

By: Representative Simpson

To: Education

## HOUSE BILL NO. 1032

1 AN ACT TO AMEND CHAPTER 473, LAWS OF 2006, TO DELETE THE  
2 MISSISSIPPI ADEQUATE EDUCATION PROGRAM (MAEP) PROVISIONS THAT  
3 PROVIDE FOR THE PHASING-IN OF AN ADDITIONAL ALLOCATION TO SCHOOL  
4 DISTRICTS EXPERIENCING POSITIVE GROWTH IN AVERAGE DAILY  
5 ATTENDANCE; TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,  
6 TO CHANGE THE FISCAL YEAR IN WHICH THE MAEP CALCULATION OF AVERAGE  
7 DAILY ATTENDANCE WHICH ACCOUNTS FOR POSITIVE GROWTH IN A SCHOOL  
8 DISTRICT BECOMES EFFECTIVE FROM 2011 TO 2008; AND FOR RELATED  
9 PURPOSES.

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

11 **SECTION 1.** Section 3 of Chapter 473, Laws of 2006, is  
12 amended as follows:

13 Section 3. (1) If sufficient funds are not available to  
14 fully fund the Mississippi Adequate Education Program (MAEP) for  
15 any of the fiscal years 2007, 2008 or 2009, the Legislature shall  
16 provide not less than the following amounts to fund the MAEP for  
17 those fiscal years: For fiscal year 2007, the amount shall be not  
18 less than One Billion Nine Hundred Seventy-three Million Forty  
19 Thousand One Hundred Twelve Dollars (\$1,973,040,112.00); for  
20 fiscal year 2008, the amount shall be not less than Two Billion  
21 Thirty-seven Million Two Hundred Twenty-six Thousand Five Hundred  
22 Eighty-four Dollars (\$2,037,226,584.00); and for fiscal year 2009,  
23 the amount shall be not less than Two Billion One Hundred One  
24 Million Four Hundred Thirteen Thousand Fifty-six Dollars  
25 (\$2,101,413,056.00). For fiscal year 2010, the Legislature shall  
26 provide not less than Two Billion One Hundred Sixty-five Million  
27 Five Hundred Ninety-nine Thousand Five Hundred Twenty-eight  
28 Dollars (\$2,165,599,528.00) to fund the MAEP. The minimum amounts  
29 required by this section for the MAEP do not include the costs  
30 associated with other state mandated costs such as, but not

31 limited to, teacher pay raises, increased costs of insurance and  
32 increased costs of employer contributions to the Public Employees'  
33 Retirement System, and any such associated costs increases shall  
34 be funded separately and in addition to the minimum amounts  
35 required by this section.

36 (2) If sufficient funds are not available to fully fund the  
37 MAEP for any of the fiscal years 2007, 2008 or 2009, the funds  
38 required to be provided to school districts under this section  
39 shall be allocated and prorated using average daily attendance  
40 (ADA) for months one (1) through nine (9) of the second preceding  
41 year or months two (2) and three (3) of the preceding year,  
42 whichever is greater, for fiscal year 2007, 2008 or 2009, as the  
43 case may be. For fiscal year 2010, allocation of funds shall be  
44 based on months two (2) and three (3) ADA.

45 \* \* \*

46 **SECTION 2.** Section 37-151-7, Mississippi Code of 1972, is  
47 amended as follows:

48 37-151-7. The annual allocation to each school district for  
49 the operation of the adequate education program shall be  
50 determined as follows:

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

55 (a) **Determination of average daily attendance.**

56 Effective with fiscal year 2008 the State Department of Education  
57 shall determine the percentage change from the prior year of each  
58 year of each school district's average of months two (2) and three  
59 (3) average daily attendance (ADA) for the three (3) immediately  
60 preceding school years of the year for which funds are being  
61 appropriated. For any school district that experiences a positive  
62 growth in the average of months two (2) and three (3) ADA each  
63 year of the three (3) years, the average percentage growth over

