

By: Representative Guice

To: Education

HOUSE BILL NO. 673

1 AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT IF A SCHOOL CONSTRUCTION PROJECT FUNDED UNDER THE  
3 MISSISSIPPI ADEQUATE EDUCATION PROGRAM WILL COST AT LEAST FIFTEEN  
4 MILLION DOLLARS, THE SCHOOL DISTRICT SHALL USE A CONSTRUCTION  
5 MANAGER IN CONNECTION WITH THE PROJECT; TO PROVIDE THAT THE  
6 CALCULATION OF THE PROJECT COST SHALL BE LIMITED TO THE  
7 EXPENDITURES FOR ONLY ONE SCHOOL; AND FOR RELATED PURPOSES.

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

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

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

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

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

26 (b) **Determination of base student cost.** The State  
27 Board of Education, on or before August 1, with adjusted estimate  
28 no later than January 2, shall annually submit to the Legislative  
29 Budget Office and the Governor a proposed base student cost



30 adequate to provide the following cost components of educating a  
31 pupil in an average school district meeting Level III  
32 accreditation standards required by the Commission on School  
33 Accreditation: (i) Instructional Cost; (ii) Administrative Cost;  
34 (iii) Operation and Maintenance of Plant; and (iv) Ancillary  
35 Support Cost. The department shall utilize a statistical  
36 methodology which considers such factors as, but not limited to,  
37 (i) school size; (ii) assessed valuation per pupil; (iii) the  
38 percentage of students receiving free lunch; (iv) the local  
39 district maintenance tax levy; (v) other local school district  
40 revenues; and (vi) the district's accreditation level, in the  
41 selection of the representative Mississippi school districts for  
42 which cost information shall be obtained for each of the above  
43 listed cost areas.

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



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

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

88 Multiply the average daily attendance of the district by the  
89 base student cost as established by the Legislature, which yields  
90 the total base program cost for each school district.

91 (d) **Adjustment to the base student cost for at-risk**  
92 **pupils.** The amount to be included for at-risk pupil programs for  
93 each school district shall be computed as follows: Multiply the  
94 base student cost for the appropriate fiscal year as determined  
95 under paragraph (b) by five percent (5%), and multiply that



96 product by the number of pupils participating in the federal free  
97 school lunch program in such school district, which yields the  
98 total adjustment for at-risk pupil programs for such school  
99 district.

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

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

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

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

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

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

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

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

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



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

134           (f) **Total projected adequate education program cost.**  
135 The total Mississippi Adequate Education Program Cost shall be the  
136 sum of the total basic adequate education program cost (paragraph  
137 (c)), and the adjustment to the base student cost for at-risk  
138 pupils (paragraph (d)) for each school district.

139           (g) **Supplemental grant to school districts.** In  
140 addition to the adequate education program grant, the State  
141 Department of Education shall annually distribute an additional  
142 amount as follows: Multiply the base student cost for the  
143 appropriate fiscal year as determined under paragraph (b) by .13%  
144 and multiply that product by the average daily attendance of each  
145 school district. Such grant shall not be subject to the local  
146 revenue requirement provided in subsection (2).

147           (2) **Computation of the required local revenue in support of**  
148 **the adequate education program.** The amount that each district  
149 shall provide toward the cost of the adequate education program  
150 shall be calculated as follows:

151           (a) The State Board of Education shall certify to each  
152 school district that twenty-eight (28) mills, less the estimated  
153 amount of the yield of the School Ad Valorem Tax Reduction Fund  
154 grants as determined by the State Department of Education, is the  
155 millage rate required to provide the district required local  
156 effort for that year, or twenty-seven percent (27%) of the basic  
157 adequate education program cost for such school district as  
158 determined under subsection (c), whichever is a lesser amount. In  
159 the case of an agricultural high school the millage requirement  
160 shall be set at a level which generates an equitable amount per  
161 pupil to be determined by the State Board of Education.



162           (b) The State Board of Education shall determine (i)  
163 the total assessed valuation of nonexempt property for school  
164 purposes in each school district; (ii) assessed value of exempt  
165 property owned by homeowners aged sixty-five (65) or older or  
166 disabled as defined in Section 27-33-67(2), Mississippi Code of  
167 1972; (iii) the school district's tax loss from exemptions  
168 provided to applicants under the age of sixty-five (65) and not  
169 disabled as defined in Section 27-33-67(1), Mississippi Code of  
170 1972; and (iv) the school district's homestead reimbursement  
171 revenues.

