

By: Senator(s) Robertson

To: Education; Finance

SENATE BILL NO. 3180

1 AN ACT TO AMEND SECTIONS 37-57-1 AND 37-151-7, MISSISSIPPI
2 CODE OF 1972, TO INCREASE THE MINIMUM REQUIRED LOCAL REVENUE TO
3 SUPPORT THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM TO 35 MILLS;
4 AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 37-57-1, Mississippi Code of 1972, is
7 amended as follows:

8 37-57-1. (1) (a) The boards of supervisors of the counties
9 shall levy and collect all taxes for and on behalf of all school
10 districts which were within the county school system or designated
11 as special municipal separate school districts prior to July 1,
12 1986. Such taxes shall be collected by the county tax collector
13 at the same time and in the same manner as county taxes are
14 collected by him, and the same penalties for delinquency shall be
15 applicable.

16 The governing authorities of the municipalities shall levy
17 and collect all taxes for and on behalf of all school districts
18 which were designated as municipal separate school districts prior
19 to July 1, 1986. Such taxes shall be collected by the municipal
20 tax collector at the same time and in the same manner as municipal
21 taxes are collected by him, and the same penalties for delinquency
22 shall be applicable.

23 The county or municipal tax collector, as the case may be,
24 shall pay such tax collections, except for taxes collected for the
25 payment of the principal of and interest on school bonds or notes
26 and except for taxes collected to defray collection costs, into
27 the school depository and report to the school board of the
28 appropriate school district at the same time and in the same

29 manner as the tax collector makes his payments and reports of
30 other taxes collected by him.

31 Provided, however, the State Board of Education shall
32 determine the appropriate levying authority for any school
33 district created or reorganized after July 1, 1987.

34 (b) For the purposes of this chapter and any other laws
35 pertaining to taxes levied or bonds or notes issued for and on
36 behalf of school districts, the term "levying authority" means the
37 board of supervisors of the county or the governing authorities of
38 the municipality, whichever levies taxes for and on behalf of the
39 particular school district as provided in paragraphs (a) and (b)
40 of this subsection.

41 (2) The levying authority for the school district shall, at
42 the same time and in the same manner as other taxes are levied by
43 the levying authority, levy a tax of not less than thirty-five
44 (35) mills for the then current fiscal year, less the estimated
45 amount of the yield of the School Ad Valorem Tax Reduction Fund
46 grant to the school district as determined by the State Department
47 of Education * * * upon all of the taxable property of the school
48 district, as required under Section 37-151-7(2)(a). However, in
49 no case shall the minimum local ad valorem tax effort for any
50 school district be equal to an amount that would require a millage
51 rate exceeding fifty-five (55) mills in that school district.
52 Provided, however, that if a levying authority is levying in
53 excess of fifty-five (55) mills on July 1, 1997, the levying
54 authority may levy an additional amount not exceeding three (3)
55 mills in the aggregate for the period beginning July 1, 1997, and
56 ending June 30, 2003, subject to the limitation on increased
57 receipts from ad valorem taxes prescribed in Sections 37-57-105
58 and 37-57-107. Nothing in this subsection shall be construed to
59 require any school district that is levying more than fifty-five
60 (55) mills pursuant to Sections 37-57-1 and 37-57-105 to decrease
61 its millage rate to fifty-five (55) mills or less. In making such

62 levy, the levying authority shall levy an additional amount
63 sufficient to cover anticipated delinquencies and costs of
64 collection so that the net amount of money to be produced by such
65 levy shall be equal to the amount which the school district is
66 required to contribute as its said minimum local ad valorem tax
67 effort. The tax so levied shall be collected by the tax collector
68 at the same time and in the same manner as other ad valorem taxes
69 are collected by him. The amount of taxes so collected as a
70 result of such levy shall be paid into the district maintenance
71 fund of the school district by the tax collector at the same time
72 and in the same manner as reports and payments of other ad valorem
73 taxes are made by said tax collector, except that the amount
74 collected to defray costs of collection may be paid into the
75 county general fund. The levying authority shall have the power
76 and authority to direct and cause warrants to be issued against
77 such fund for the purpose of refunding any amount of taxes
78 erroneously or illegally paid into such fund where such refund has
79 been approved in the manner provided by law.

