

By: Senator(s) Younger

To: Education;
Appropriations

SENATE BILL NO. 2420

1 AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,
2 TO CHANGE THE PERCENTAGE OF THE GRANT OF FEE IN LIEU OF AD VALOREM
3 TAXES FOR CERTAIN BUSINESS PROJECTS WHICH IS PART OF THE REQUIRED
4 LOCAL REVENUE IN SUPPORT OF THE MISSISSIPPI ADEQUATE EDUCATION
5 PROGRAM; AND FOR RELATED PURPOSES.

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

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

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

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

16 (a) **Determination of average daily attendance.**
17 Effective with fiscal year 2011, the State Department of Education
18 shall determine the percentage change from the prior year of each
19 year of each school district's average of months two (2) and three



20 (3) average daily attendance (ADA) for the three (3) immediately
21 preceding school years of the year for which funds are being
22 appropriated. For any school district that experiences a positive
23 growth in the average of months two (2) and three (3) ADA each
24 year of the three (3) years, the average percentage growth over
25 the three-year period shall be multiplied times the school
26 district's average of months two (2) and three (3) ADA for the
27 year immediately preceding the year for which MAEP funds are being
28 appropriated. The resulting amount shall be added to the school
29 district's average of months two (2) and three (3) ADA for the
30 year immediately preceding the year for which MAEP funds are being
31 appropriated to arrive at the ADA to be used in determining a
32 school district's MAEP allocation. Otherwise, months two (2) and
33 three (3) ADA for the year immediately preceding the year for
34 which MAEP funds are being appropriated will be used in
35 determining a school district's MAEP allocation. In any fiscal
36 year prior to 2010 in which the MAEP formula is not fully funded,
37 for those districts that do not demonstrate a three-year positive
38 growth in months two (2) and three (3) ADA, months one (1) through
39 nine (9) ADA of the second preceding year for which funds are
40 being appropriated or months two (2) and three (3) ADA of the
41 preceding year for which funds are being appropriated, whichever
42 is greater, shall be used to calculate the district's MAEP
43 allocation. The district's average daily attendance shall be
44 computed and currently maintained in accordance with regulations



45 promulgated by the State Board of Education. The district's
46 average daily attendance shall include any student enrolled in a
47 Dual Enrollment-Dual Credit Program as defined and provided in
48 Section 37-15-38(19). The State Department of Education shall
49 make payments for Dual Enrollment-Dual Credit Programs to the home
50 school in which the student is enrolled, in accordance with
51 regulations promulgated by the State Board of Education. The
52 community college providing services to students in a Dual
53 Enrollment-Dual Credit Program shall require payment from the home
54 school district for services provided to such students at a rate
55 of one hundred percent (100%) of ADA. All MAEP/state funding
56 shall cease upon completion of high school graduation
57 requirements.

58 (b) **Determination of base student cost.** Effective with
59 fiscal year 2011 and every fourth fiscal year thereafter, the
60 State Board of Education, on or before August 1, with adjusted
61 estimate no later than January 2, shall submit to the Legislative
62 Budget Office and the Governor a proposed base student cost
63 adequate to provide the following cost components of educating a
64 pupil in a successful school district: (i) instructional cost;
65 (ii) administrative cost; (iii) operation and maintenance of
66 plant; and (iv) ancillary support cost. For purposes of these
67 calculations, the Department of Education shall utilize financial
68 data from the second preceding year of the year for which funds
69 are being appropriated.



70 For the instructional cost component, the Department of
71 Education shall select districts that have been identified as
72 instructionally successful and have a ratio of a number of
73 teachers per one thousand (1,000) students that is between one (1)
74 standard deviation above the mean and two (2) standard deviations
75 below the mean of the statewide average of teachers per one
76 thousand (1,000) students. The instructional cost component shall
77 be calculated by dividing the latest available months one (1)
78 through nine (9) ADA into the instructional expenditures of these
79 selected districts. For the purpose of this calculation, the
80 Department of Education shall use the following funds, functions
81 and objects:

82 Fund 1120 Functions 1110-1199 Objects 100-999, Functions
83 1210, 1220, 2150-2159 Objects 210 and 215;

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

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

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

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

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

89 Prior to the calculation of the instructional cost component,
90 there shall be subtracted from the above expenditures any revenue
91 received for Chickasaw Cession payments, Master Teacher
92 Certification payments and the district's portion of state revenue
93 received from the MAEP at-risk allocation.