64 the three-year period shall be multiplied times the school  
65 district's average of months two (2) and three (3) ADA for the  
66 year immediately preceding the year for which MAEP funds are being  
67 appropriated. The resulting amount shall be added to the school  
68 district's average of months two (2) and three (3) ADA for the  
69 year immediately preceding the year for which MAEP funds are being  
70 appropriated to arrive at the ADA to be used in determining a  
71 school district's MAEP allocation. Otherwise, months two (2) and  
72 three (3) ADA for the year immediately preceding the year for  
73 which MAEP funds are being appropriated will be used in  
74 determining a school district's MAEP allocation. In any fiscal  
75 year prior to 2010 in which the MAEP formula is not fully funded,  
76 for those districts that do not demonstrate a three-year positive  
77 growth in months two (2) and three (3) ADA, months one (1) through  
78 nine (9) ADA of the second preceding year for which funds are  
79 being appropriated or months two (2) and three (3) ADA of the  
80 preceding year for which funds are being appropriated, whichever  
81 is greater, shall be used to calculate the district's MAEP  
82 allocation. The district's average daily attendance shall be  
83 computed and currently maintained in accordance with regulations  
84 promulgated by the State Board of Education.

85           (b) **Determination of base student cost.** Effective with  
86 fiscal year 2010 and every fourth fiscal year thereafter, the  
87 State Board of Education, on or before August 1, with adjusted  
88 estimate no later than January 2, shall submit to the Legislative  
89 Budget Office and the Governor a proposed base student cost  
90 adequate to provide the following cost components of educating a  
91 pupil in a successful school district: (i) Instructional Cost;  
92 (ii) Administrative Cost; (iii) Operation and Maintenance of  
93 Plant; and (iv) Ancillary Support Cost. For purposes of these  
94 calculations, the Department of Education shall utilize financial  
95 data from the second preceding year of the year for which funds  
96 are being appropriated.

97 For the instructional cost component, the Department of  
98 Education shall select districts that have been identified as  
99 instructionally successful and have a ratio of a number of  
100 teachers per one thousand (1,000) students that is between one (1)  
101 standard deviation above the mean and two (2) standard deviations  
102 below the mean of the statewide average of teachers per one  
103 thousand (1,000) students. The instructional cost component shall  
104 be calculated by dividing the latest available months one (1)  
105 through nine (9) ADA into the instructional expenditures of these  
106 selected districts. For the purpose of this calculation, the  
107 Department of Education shall use the following funds, functions  
108 and objects:

109 Fund 1120 Functions 1110-1199 Objects 100-999, Functions  
110 1210, 1220, 2150-2159 Objects 210 and 215;

111 Fund 1130 All Functions, Object Code 210 and 215;

112 Fund 2001 Functions 1110-1199 Objects 100-999;

113 Fund 2070 Functions 1110-1199 Objects 100-999;

114 Fund 2420 Functions 1110-1199 Objects 100-999;

115 Fund 2711 All Functions, Object Code 210 and 215.

116 Prior to the calculation of the instructional cost component,  
117 there shall be subtracted from the above expenditures any revenue  
118 received for Chickasaw Cession payments, Master Teacher  
119 Certification payments and the district's portion of state revenue  
120 received from the MAEP at-risk allocation.

121 For the administrative cost component, the Department of  
122 Education shall select districts that have been identified as  
123 instructionally successful and have a ratio of an administrative  
124 staff to nonadministrative staff between one (1) standard  
125 deviation above the mean and two (2) standard deviations below the  
126 mean of the statewide average administrative staff to  
127 nonadministrative staff. The administrative cost component shall  
128 be calculated by dividing the latest available months one (1)  
129 through nine (9) ADA of the selected districts into the

130 administrative expenditures of these selected districts. For the  
131 purpose of this calculation, the Department of Education shall use  
132 the following funds, functions and objects:

133 Fund 1120 Functions 2300-2599, Functions 2800-2899,  
134 Objects 100-999;

135 Fund 2711 Functions 2300-2599, Functions 2800-2899,  
136 Objects 100-999.

137 For the plant and maintenance cost component, the Department  
138 of Education shall select districts that have been identified as  
139 instructionally successful and have a ratio of plant and  
140 maintenance expenditures per one hundred thousand (100,000) square  
141 feet of building space and a ratio of maintenance workers per one  
142 hundred thousand (100,000) square feet of building space that are  
143 both between one (1) standard deviation above the mean and two (2)  
144 standard deviations below the mean of the statewide average. The  
145 plant and maintenance cost component shall be calculated by  
146 dividing the latest available months one (1) through nine (9) ADA  
147 of the selected districts into the plant and maintenance  
148 expenditures of these selected districts. For the purpose of this  
149 calculation, the Department of Education shall use the following  
150 funds, functions and objects:

151 Fund 1120 Functions 2600-2699, Objects 100-699  
152 and Objects 800-999;

153 Fund 2711 Functions 2600-2699, Objects 100-699  
154 and Objects 800-999;

155 Fund 2430 Functions 2600-2699, Objects 100-699  
156 and Objects 800-999.

157 For the ancillary support cost component, the Department of  
158 Education shall select districts that have been identified as  
159 instructionally successful and have a ratio of a number of  
160 librarians, media specialists, guidance counselors and  
161 psychologists per one thousand (1,000) students that is between  
162 one (1) standard deviation above the mean and two (2) standard

163 deviations below the mean of the statewide average of librarians,  
164 media specialists, guidance counselors and psychologists per one  
165 thousand (1,000) students. The ancillary cost component shall be  
166 calculated by dividing the latest available months one (1) through  
167 nine (9) ADA into the ancillary expenditures instructional  
168 expenditures of these selected districts. For the purpose of this  
169 calculation, the Department of Education shall use the following  
170 funds, functions and objects:

171 Fund 1120 Functions 2110-2129, Objects 100-999;

172 Fund 1120 Functions 2140-2149, Objects 100-999;

173 Fund 1120 Functions 2220-2229, Objects 100-999;

174 Fund 2001 Functions 2100-2129, Objects 100-999;

175 Fund 2001 Functions 2140-2149, Objects 100-999;

176 Fund 2001 Functions 2220-2229, Objects 100-999.

177 The total base cost for each year shall be the sum of the  
178 instructional cost component, administrative cost component, plant  
179 and maintenance cost component and ancillary support cost  
180 component, and any estimated adjustments for additional state  
181 requirements as determined by the State Board of Education.

182 Provided, however, that the base student cost in fiscal year 1998  
183 shall be Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).

184 For each of the fiscal years between the recalculation of the  
185 base student cost under the provisions of this paragraph (b), the  
186 base student cost shall be increased by an amount equal to forty  
187 percent (40%) of the base student cost for the previous fiscal  
188 year, multiplied by the latest annual rate of inflation for the  
189 State of Mississippi as determined by the State Economist, plus  
190 any adjustments for additional state requirements such as, but not  
191 limited to, teacher pay raises and health insurance premium  
192 increases.

193 (c) **Determination of the basic adequate education**  
194 **program cost.** The basic amount for current operation to be

195 included in the Mississippi Adequate Education Program for each  
196 school district shall be computed as follows:

197         Multiply the average daily attendance of the district by the  
198 base student cost as established by the Legislature, which yields  
199 the total base program cost for each school district.

200             (d) **Adjustment to the base student cost for at-risk**  
201 **pupils.** The amount to be included for at-risk pupil programs for  
202 each school district shall be computed as follows: Multiply the  
203 base student cost for the appropriate fiscal year as determined  
204 under paragraph (b) by five percent (5%), and multiply that  
205 product by the number of pupils participating in the federal free  
206 school lunch program in such school district, which yields the  
207 total adjustment for at-risk pupil programs for such school  
208 district.

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

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

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

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

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

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

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

231 (vii) University-based programs shall be the  
232 amount allocated to school districts for those university-based  
233 programs for handicapped children as defined and provided for in  
234 Section 37-23-131 et seq.

235 (viii) Bus driver training programs shall be the  
236 amount provided for those driver training programs as provided for  
237 in Section 37-41-1.

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

243 (f) **Total projected adequate education program cost.**  
244 The total Mississippi Adequate Education Program cost shall be the  
245 sum of the total basic adequate education program cost (paragraph  
246 (c)), and the adjustment to the base student cost for at-risk  
247 pupils (paragraph (d)) for each school district. In any year in  
248 which the MAEP is not fully funded, the Legislature shall direct  
249 the Department of Education in the K-12 appropriation bill as to  
250 how to allocate MAEP funds to school districts for that year.

251 (g) The State Auditor shall annually verify the State  
252 Board of Education's estimated calculations for the Mississippi  
253 Adequate Education Program that are submitted each year to the  
254 Legislative Budget Office on August 1 and the final calculation  
255 that is submitted on January 2.