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

82 37-151-7. The annual allocation to each school district for
83 the operation of the adequate education program shall be
84 determined as follows:

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

89 (a) **Determination of average daily attendance.**
90 Effective with fiscal year 2011, the State Department of Education
91 shall determine the percentage change from the prior year of each
92 year of each school district's average of months two (2) and three
93 (3) average daily attendance (ADA) for the three (3) immediately
94 preceding school years of the year for which funds are being

95 appropriated. For any school district that experiences a positive
96 growth in the average of months two (2) and three (3) ADA each
97 year of the three (3) years, the average percentage growth over
98 the three-year period shall be multiplied times the school
99 district's average of months two (2) and three (3) ADA for the
100 year immediately preceding the year for which MAEP funds are being
101 appropriated. The resulting amount shall be added to the school
102 district's average of months two (2) and three (3) ADA for the
103 year immediately preceding the year for which MAEP funds are being
104 appropriated to arrive at the ADA to be used in determining a
105 school district's MAEP allocation. Otherwise, months two (2) and
106 three (3) ADA for the year immediately preceding the year for
107 which MAEP funds are being appropriated will be used in
108 determining a school district's MAEP allocation. In any fiscal
109 year prior to 2010 in which the MAEP formula is not fully funded,
110 for those districts that do not demonstrate a three-year positive
111 growth in months two (2) and three (3) ADA, months one (1) through
112 nine (9) ADA of the second preceding year for which funds are
113 being appropriated or months two (2) and three (3) ADA of the
114 preceding year for which funds are being appropriated, whichever
115 is greater, shall be used to calculate the district's MAEP
116 allocation. The district's average daily attendance shall be
117 computed and currently maintained in accordance with regulations
118 promulgated by the State Board of Education.

119 (b) **Determination of base student cost.** Effective with
120 fiscal year 2011 and every fourth fiscal year thereafter, the
121 State Board of Education, on or before August 1, with adjusted
122 estimate no later than January 2, shall submit to the Legislative
123 Budget Office and the Governor a proposed base student cost
124 adequate to provide the following cost components of educating a
125 pupil in a successful school district: (i) Instructional Cost;
126 (ii) Administrative Cost; (iii) Operation and Maintenance of
127 Plant; and (iv) Ancillary Support Cost. For purposes of these

128 calculations, the Department of Education shall utilize financial
129 data from the second preceding year of the year for which funds
130 are being appropriated.

131 For the instructional cost component, the Department of
132 Education shall select districts that have been identified as
133 instructionally successful and have a ratio of a number of
134 teachers per one thousand (1,000) students that is between one (1)
135 standard deviation above the mean and two (2) standard deviations
136 below the mean of the statewide average of teachers per one
137 thousand (1,000) students. The instructional cost component shall
138 be calculated by dividing the latest available months 1-9 ADA into
139 the instructional expenditures of these selected districts. For
140 the purpose of this calculation, the Department of Education shall
141 use the following funds, functions and objects:

142 Fund 1120 Functions 1110-1199 Objects 100-999, Functions
143 1210, 1220, 2150-2159 Objects 210 and 215;

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

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

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

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

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

149 Prior to the calculation of the instructional cost component,
150 there shall be subtracted from the above expenditures any revenue
151 received for Chickasaw Cession payments, Master Teacher
152 Certification payments and the district's portion of state revenue
153 received from the MAEP at-risk allocation.