94 For the administrative cost component, the Department of
95 Education shall select districts that have been identified as
96 instructionally successful and have a ratio of an administrative
97 staff to nonadministrative staff between one (1) standard
98 deviation above the mean and two (2) standard deviations below the
99 mean of the statewide average administrative staff to
100 nonadministrative staff. The administrative cost component shall
101 be calculated by dividing the latest available months one (1)
102 through nine (9) ADA of the selected districts into the
103 administrative expenditures of these selected districts. For the
104 purpose of this calculation, the Department of Education shall use
105 the following funds, functions and objects:

106 Fund 1120 Functions 2300-2599, Functions 2800-2899,
107 Objects 100-999;

108 Fund 2711 Functions 2300-2599, Functions 2800-2899,
109 Objects 100-999.

110 For the plant and maintenance cost component, the Department
111 of Education shall select districts that have been identified as
112 instructionally successful and have a ratio of plant and
113 maintenance expenditures per one hundred thousand (100,000) square
114 feet of building space and a ratio of maintenance workers per one
115 hundred thousand (100,000) square feet of building space that are
116 both between one (1) standard deviation above the mean and two (2)
117 standard deviations below the mean of the statewide average. The
118 plant and maintenance cost component shall be calculated by



119 dividing the latest available months one (1) through nine (9) ADA
120 of the selected districts into the plant and maintenance
121 expenditures of these selected districts. For the purpose of this
122 calculation, the Department of Education shall use the following
123 funds, functions and objects:

124 Fund 1120 Functions 2600-2699, Objects 100-699
125 and Objects 800-999;

126 Fund 2711 Functions 2600-2699, Objects 100-699
127 and Objects 800-999;

128 Fund 2430 Functions 2600-2699, Objects 100-699
129 and Objects 800-999.

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



144 Fund 1120 Functions 2110-2129, Objects 100-999;
145 Fund 1120 Functions 2140-2149, Objects 100-999;
146 Fund 1120 Functions 2220-2229, Objects 100-999;
147 Fund 2001 Functions 2100-2129, Objects 100-999;
148 Fund 2001 Functions 2140-2149, Objects 100-999;
149 Fund 2001 Functions 2220-2229, Objects 100-999.

150 The total base cost for each year shall be the sum of the
151 instructional cost component, administrative cost component, plant
152 and maintenance cost component and ancillary support cost
153 component, and any estimated adjustments for additional state
154 requirements as determined by the State Board of Education.

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

157 For each of the fiscal years between the recalculation of the
158 base student cost under the provisions of this paragraph (b), the
159 base student cost shall be increased by an amount equal to forty
160 percent (40%) of the base student cost for the previous fiscal
161 year, multiplied by the latest annual rate of inflation for the
162 State of Mississippi as determined by the State Economist, plus
163 any adjustments for additional state requirements such as, but not
164 limited to, teacher pay raises and health insurance premium
165 increases.

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



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

170 Multiply the average daily attendance of the district by the
171 base student cost as established by the Legislature, which yields
172 the total base program cost for each school district.

173 (d) **Adjustment to the base student cost for at-risk**
174 **pupils.** The amount to be included for at-risk pupil programs for
175 each school district shall be computed as follows: Multiply the
176 base student cost for the appropriate fiscal year as determined
177 under paragraph (b) by five percent (5%), and multiply that
178 product by the number of pupils participating in the federal free
179 school lunch program in such school district, which yields the
180 total adjustment for at-risk pupil programs for such school
181 district.

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

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

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



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

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

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

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

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

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

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



216 (f) **Total projected adequate education program cost.**
217 The total Mississippi Adequate Education Program cost shall be the
218 sum of the total basic adequate education program cost (paragraph
219 (c)), and the adjustment to the base student cost for at-risk
220 pupils (paragraph (d)) for each school district. In any year in
221 which the MAEP is not fully funded, the Legislature shall direct
222 the Department of Education in the K-12 appropriation bill as to
223 how to allocate MAEP funds to school districts for that year.

