be allocated to the State Public
473 School Building Fund to the credit of such school district. A
474 school district may choose the option provided under this
475 paragraph (e) or paragraph (f), but not both. In addition to the
476 grants made by the state pursuant to Section 37-47-9, a school
477 district shall be entitled to grants based on the allotments to
478 the State Public School Building Fund credited to such school
479 district under this paragraph. This paragraph (f) shall stand
480 repealed from and after June 30, 1998.

481 (g) The State Board of Education may authorize the
482 school district to expend not more than twenty percent (20%) of
483 its annual allotment of such funds or Twenty Thousand Dollars
484 (\$20,000.00), whichever is greater, for technology needs of the
485 school district, including computers, software,
486 telecommunications, cable television, interactive video, film
487 low-power television, satellite communications, microwave
488 communications, technology-based equipment installation and
489 maintenance, and the training of staff in the use of such
490 technology-based instruction. Any such technology expenditure
491 shall be reflected in the local district technology plan approved

492 by the State Board of Education under Section 37-151-17,
493 Mississippi Code of 1972.

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

504 (i) The State Department of Education or the State
505 Board of Education may require that any project commenced pursuant
506 to this section with an estimated project cost of not less than
507 Five Million Dollars (\$5,000,000.00) shall be done only pursuant
508 to program management of the process with respect to design and
509 construction. Any individuals, partnerships, companies or other
510 entities acting as a program manager on behalf of a local school
511 district and performing program management services for projects
512 covered under this subsection shall be approved by the State
513 Department of Education.

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

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

521 **SECTION 2.** Section 37-61-9, Mississippi Code of 1972, is
522 amended as follows:

523 37-61-9. (1) On or before the fifteenth day of August of
524 each year, the local school board of each school district, with

525 the assistance of the superintendent of schools, shall prepare and
526 file with the levying authority for the school district, as
527 defined in Section 37-57-1, Mississippi Code of 1972, at least two
528 (2) copies of a budget of estimated expenditures for the support,
529 maintenance and operation of the public schools of the school
530 district for the fiscal year commencing on July 1 of such year.
531 Such budget shall be prepared on forms prescribed and provided by
532 the State Auditor and shall contain such information as the State
533 Auditor may require. Beginning with fiscal year 2005-2006 and
534 fiscal years thereafter, each school district's budget shall
535 contain a detailed statement of the estimated amounts to be
536 expended for each instructional program and add-on program
537 component identified in the annual legislative appropriation bill
538 to fund the Mississippi Adequate Education Program as provided in
539 Section 37-151-7 (1) (b), (d) and (e), and it shall show
540 separately the amounts of such expenses to be paid from adequate
541 education program funds, local school district maintenance funds
542 and other available funds. The budget shall also contain a
543 detailed statement of the revenues which will be available for
544 defraying the expenses of and maintaining and operating the
545 schools of such district during the fiscal year for which the
546 budget is prepared, which statement of estimated revenues shall be
547 divided as to sources and shall show the amount available from
548 each source. The State Board of Education shall prescribe and
549 provide forms to each school district for this purpose. When an
550 operating budget has been approved by the local school board and
551 Mississippi Adequate Education Program funds have been provided by
552 appropriation of the Legislature, the amount approved shall be
553 available by budget category and each budget category shall
554 constitute the maximum amount of obligations or indebtedness which
555 may be incurred by the school district for such purpose during the
556 fiscal year. Unless otherwise specified in the Mississippi
557 Adequate Education Program appropriation bill, in the event any

558 emergency or unforeseen circumstances shall arise, the local
559 school board may authorize increases in major objects of
560 expenditure within such school districts allocation of each
561 specific budget category within the appropriation bill for the
562 current year in total amounts not to exceed ten percent (10%) of
563 the appropriated amount of each object, provided that other major
564 objects of expenditure are decreased by a corresponding dollar
565 amount. However, no transfers shall be authorized which decrease
566 the major object of expenditure "Salaries, Wages and Fringe
567 Benefits," or which decrease the major object of expenditure
568 "Capital Outlay--Equipment." The superintendent of schools for
569 such school district requesting a transfer shall submit written
570 justification for the transfer to the State Board of Education on
571 or before the fifteenth of the month prior to the effective date
572 of the transfer and the transfer shall be effective the first
573 working day of the month following timely submissions required
574 herein. In cases of extreme hardship, certified in writing by the
575 superintendent of schools, the State Board of Education may, in
576 its discretion, authorize an earlier effective date for the
577 transfer.

578 (2) In addition, on or before the fifteenth day of August of
579 each year, the local school board of each school district, with
580 the assistance of the superintendent of schools, shall prepare and
581 file with the State Department of Education such budgetary
582 information as the State Board of Education may require. The
583 State Board of Education shall prescribe and provide forms to each
584 school district for this purpose.