154 For the administrative cost component, the Department of
155 Education shall select districts that have been identified as
156 instructionally successful and have a ratio of an administrative
157 staff to nonadministrative staff between one (1) standard
158 deviation above the mean and two (2) standard deviations below the
159 mean of the statewide average administrative staff to
160 nonadministrative staff. The administrative cost component shall

161 be calculated by dividing the latest available months 1-9 ADA of
162 the selected districts into the administrative expenditures of
163 these selected districts. For the purpose of this calculation,
164 the Department of Education shall use the following funds,
165 functions and objects:

166 Fund 1120 Functions 2300-2599, Functions 2800-2899,
167 Objects 100-999;

168 Fund 2711 Functions 2300-2599, Functions 2800-2899,
169 Objects 100-999.

170 For the plant and maintenance cost component, the Department
171 of Education shall select districts that have been identified as
172 instructionally successful and have a ratio of plant and
173 maintenance expenditures per one hundred thousand (100,000) square
174 feet of building space and a ratio of maintenance workers per one
175 hundred thousand (100,000) square feet of building space that are
176 both between one (1) standard deviation above the mean and two (2)
177 standard deviations below the mean of the statewide average. The
178 plant and maintenance cost component shall be calculated by
179 dividing the latest available months 1-9 ADA of the selected
180 districts into the plant and maintenance expenditures of these
181 selected districts. For the purpose of this calculation, the
182 Department of Education shall use the following funds, functions
183 and objects:

184 Fund 1120 Functions 2600-2699, Objects 100-699
185 and Objects 800-999;

186 Fund 2711 Functions 2600-2699, Objects 100-699
187 and Objects 800-999;

188 Fund 2430 Functions 2600-2699, Objects 100-699
189 and Objects 800-999.

190 For the ancillary support cost component, the Department of
191 Education shall select districts that have been identified as
192 instructionally successful and have a ratio of a number of
193 librarians, media specialists, guidance counselors and

194 psychologists per one thousand (1,000) students that is between
195 one (1) standard deviation above the mean and two (2) standard
196 deviations below the mean of the statewide average of librarians,
197 media specialists, guidance counselors and psychologists per one
198 thousand (1,000) students. The ancillary cost component shall be
199 calculated by dividing the latest available months 1-9 ADA into
200 the ancillary expenditures instructional expenditures of these
201 selected districts. For the purpose of this calculation, the
202 Department of Education shall use the following funds, functions
203 and objects:

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

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

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

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

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

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

210 The total base cost for each year shall be the sum of the
211 instructional cost component, administrative cost component, plant
212 and maintenance cost component and ancillary support cost
213 component, and any estimated adjustments for additional state
214 requirements as determined by the State Board of Education.

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

217 For each of the fiscal years between the recalculation of the
218 base student cost under the provisions of this paragraph (b), the
219 base student cost shall be increased by an amount equal to forty
220 percent (40%) of the base student cost for the previous fiscal
221 year, multiplied by the latest annual rate of inflation for the
222 State of Mississippi as determined by the State Economist, plus
223 any adjustments for additional state requirements such as, but not
224 limited to, teacher pay raises and health insurance premium
225 increases.

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

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

230 Multiply the average daily attendance of the district by the
231 base student cost as established by the Legislature, which yields
232 the total base program cost for each school district.

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

234 **pupils.** The amount to be included for at-risk pupil programs for
235 each school district shall be computed as follows: Multiply the
236 base student cost for the appropriate fiscal year as determined
237 under paragraph (b) by five percent (5%), and multiply that
238 product by the number of pupils participating in the federal free
239 school lunch program in such school district, which yields the
240 total adjustment for at-risk pupil programs for such school
241 district.

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

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

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

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

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

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

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

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

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

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

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

277 The total Mississippi Adequate Education Program cost shall be the
278 sum of the total basic adequate education program cost (paragraph
279 (c)), and the adjustment to the base student cost for at-risk
280 pupils (paragraph (d)) for each school district. In any year in
281 which the MAEP is not fully funded, the Legislature shall direct
282 the Department of Education in the K-12 appropriation bill as to
283 how to allocate MAEP funds to school districts for that year.

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

289 (2) **Computation of the required local revenue in support of**
290 **the adequate education program.** The amount that each district

291 shall provide toward the cost of the adequate education program
292 shall be calculated as follows:

293 (a) The State Department of Education shall certify to
294 each school district that thirty-five (35) mills, less the
295 estimated amount of the yield of the School Ad Valorem Tax
296 Reduction Fund grants as determined by the State Department of
297 Education, is the millage rate required to provide the district
298 required local effort for that year * * *. In the case of an
299 agricultural high school, the millage requirement shall be set at
300 a level which generates an equitable amount per pupil to be
301 determined by the State Board of Education.