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

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

233 (a) The State Department of Education shall certify to
234 each school district that twenty-eight (28) mills, less the
235 estimated amount of the yield of the School Ad Valorem Tax
236 Reduction Fund grants as determined by the State Department of
237 Education, is the millage rate required to provide the district
238 required local effort for that year, or twenty-seven percent (27%)
239 of the basic adequate education program cost for such school
240 district as determined under paragraph (c), whichever is a lesser



241 amount. In the case of an agricultural high school, the millage
242 requirement shall be set at a level which generates an equitable
243 amount per pupil to be determined by the State Board of Education.
244 The local contribution amount for school districts in which there
245 is located one or more charter schools will be calculated using
246 the following methodology: using the adequate education program
247 twenty-eight (28) mill value, or the twenty-seven percent (27%)
248 cap amount (whichever is less) for each school district in which a
249 charter school is located, an average per pupil amount will be
250 calculated. This average per pupil amount will be multiplied
251 times the number of students attending the charter school in that
252 school district. The sum becomes the charter school's local
253 contribution to the adequate education program.

254 (b) The State Department of Education shall determine
255 the following from the annual assessment information submitted to
256 the department by the tax assessors of the various counties: (i)
257 the total assessed valuation of nonexempt property for school
258 purposes in each school district; (ii) assessed value of exempt
259 property owned by homeowners aged sixty-five (65) or older or
260 disabled as defined in Section 27-33-67(2), Mississippi Code of
261 1972; (iii) the school district's tax loss from exemptions
262 provided to applicants under the age of sixty-five (65) and not
263 disabled as defined in Section 27-33-67(1), Mississippi Code of
264 1972; and (iv) the school district's homestead reimbursement
265 revenues.



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

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

274 * * * Fifty percent (50%) of any fees in lieu of taxes as
275 prescribed in Section 27-31-104.

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

278 (a) The required state effort in support of the
279 adequate education program shall be determined by subtracting the
280 sum of the required local tax effort as set forth in subsection
281 (2)(a) of this section and the other local revenue sources as set
282 forth in subsection (2)(c) of this section in an amount not to
283 exceed twenty-seven percent (27%) of the total projected adequate
284 education program cost as set forth in subsection (1)(f) of this
285 section from the total projected adequate education program cost
286 as set forth in subsection (1)(f) of this section.

287 (b) Provided, however, that in fiscal year 2015, any
288 increase in the said state contribution to any district calculated
289 under this section shall be not less than six percent (6%) in
290 excess of the amount received by said district from state funds



291 for fiscal year 2002; in fiscal year 2016, any increase in the
292 said state contribution to any district calculated under this
293 section shall be not less than four percent (4%) in excess of the
294 amount received by said district from state funds for fiscal year
295 2002; in fiscal year 2017, any increase in the said state
296 contribution to any district calculated under this section shall
297 be not less than two percent (2%) in excess of the amount received
298 by said district from state funds for fiscal year 2002; and in
299 fiscal year 2018 and thereafter, any increase in the said state
300 contribution to any district calculated under this section shall
301 be zero percent (0%). For purposes of this paragraph (b), state
302 funds shall include minimum program funds less the add-on
303 programs, State Uniform Millage Assistance Grant Funds, Education
304 Enhancement Funds appropriated for Uniform Millage Assistance
305 Grants and state textbook allocations, and State General Funds
306 allocated for textbooks.

307 (c) If the school board of any school district shall
308 determine that it is not economically feasible or practicable to
309 operate any school within the district for the full one hundred
310 eighty (180) days required for a school term of a scholastic year
311 as required in Section 37-13-63, Mississippi Code of 1972, due to
312 an enemy attack, a man-made, technological or natural disaster in
313 which the Governor has declared a disaster emergency under the
314 laws of this state or the President of the United States has
315 declared an emergency or major disaster to exist in this state,



316 said school board may notify the State Department of Education of
317 such disaster and submit a plan for altering the school term. If
318 the State Board of Education finds such disaster to be the cause
319 of the school not operating for the contemplated school term and
320 that such school was in a school district covered by the
321 Governor's or President's disaster declaration, it may permit said
322 school board to operate the schools in its district for less than
323 one hundred eighty (180) days and, in such case, the State
324 Department of Education shall not reduce the state contributions
325 to the adequate education program allotment for such district,
326 because of the failure to operate said schools for one hundred
327 eighty (180) days.