172           (c) The amount of the total adequate education program  
173 funding which shall be contributed by each school district shall  
174 be the sum of the ad valorem receipts generated by the millage  
175 required under this subsection plus the following local revenue  
176 sources for the appropriate fiscal year which are or may be  
177 available for current expenditure by the school district:

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

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

182           (a) The required state effort in support of the  
183 adequate education program shall be determined by subtracting the  
184 sum of the required local tax effort as set forth in subsection  
185 (2)(a) of this section and the other local revenue sources as set  
186 forth in subsection (2)(c) of this section in an amount not to  
187 exceed twenty-seven percent (27%) of the total projected adequate  
188 education program cost as set forth in subsection (1)(f) of this  
189 section from the total projected adequate education program cost  
190 as set forth in subsection (1)(f) of this section.

191           (b) Provided, however, that in fiscal year 1998 and in  
192 the fiscal year in which the adequate education program is fully  
193 funded by the Legislature, any increase in the said state  
194 contribution, including the supplemental grant to school districts



195 provided under subsection (1)(g), to any district calculated under  
196 this section shall be not less than eight percent (8%) in excess  
197 of the amount received by said district from state funds for the  
198 fiscal year immediately preceding. For purposes of this paragraph  
199 (b), state funds shall include minimum program funds less the  
200 add-on programs, state Uniform Millage Assistance Grant funds,  
201 Education Enhancement Funds appropriated for Uniform Millage  
202 Assistance Grants and state textbook allocations, and State  
203 General Funds allocated for textbooks.

204 (c) If the appropriation is less than full funding for  
205 fiscal year 2003, allocations for state contributions to school  
206 districts in support of the adequate education program will be  
207 determined by the State Department of Education in the following  
208 manner:

209 (i) Calculation of the full funding amount under  
210 this chapter, with proportionate reductions as required by the  
211 appropriation level.

212 (ii) Calculation of the amount equal to the state  
213 funds allocated to school districts for fiscal year 2002 plus the  
214 estimated amount to fund the adequate education program salary  
215 schedule for fiscal year 2003. For purposes of this item (ii),  
216 state funds shall be those described in paragraph (b) and an  
217 amount equal to the allocation for the adequate education program  
218 in fiscal year 2002, plus any additional amount required to  
219 satisfy fiscal year 2003 pledges in accordance with paragraphs  
220 (d), (e) and (f) of subsection (5) of this section. If a school  
221 district's fiscal year 2003 pledge is different than the pledge  
222 amount for fiscal year 2002, the district shall receive an amount  
223 equal to the fiscal year 2003 pledge or the amount of funds  
224 calculated under the adequate education formula for fiscal year  
225 2002 before any pledge guarantee for fiscal year 2002, whichever  
226 is greater. If the pledge is no longer in effect, the district



227 shall receive the amount of funds calculated under the formula for  
228 fiscal year 2002 before any pledge guarantee for fiscal year 2002.

229 (iii) The portion of any district's allocation  
230 calculated in item (i) of this paragraph which exceeds amounts as  
231 calculated in item (ii) shall be reduced by an amount not to  
232 exceed twenty-one percent (21%). The amount of funds generated by  
233 this reduction of funds shall be redistributed proportionately  
234 among those districts receiving insufficient funds to meet the  
235 amount calculated in item (ii). In no case may any district  
236 receive funds in an amount greater than the amount that the  
237 district would have received under full funding of the program for  
238 fiscal year 2003.

239 (4) The State Adequate Education Program Fund is hereby  
240 established in the State Treasury which shall be used to  
241 distribute any funds specifically appropriated by the Legislature  
242 to such fund, to school districts entitled to increased  
243 allocations of state funds under the adequate education program  
244 funding formula prescribed in Sections 37-151-3, 37-151-5 and  
245 37-151-7 of this article. If the Legislature provides less funds  
246 than the total state funds needed for support of such increased  
247 allocations under the adequate education program, the State  
248 Department of Education shall reduce all elements of the cost of  
249 the adequate education program proportionately. Any such adequate  
250 education program funds shall be transferred to the school  
251 district maintenance fund of such district in the manner  
252 prescribed in Section 37-19-47, Mississippi Code of 1972, and  
253 shall be expended in the manner provided by law.