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

260           (a) The State Department of Education shall certify to  
261 each school district that twenty-eight (28) mills, less the  
262 estimated amount of the yield of the School Ad Valorem Tax  
263 Reduction Fund grants as determined by the State Department of  
264 Education, is the millage rate required to provide the district  
265 required local effort for that year, or twenty-seven percent (27%)  
266 of the basic adequate education program cost for such school  
267 district as determined under paragraph (c), whichever is a lesser  
268 amount. In the case of an agricultural high school, the millage  
269 requirement shall be set at a level which generates an equitable  
270 amount per pupil to be determined by the State Board of Education.

271           (b) The State Department of Education shall determine  
272 (i) the total assessed valuation of nonexempt property for school  
273 purposes in each school district; (ii) assessed value of exempt  
274 property owned by homeowners aged sixty-five (65) or older or  
275 disabled as defined in Section 27-33-67(2); (iii) the school  
276 district's tax loss from exemptions provided to applicants under  
277 the age of sixty-five (65) and not disabled as defined in Section  
278 27-33-67(1); and (iv) the school district's homestead  
279 reimbursement revenues.

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

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

288           One hundred percent (100%) of any fees in lieu of taxes as  
289 prescribed in Section 27-31-104.

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

292           (a) The required state effort in support of the  
293 adequate education program shall be determined by subtracting the  
294 sum of the required local tax effort as set forth in subsection  
295 (2)(a) of this section and the other local revenue sources as set  
296 forth in subsection (2)(c) of this section in an amount not to  
297 exceed twenty-seven percent (27%) of the total projected adequate  
298 education program cost as set forth in subsection (1)(f) of this  
299 section from the total projected adequate education program cost  
300 as set forth in subsection (1)(f) of this section.

301           (b) Provided, however, that in fiscal year 1998 and in  
302 the fiscal year in which the adequate education program is fully  
303 funded by the Legislature, any increase in the said state  
304 contribution to any district calculated under this section shall  
305 be not less than eight percent (8%) in excess of the amount  
306 received by said district from state funds for the fiscal year  
307 immediately preceding. For purposes of this paragraph (b), state  
308 funds shall include minimum program funds less the add-on  
309 programs, State Uniform Millage Assistance Grant Funds, Education  
310 Enhancement Funds appropriated for Uniform Millage Assistance  
311 Grants and state textbook allocations, and State General Funds  
312 allocated for textbooks.

313           (c) If the school board of any school district shall  
314 determine that it is not economically feasible or practicable to  
315 operate any school within the district for the full one hundred  
316 eighty (180) days required for a school term of a scholastic year  
317 as required in Section 37-13-63 due to an enemy attack, a  
318 man-made, technological or natural disaster in which the Governor  
319 has declared a disaster emergency under the laws of this state or  
320 the President of the United States has declared an emergency or  
321 major disaster to exist in this state, said school board may  
322 notify the State Department of Education of such disaster and  
323 submit a plan for altering the school term. If the State Board of  
324 Education finds such disaster to be the cause of the school not

325 operating for the contemplated school term and that such school  
326 was in a school district covered by the Governor's or President's  
327 disaster declaration, it may permit said school board to operate  
328 the schools in its district for less than one hundred eighty (180)  
329 days and, in such case, the State Department of Education shall  
330 not reduce the state contributions to the adequate education  
331 program allotment for such district, because of the failure to  
332 operate said schools for one hundred eighty (180) days.

333 (4) The Interim School District Capital Expenditure Fund is  
334 hereby established in the State Treasury which shall be used to  
335 distribute any funds specifically appropriated by the Legislature  
336 to such fund to school districts entitled to increased allocations  
337 of state funds under the adequate education program funding  
338 formula prescribed in Sections 37-151-3 through 37-151-7, until  
339 such time as the \* \* \* adequate education program is fully funded  
340 by the Legislature. The following percentages of the total state  
341 cost of increased allocations of funds under the adequate  
342 education program funding formula shall be appropriated by the  
343 Legislature into the Interim School District Capital Expenditure  
344 Fund to be distributed to all school districts under the formula:  
345 Nine and two-tenths percent (9.2%) shall be appropriated in fiscal  
346 year 1998, twenty percent (20%) shall be appropriated in fiscal  
347 year 1999, forty percent (40%) shall be appropriated in fiscal  
348 year 2000, sixty percent (60%) shall be appropriated in fiscal  
349 year 2001, eighty percent (80%) shall be appropriated in fiscal  
350 year 2002, and one hundred percent (100%) shall be appropriated in  
351 fiscal year 2003 into the State Adequate Education Program Fund.  
352 Until July 1, 2002, such money shall be used by school districts  
353 for the following purposes:

354 (a) Purchasing, erecting, repairing, equipping,  
355 remodeling and enlarging school buildings and related facilities,  
356 including gymnasiums, auditoriums, lunchrooms, vocational training  
357 buildings, libraries, school barns and garages for transportation

358 vehicles, school athletic fields and necessary facilities  
359 connected therewith, and purchasing land therefor. Any such  
360 capital improvement project by a school district shall be approved  
361 by the State Board of Education, and based on an approved  
362 long-range plan. The State Board of Education shall promulgate  
363 minimum requirements for the approval of school district capital  
364 expenditure plans.

365 (b) Providing necessary water, light, heating, air  
366 conditioning, and sewerage facilities for school buildings, and  
367 purchasing land therefor.

368 (c) Paying debt service on existing capital improvement  
369 debt of the district or refinancing outstanding debt of a district  
370 if such refinancing will result in an interest cost savings to the  
371 district.

372 (d) From and after October 1, 1997, through June 30,  
373 1998, pursuant to a school district capital expenditure plan  
374 approved by the State Department of Education, a school district  
375 may pledge such funds until July 1, 2002, plus funds provided for  
376 in paragraph (e) of this subsection (4) that are not otherwise  
377 permanently pledged under such paragraph (e) to pay all or a  
378 portion of the debt service on debt issued by the school district  
379 under Sections 37-59-1 through 37-59-45, 37-59-101 through  
380 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,  
381 37-7-301, 37-7-302 and 37-41-81, or debt issued by boards of  
382 supervisors for agricultural high schools pursuant to Section  
383 37-27-65, or lease-purchase contracts entered into pursuant to  
384 Section 31-7-13, or to retire or refinance outstanding debt of a  
385 district, if such pledge is accomplished pursuant to a written  
386 contract or resolution approved and spread upon the minutes of an  
387 official meeting of the district's school board or board of  
388 supervisors. It is the intent of this provision to allow school  
389 districts to irrevocably pledge their Interim School District  
390 Capital Expenditure Fund allotments as a constant stream of

391 revenue to secure a debt issued under the foregoing code sections.  
392 To allow school districts to make such an irrevocable pledge, the  
393 state shall take all action necessary to ensure that the amount of  
394 a district's Interim School District Capital Expenditure Fund  
395 allotments shall not be reduced below the amount certified by the  
396 department or the district's total allotment under the Interim  
397 Capital Expenditure Fund if fully funded, so long as such debt  
398 remains outstanding.

399 (e) [Repealed]

400 (f) [Repealed]

401 (g) The State Board of Education may authorize the  
402 school district to expend not more than twenty percent (20%) of  
403 its annual allotment of such funds or Twenty Thousand Dollars  
404 (\$20,000.00), whichever is greater, for technology needs of the  
405 school district, including computers, software,  
406 telecommunications, cable television, interactive video, film,  
407 low-power television, satellite communications, microwave  
408 communications, technology-based equipment installation and  
409 maintenance, and the training of staff in the use of such  
410 technology-based instruction. Any such technology expenditure  
411 shall be reflected in the local district technology plan approved  
412 by the State Board of Education under Section 37-151-17.

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

423           (i) The State Department of Education or the State  
424 Board of Education may require that any project commenced under  
425 this section with an estimated project cost of not less than Five  
426 Million Dollars (\$5,000,000.00) shall be done only pursuant to  
427 program management of the process with respect to design and  
428 construction. Any individuals, partnerships, companies or other  
429 entities acting as a program manager on behalf of a local school  
430 district and performing program management services for projects  
431 covered under this subsection shall be approved by the State  
432 Department of Education.

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

437           The provisions of this subsection (4) shall be cumulative and  
438 supplemental to any existing funding programs or other authority  
439 conferred upon school districts or school boards.

440           **SECTION 3.** This act shall take effect and be in force from  
441 and after July 1, 2007.