328 (4) The Interim School District Capital Expenditure Fund is
329 hereby established in the State Treasury which shall be used to
330 distribute any funds specifically appropriated by the Legislature
331 to such fund to school districts entitled to increased allocations
332 of state funds under the adequate education program funding
333 formula prescribed in Sections 37-151-3 through 37-151-7,
334 Mississippi Code of 1972, until such time as the said adequate
335 education program is fully funded by the Legislature. The
336 following percentages of the total state cost of increased
337 allocations of funds under the adequate education program funding
338 formula shall be appropriated by the Legislature into the Interim
339 School District Capital Expenditure Fund to be distributed to all
340 school districts under the formula: Nine and two-tenths percent



341 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
342 (20%) shall be appropriated in fiscal year 1999, forty percent
343 (40%) shall be appropriated in fiscal year 2000, sixty percent
344 (60%) shall be appropriated in fiscal year 2001, eighty percent
345 (80%) shall be appropriated in fiscal year 2002, and one hundred
346 percent (100%) shall be appropriated in fiscal year 2003 into the
347 State Adequate Education Program Fund. Until July 1, 2002, such
348 money shall be used by school districts for the following
349 purposes:

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

361 (b) Providing necessary water, light, heating,
362 air-conditioning, and sewerage facilities for school buildings,
363 and purchasing land therefor.

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



366 if such refinancing will result in an interest cost savings to the
367 district.

368 (d) From and after October 1, 1997, through June 30,
369 1998, pursuant to a school district capital expenditure plan
370 approved by the State Department of Education, a school district
371 may pledge such funds until July 1, 2002, plus funds provided for
372 in paragraph (e) of this subsection (4) that are not otherwise
373 permanently pledged under such paragraph (e) to pay all or a
374 portion of the debt service on debt issued by the school district
375 under Sections 37-59-1 through 37-59-45, 37-59-101 through
376 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
377 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
378 issued by boards of supervisors for agricultural high schools
379 pursuant to Section 37-27-65, Mississippi Code of 1972, or
380 lease-purchase contracts entered into pursuant to Section 31-7-13,
381 Mississippi Code of 1972, or to retire or refinance outstanding
382 debt of a district, if such pledge is accomplished pursuant to a
383 written contract or resolution approved and spread upon the
384 minutes of an official meeting of the district's school board or
385 board of supervisors. It is the intent of this provision to allow
386 school districts to irrevocably pledge their Interim School
387 District Capital Expenditure Fund allotments as a constant stream
388 of revenue to secure a debt issued under the foregoing code
389 sections. To allow school districts to make such an irrevocable
390 pledge, the state shall take all action necessary to ensure that



391 the amount of a district's Interim School District Capital
392 Expenditure Fund allotments shall not be reduced below the amount
393 certified by the department or the district's total allotment
394 under the Interim Capital Expenditure Fund if fully funded, so
395 long as such debt remains outstanding.

396 (e) [Repealed]

397 (f) [Repealed]

398 (g) The State Board of Education may authorize the
399 school district to expend not more than twenty percent (20%) of
400 its annual allotment of such funds or Twenty Thousand Dollars
401 (\$20,000.00), whichever is greater, for technology needs of the
402 school district, including computers, software,
403 telecommunications, cable television, interactive video, film,
404 low-power television, satellite communications, microwave
405 communications, technology-based equipment installation and
406 maintenance, and the training of staff in the use of such
407 technology-based instruction. Any such technology expenditure
408 shall be reflected in the local district technology plan approved
409 by the State Board of Education under Section 37-151-17,
410 Mississippi Code of 1972.

411 (h) To the extent a school district has not utilized
412 twenty percent (20%) of its annual allotment for technology
413 purposes under paragraph (g), a school district may expend not
414 more than twenty percent (20%) of its annual allotment or Twenty
415 Thousand Dollars (\$20,000.00), whichever is greater, for



416 instructional purposes. The State Board of Education may
417 authorize a school district to expend more than said twenty
418 percent (20%) of its annual allotment for instructional purposes
419 if it determines that such expenditures are needed for
420 accreditation purposes.

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

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

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

438 (5) The State Department of Education shall make payments to
439 charter schools for each student in average daily attendance at
440 the charter school equal to the state share of the adequate



441 education program payments for each student in average daily
442 attendance at the school district in which the public charter
443 school is located. In calculating the local contribution for
444 purposes of determining the state share of the adequate education
445 program payments, the department shall deduct the pro rata local
446 contribution of the school district in which the student resides
447 as determined in subsection (2)(a) of this section.

448 **SECTION 2.** This act shall take effect and be in force from
449 and after July 1, 2022.