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





260 Mississippi Code of 1972, until such time as the said adequate  
261 education program is fully funded by the Legislature. The  
262 following percentages of the total state cost of increased  
263 allocations of funds under the adequate education program funding  
264 formula shall be appropriated by the Legislature into the Interim  
265 School District Capital Expenditure Fund to be distributed to all  
266 school districts under the formula: Nine and two-tenths percent  
267 (9.2%) shall be appropriated in fiscal year 1998, twenty percent  
268 (20%) shall be appropriated in fiscal year 1999, forty percent  
269 (40%) shall be appropriated in fiscal year 2000, sixty percent  
270 (60%) shall be appropriated in fiscal year 2001, eighty percent  
271 (80%) shall be appropriated in fiscal year 2002, and one hundred  
272 percent (100%) shall be appropriated in fiscal year 2003 into the  
273 State Adequate Education Program Fund created in subsection (4).  
274 Until July 1, 2002, such money shall be used by school districts  
275 for the following purposes:

276           (a) Purchasing, erecting, repairing, equipping,  
277 remodeling and enlarging school buildings and related facilities,  
278 including gymnasiums, auditoriums, lunchrooms, vocational training  
279 buildings, libraries, school barns and garages for transportation  
280 vehicles, school athletic fields and necessary facilities  
281 connected therewith, and purchasing land therefor. Any such  
282 capital improvement project by a school district shall be approved  
283 by the State Board of Education, and based on an approved  
284 long-range plan. The State Board of Education shall promulgate  
285 minimum requirements for the approval of school district capital  
286 expenditure plans.

287           (b) Providing necessary water, light, heating, air  
288 conditioning, and sewerage facilities for school buildings, and  
289 purchasing land therefor.

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



292 if such refinancing will result in an interest cost savings to the  
293 district.

294 (d) From and after October 1, 1997, through June 30,  
295 1998, pursuant to a school district capital expenditure plan  
296 approved by the State Department of Education, a school district  
297 may pledge such funds until July 1, 2002, plus funds provided for  
298 in paragraph (e) of this subsection (5) that are not otherwise  
299 permanently pledged under such paragraph (e) to pay all or a  
300 portion of the debt service on debt issued by the school district  
301 under Sections 37-59-1 through 37-59-45, 37-59-101 through  
302 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,  
303 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt  
304 issued by boards of supervisors for agricultural high schools  
305 pursuant to Section 37-27-65, Mississippi Code of 1972, or  
306 lease-purchase contracts entered into pursuant to Section 31-7-13,  
307 Mississippi Code of 1972, or to retire or refinance outstanding  
308 debt of a district, if such pledge is accomplished pursuant to a  
309 written contract or resolution approved and spread upon the  
310 minutes of an official meeting of the district's school board or  
311 board of supervisors. It is the intent of this provision to allow  
312 school districts to irrevocably pledge their Interim School  
313 District Capital Expenditure Fund allotments as a constant stream  
314 of revenue to secure a debt issued under the foregoing code  
315 sections. To allow school districts to make such an irrevocable  
316 pledge, the state shall take all action necessary to ensure that  
317 the amount of a district's Interim School District Capital  
318 Expenditure Fund allotments shall not be reduced below the amount  
319 certified by the department or the district's total allotment  
320 under the Interim Capital Expenditure Fund if fully funded, so  
321 long as such debt remains outstanding.

322 (e) From and after October 1, 1997, through June 30,  
323 1998, in addition to any other authority a school district may  
324 have, any school district may issue State Aid Capital Improvement



325 Bonds secured in whole by a continuing annual pledge of any  
326 Mississippi Adequate Education Program funds available to the  
327 district, in an amount not to exceed One Hundred Sixty Dollars  
328 (\$160.00) per pupil based on the latest completed average daily  
329 attendance count certified by the department prior to the issuance  
330 of the bonds. Such State Aid Capital Improvement Bonds may be  
331 issued for the purposes enumerated in subsections (a), (b), (c)  
332 and (g) of this section. Prior to issuing such bonds, the school  
333 board of the district shall adopt a resolution declaring the  
334 necessity for and its intention of issuing such bonds and  
335 borrowing such money, specifying the approximate amount to be so  
336 borrowed, how such money is to be used and how such indebtedness  
337 is to be evidenced. Any capital improvement project financed with  
338 State Aid Capital Improvement Bonds shall be approved by the  
339 department, and based on an approved long-range plan. The State  
340 Board of Education shall promulgate minimum requirements for the  
341 approval of such school district capital expenditure plans. The  
342 State Board of Education shall not approve any capital expenditure  
343 plan for a pledge of funds under this paragraph unless it  
344 determines (i) that the quality of instruction in such district  
345 will not be reduced as a result of this pledge, and (ii) the  
346 district has other revenue available to attain and maintain at  
347 least Level III accreditation.

