

By: Senator(s) DeBar, Jordan

To: Education

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2364

1 AN ACT TO BRING FORWARD SECTION 37-151-7, MISSISSIPPI CODE OF
2 1972, WHICH PROVIDES FOR THE MISSISSIPPI ADEQUATE EDUCATION
3 PROGRAM DETERMINATION OF ANNUAL ALLOCATIONS, FOR THE PURPOSE OF
4 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 37-151-7, Mississippi Code of 1972, is
7 brought forward as follows:

8 37-151-7. The annual allocation to each school district for
9 the operation of the adequate education program shall be
10 determined as follows:

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

15 (a) **Determination of average daily attendance.**
16 Effective with fiscal year 2011, the State Department of Education
17 shall determine the percentage change from the prior year of each
18 year of each school district's average of months two (2) and three
19 (3) average daily attendance (ADA) for the three (3) immediately



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



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

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



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

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

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

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

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

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

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

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



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

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

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

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



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

123 Fund 1120 Functions 2600-2699, Objects 100-699

124 and Objects 800-999;

125 Fund 2711 Functions 2600-2699, Objects 100-699

126 and Objects 800-999;

127 Fund 2430 Functions 2600-2699, Objects 100-699

128 and Objects 800-999.

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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



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

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



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

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

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

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

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

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



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

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



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

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



340 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
341 (20%) shall be appropriated in fiscal year 1999, forty percent
342 (40%) shall be appropriated in fiscal year 2000, sixty percent
343 (60%) shall be appropriated in fiscal year 2001, eighty percent
344 (80%) shall be appropriated in fiscal year 2002, and one hundred
345 percent (100%) shall be appropriated in fiscal year 2003 into the
346 State Adequate Education Program Fund. Until July 1, 2002, such
347 money shall be used by school districts for the following
348 purposes:

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

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

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



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

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



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

395 (e) [Repealed]

396 (f) [Repealed]

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

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



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

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

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

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

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



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

447 **SECTION 2.** This act shall take effect and be in force from
448 and after July 1, 2023, and shall stand repealed on June 30, 2023.