302 (b) The State Department of Education shall determine
303 (i) the total assessed valuation of nonexempt property for school
304 purposes in each school district; (ii) assessed value of exempt
305 property owned by homeowners aged sixty-five (65) or older or
306 disabled as defined in Section 27-33-67(2), Mississippi Code of
307 1972; (iii) the school district's tax loss from exemptions
308 provided to applicants under the age of sixty-five (65) and not
309 disabled as defined in Section 27-33-67(1), Mississippi Code of
310 1972; and (iv) the school district's homestead reimbursement
311 revenues.

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

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

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

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

324 (a) The required state effort in support of the
325 adequate education program shall be determined by subtracting the
326 sum of the required local tax effort as set forth in subsection
327 (2)(a) of this section and the other local revenue sources as set
328 forth in subsection (2)(c) of this section * * * from the total
329 projected adequate education program cost as set forth in
330 subsection (1)(f) of this section.

331 (b) Provided, however, that in fiscal year 1998 and in
332 the fiscal year in which the adequate education program is fully
333 funded by the Legislature, any increase in the said state
334 contribution to any district calculated under this section shall
335 be not less than eight percent (8%) in excess of the amount
336 received by said district from state funds for the fiscal year
337 immediately preceding. For purposes of this paragraph (b), state
338 funds shall include minimum program funds less the add-on
339 programs, State Uniform Millage Assistance Grant Funds, Education
340 Enhancement Funds appropriated for Uniform Millage Assistance
341 Grants and state textbook allocations, and State General Funds
342 allocated for textbooks.

343 (c) If the school board of any school district shall
344 determine that it is not economically feasible or practicable to
345 operate any school within the district for the full one hundred
346 eighty (180) days required for a school term of a scholastic year
347 as required in Section 37-13-63, Mississippi Code of 1972, due to
348 an enemy attack, a man-made, technological or natural disaster in
349 which the Governor has declared a disaster emergency under the
350 laws of this state or the President of the United States has
351 declared an emergency or major disaster to exist in this state,
352 said school board may notify the State Department of Education of
353 such disaster and submit a plan for altering the school term. If
354 the State Board of Education finds such disaster to be the cause
355 of the school not operating for the contemplated school term and
356 that such school was in a school district covered by the

357 Governor's or President's disaster declaration, it may permit said
358 school board to operate the schools in its district for less than
359 one hundred eighty (180) days and, in such case, the State
360 Department of Education shall not reduce the state contributions
361 to the adequate education program allotment for such district,
362 because of the failure to operate said schools for one hundred
363 eighty (180) days.

364 (4) The Interim School District Capital Expenditure Fund is
365 hereby established in the State Treasury which shall be used to
366 distribute any funds specifically appropriated by the Legislature
367 to such fund to school districts entitled to increased allocations
368 of state funds under the adequate education program funding
369 formula prescribed in Sections 37-151-3 through 37-151-7,
370 Mississippi Code of 1972, until such time as the said adequate
371 education program is fully funded by the Legislature. The
372 following percentages of the total state cost of increased
373 allocations of funds under the adequate education program funding
374 formula shall be appropriated by the Legislature into the Interim
375 School District Capital Expenditure Fund to be distributed to all
376 school districts under the formula: Nine and two-tenths percent
377 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
378 (20%) shall be appropriated in fiscal year 1999, forty percent
379 (40%) shall be appropriated in fiscal year 2000, sixty percent
380 (60%) shall be appropriated in fiscal year 2001, eighty percent
381 (80%) shall be appropriated in fiscal year 2002, and one hundred
382 percent (100%) shall be appropriated in fiscal year 2003 into the
383 State Adequate Education Program Fund. Until July 1, 2002, such
384 money shall be used by school districts for the following
385 purposes:

386 (a) Purchasing, erecting, repairing, equipping,
387 remodeling and enlarging school buildings and related facilities,
388 including gymnasiums, auditoriums, lunchrooms, vocational training
389 buildings, libraries, school barns and garages for transportation

390 vehicles, school athletic fields and necessary facilities
391 connected therewith, and purchasing land therefor. Any such
392 capital improvement project by a school district shall be approved
393 by the State Board of Education, and based on an approved
394 long-range plan. The State Board of Education shall promulgate
395 minimum requirements for the approval of school district capital
396 expenditure plans.