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



358 pledge is made to secure the bonds, the district shall notify the  
359 department of such pledge. Upon making such a pledge, the school  
360 district may request the department which may agree to irrevocably  
361 transfer a specified amount or percentage of the district's state  
362 revenue pledged to repay the district's State Aid Capital  
363 Improvement Bonds directly to a state or federally chartered bank  
364 serving as a trustee or paying agent on such bonds for the payment  
365 of all or portion of such State Aid Capital Improvement Bonds.  
366 Such instructions shall be incorporated into a resolution by the  
367 school board for the benefit of holders of the bonds and may  
368 provide that such withholding and transfer of such other available  
369 funds shall be made only upon notification by a trustee or paying  
370 agent on such bonds that the amounts available to pay such bonds  
371 on any payment date will not be sufficient. It is the intent of  
372 this provision to allow school districts to irrevocably pledge a  
373 certain, constant stream of revenue as security for State Aid  
374 Capital Improvement Bonds issued hereunder. To allow school  
375 districts to make such an irrevocable pledge, the state shall take  
376 all action necessary to ensure that the amount of a district's  
377 state revenues up to an amount equal to One Hundred Sixty Dollars  
378 (\$160.00) per pupil as set forth above which have been pledged to  
379 repay debt as set forth herein shall not be reduced so long as any  
380 State Aid Capital Improvement Bonds are outstanding.

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

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



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

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

397 This paragraph (e) shall stand repealed from and after June  
398 30, 1998.

399 (f) As an alternative to the authority granted under  
400 paragraph (e), a school district, in its discretion, may authorize  
401 the State Board of Education to withhold an amount of the  
402 district's adequate education program allotment equal to up to One  
403 Hundred Sixty Dollars (\$160.00) per student in average daily  
404 attendance in the district to be allocated to the State Public  
405 School Building Fund to the credit of such school district. A  
406 school district may choose the option provided under this  
407 paragraph (e) or paragraph (f), but not both. In addition to the  
408 grants made by the state pursuant to Section 37-47-9, a school  
409 district shall be entitled to grants based on the allotments to  
410 the State Public School Building Fund credited to such school  
411 district under this paragraph. This paragraph (f) shall stand  
412 repealed from and after June 30, 1998.

413 (g) The State Board of Education may authorize the  
414 school district to expend not more than twenty percent (20%) of  
415 its annual allotment of such funds or Twenty Thousand Dollars  
416 (\$20,000.00), whichever is greater, for technology needs of the  
417 school district, including computers, software,  
418 telecommunications, cable television, interactive video, film  
419 low-power television, satellite communications, microwave  
420 communications, technology-based equipment installation and  
421 maintenance, and the training of staff in the use of such  
422 technology-based instruction. Any such technology expenditure  
423 shall be reflected in the local district technology plan approved



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

426 (h) To the extent a school district has not utilized  
427 twenty percent (20%) of its annual allotment for technology  
428 purposes under paragraph (g), a school district may expend not  
429 more than twenty percent (20%) of its annual allotment or Twenty  
430 Thousand Dollars (\$20,000.00), whichever is greater, for  
431 instructional purposes. The State Board of Education may  
432 authorize a school district to expend more than said twenty  
433 percent (20%) of its annual allotment for instructional purposes  
434 if it determines that such expenditures are needed for  
435 accreditation purposes.

436 (i) The State Department of Education or the State  
437 Board of Education may require that any project commenced pursuant  
438 to this act with an estimated project cost of not less than  
439 Fifteen Million Dollars (\$15,000,000.00) shall be done only  
440 pursuant to program management of the process with respect to  
441 design and construction. Any individuals, partnerships, companies  
442 or other entities acting as a construction manager on behalf of a  
443 local school district and performing construction management  
444 services for projects covered under this subsection shall be  
445 approved by the State Department of Education. The calculation of  
446 the cost of a project under this paragraph (i) shall include only  
447 the expenditures made by a school district for one (1) school; the  
448 expenditures for two (2) or more schools shall not be combined to  
449 determine if the statutory minimum of Fifteen Million Dollars  
450 (\$15,000,000.00) under this paragraph (i) has been met.

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



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

458           **SECTION 2.** This act shall take effect and be in force from  
459 and after July 1, 2003.