585 (3) Prior to the adoption of a budget pursuant to this
586 section, the school board of each school district shall hold at
587 least one (1) public hearing to provide the general public with an
588 opportunity to comment on the taxing and spending plan
589 incorporated in the proposed budget. The public hearing shall be
590 held at least one (1) week prior to the adoption of the budget

591 with advance notice. After final adoption of the budget, a
592 synopsis of such budget in a form prescribed by the State
593 Department of Audit shall be published in a newspaper having
594 general circulation in the school district on a date different
595 from the date on which the county or any municipality therein may
596 publish its budget.

597 (4) Beginning with the fiscal year 1995-1996, there shall be
598 imposed limitations on budgeted expenditures for certain
599 administration costs, as defined hereinafter, in an amount not
600 greater than One Hundred Fifty Thousand Dollars (\$150,000.00) plus
601 four percent (4%) of the expenditures of all school districts each
602 year. For purposes of this subsection, "administration costs"
603 shall be defined as expenditures for salaries and fringe benefits
604 paid for central administration costs from all sources of revenue
605 in the following expenditure functions as defined in the
606 MISSISSIPPI PUBLIC SCHOOL DISTRICT FINANCIAL ACCOUNTING MANUAL:

- 607 2300 = Support Services - General Administration
- 608 2310 = Board of Education Services
- 609 2320 = Executive Administration Services
- 610 2330 = Special Area Administration Services
- 611 2500 = Business Services
- 612 2510 = Fiscal Services
- 613 2520 = Purchasing Services
- 614 2530 = Warehousing and Distributing Services
- 615 2540 = Printing, Publishing and Duplicating Services
- 616 2590 = Other Support Services - Business
- 617 2800 = Support Services - Central
- 618 2810 = Planning, Research, Development and Evaluation
- 619 2820 = Information Services
- 620 2830 = Staff Services
- 621 2840 = Data Processing Services

622 Any costs classified as "administration costs" for purposes
623 of this subsection which can be demonstrated by the local school

624 district to be an expenditure that results in a net cost savings
625 to the district that may otherwise require budget expenditures for
626 functions not covered under the definition of administration costs
627 herein may be excluded from the limitations imposed herein. The
628 local school board shall make a specific finding of such costs and
629 spread such finding upon its minutes, which shall be subject to
630 the approval of the Office of Educational Accountability of the
631 State Department of Education. Any school district required to
632 make expenditure cuts, as a result of application of this
633 subsection, shall not be required to reduce such expenditures more
634 than twenty-five percent (25%) in any year in order to comply with
635 this mandate.

636 The State Auditor shall ensure that functions in all
637 expenditure categories to which this administrative limitation
638 applies shall be properly classified.

639 This section shall not apply to central administration with
640 five (5) or less full-time employees, or to those school districts
641 which can substantiate that comparable reductions have occurred in
642 administrative costs for the five-year period immediately prior to
643 school year 1993-1994. In the event the application of this
644 section may jeopardize the fiscal integrity or operations of the
645 school district, have an adverse impact on the ability of the
646 district to deliver educational services, or otherwise restrict
647 the district from achieving or maintaining a quality education
648 program, the State Board of Education shall be authorized to
649 exempt the application of this section to such school district
650 pursuant to rules and regulations of the State Board of Education
651 consistent with the intent of this section.

652 **SECTION 3.** Section 37-61-19, Mississippi Code of 1972, is
653 amended as follows:

654 37-61-19. It shall be the duty of the superintendents of
655 schools and the school boards of all school districts to limit the
656 expenditure of school funds during the fiscal year to the

657 resources available. It shall be unlawful for any school district
658 to budget expenditures from a fund or specific budget category as
659 provided in Section 37-61-9(1), in excess of the resources
660 available within that fund. Furthermore, it shall be unlawful for
661 any contract to be entered into or any obligation incurred or
662 expenditure made in excess of the resources available for such
663 fiscal year. Any member of the school board, superintendent of
664 schools, or other school official, who shall knowingly enter into
665 any contract, incur any obligation, or make any expenditure in
666 excess of the amount available in a specific budget category for
667 the fiscal year shall be personally liable for the amount of such
668 excess. However, no school board member, superintendent or other
669 school official shall be personally liable (a) in the event of any
670 reduction in adequate education program payments by action of the
671 Governor acting through the Department of Finance and
672 Administration, or (b) for claims, damages, awards or judgments,
673 on account of any wrongful or tortious act or omission or breach
674 of implied term or condition of any warranty or contract;
675 provided, however, that the foregoing immunity provisions shall
676 not be a defense in cases of fraud, criminal action or an
677 intentional breach of fiduciary obligations imposed by statute.

678 **SECTION 4.** This act shall take effect and be in force from
679 and after its passage.
680