397 (b) Providing necessary water, light, heating, air
398 conditioning, and sewerage facilities for school buildings, and
399 purchasing land therefor.

400 (c) Paying debt service on existing capital improvement
401 debt of the district or refinancing outstanding debt of a district
402 if such refinancing will result in an interest cost savings to the
403 district.

404 (d) From and after October 1, 1997, through June 30,
405 1998, pursuant to a school district capital expenditure plan
406 approved by the State Department of Education, a school district
407 may pledge such funds until July 1, 2002, plus funds provided for
408 in paragraph (e) of this subsection (4) that are not otherwise
409 permanently pledged under such paragraph (e) to pay all or a
410 portion of the debt service on debt issued by the school district
411 under Sections 37-59-1 through 37-59-45, 37-59-101 through
412 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
413 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
414 issued by boards of supervisors for agricultural high schools
415 pursuant to Section 37-27-65, Mississippi Code of 1972, or
416 lease-purchase contracts entered into pursuant to Section 31-7-13,
417 Mississippi Code of 1972, or to retire or refinance outstanding
418 debt of a district, if such pledge is accomplished pursuant to a
419 written contract or resolution approved and spread upon the
420 minutes of an official meeting of the district's school board or
421 board of supervisors. It is the intent of this provision to allow
422 school districts to irrevocably pledge their Interim School

423 District Capital Expenditure Fund allotments as a constant stream
424 of revenue to secure a debt issued under the foregoing code
425 sections. To allow school districts to make such an irrevocable
426 pledge, the state shall take all action necessary to ensure that
427 the amount of a district's Interim School District Capital
428 Expenditure Fund allotments shall not be reduced below the amount
429 certified by the department or the district's total allotment
430 under the Interim Capital Expenditure Fund if fully funded, so
431 long as such debt remains outstanding.

432 (e) [Repealed]

433 (f) [Repealed]

434 (g) The State Board of Education may authorize the
435 school district to expend not more than twenty percent (20%) of
436 its annual allotment of such funds or Twenty Thousand Dollars
437 (\$20,000.00), whichever is greater, for technology needs of the
438 school district, including computers, software,
439 telecommunications, cable television, interactive video, film,
440 low-power television, satellite communications, microwave
441 communications, technology-based equipment installation and
442 maintenance, and the training of staff in the use of such
443 technology-based instruction. Any such technology expenditure
444 shall be reflected in the local district technology plan approved
445 by the State Board of Education under Section 37-151-17,
446 Mississippi Code of 1972.

447 (h) To the extent a school district has not utilized
448 twenty percent (20%) of its annual allotment for technology
449 purposes under paragraph (g), a school district may expend not
450 more than twenty percent (20%) of its annual allotment or Twenty
451 Thousand Dollars (\$20,000.00), whichever is greater, for
452 instructional purposes. The State Board of Education may
453 authorize a school district to expend more than said twenty
454 percent (20%) of its annual allotment for instructional purposes

455 if it determines that such expenditures are needed for
456 accreditation purposes.

457 (i) The State Department of Education or the State
458 Board of Education may require that any project commenced under
459 this section with an estimated project cost of not less than Five
460 Million Dollars (\$5,000,000.00) shall be done only pursuant to
461 program management of the process with respect to design and
462 construction. Any individuals, partnerships, companies or other
463 entities acting as a program manager on behalf of a local school
464 district and performing program management services for projects
465 covered under this subsection shall be approved by the State
466 Department of Education.

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

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

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