

By: Representative Jennings

To: Education;  
Appropriations

HOUSE BILL NO. 1431

1 AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THE DETERMINATION OF AVERAGE DAILY ATTENDANCE OF  
3 STUDENTS FOR PURPOSES OF THE MISSISSIPPI ADEQUATE EDUCATION  
4 PROGRAM FUNDING FORMULA; 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 amended 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.** During  
16 months two (2) and three (3) of the current school year, the  
17 average daily attendance of a school district shall be computed,  
18 or the average daily attendance for the prior school year shall be  
19 used, whichever is greater. For purposes of this calculation,  
20 "current" school year means the school year for which  
21 appropriations are made by the Legislature, and "prior" school  
22 year means the school year immediately preceding the year for  
23 which appropriations are made by the Legislature. The district's  
24 average daily attendance shall be computed and currently  
25 maintained in accordance with regulations promulgated by the State  
26 Board of Education.

27 (b) **Determination of base student cost.** The State  
28 Board of Education, on or before August 1, with adjusted estimate



29 no later than January 2, shall annually submit to the Legislative  
30 Budget Office and the Governor a proposed base student cost  
31 adequate to provide the following cost components of educating a  
32 pupil in an average school district meeting Level III  
33 accreditation standards required by the Commission on School  
34 Accreditation: (i) Instructional Cost; (ii) Administrative Cost;  
35 (iii) Operation and Maintenance of Plant; and (iv) Ancillary  
36 Support Cost. The department shall utilize a statistical  
37 methodology which considers such factors as, but not limited to,  
38 (i) school size; (ii) assessed valuation per pupil; (iii) the  
39 percentage of students receiving free lunch; (iv) the local  
40 district maintenance tax levy; (v) other local school district  
41 revenues; and (vi) the district's accreditation level, in the  
42 selection of the representative Mississippi school districts for  
43 which cost information shall be obtained for each of the above  
44 listed cost areas.

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



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

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

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

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

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

93 **pupils.** The amount to be included for at-risk pupil programs for  
94 each school district shall be computed as follows: Multiply the



95 base student cost for the appropriate fiscal year as determined  
96 under paragraph (b) by five percent (5%), and multiply that  
97 product by the number of pupils participating in the federal free  
98 school lunch program in such school district, which yields the  
99 total adjustment for at-risk pupil programs for such school  
100 district.

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

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

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

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

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

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

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

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



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

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

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

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

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

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



160 the case of an agricultural high school the millage requirement  
161 shall be set at a level which generates an equitable amount per  
162 pupil to be determined by the State Board of Education.

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

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

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

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

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



192           (b) Provided, however, that in fiscal year 1998 and in  
193 the fiscal year in which the adequate education program is fully  
194 funded by the Legislature, any increase in the said state  
195 contribution, including the supplemental grant to school districts  
196 provided under subsection (1)(g), to any district calculated under  
197 this section shall be not less than eight percent (8%) in excess  
198 of the amount received by said district from state funds for the  
199 fiscal year immediately preceding. For purposes of this paragraph  
200 (b), state funds shall include minimum program funds less the  
201 add-on programs, state Uniform Millage Assistance Grant funds,  
202 Education Enhancement Funds appropriated for Uniform Millage  
203 Assistance Grants and state textbook allocations, and State  
204 General Funds allocated for textbooks.

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

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

213                   (ii) Calculation of the amount equal to the state  
214 funds allocated to school districts for fiscal year 2002 plus the  
215 estimated amount to fund the adequate education program salary  
216 schedule for fiscal year 2003. For purposes of this item (ii),  
217 state funds shall be those described in paragraph (b) and an  
218 amount equal to the allocation for the adequate education program  
219 in fiscal year 2002, plus any additional amount required to  
220 satisfy fiscal year 2003 pledges in accordance with paragraphs  
221 (d), (e) and (f) of subsection (5) of this section. If a school  
222 district's fiscal year 2003 pledge is different than the pledge  
223 amount for fiscal year 2002, the district shall receive an amount  
224 equal to the fiscal year 2003 pledge or the amount of funds



225 calculated under the adequate education formula for fiscal year  
226 2002 before any pledge guarantee for fiscal year 2002, whichever  
227 is greater. If the pledge is no longer in effect, the district  
228 shall receive the amount of funds calculated under the formula for  
229 fiscal year 2002 before any pledge guarantee for fiscal year 2002.

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

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

255 (5) The Interim School District Capital Expenditure Fund is  
256 hereby established in the State Treasury which shall be used to  
257 distribute any funds specifically appropriated by the Legislature





258 to such fund to school districts entitled to increased allocations  
259 of state funds under the adequate education program funding  
260 formula prescribed in Sections 37-151-3 through 37-151-7,  
261 Mississippi Code of 1972, until such time as the said adequate  
262 education program is fully funded by the Legislature. The  
263 following percentages of the total state cost of increased  
264 allocations of funds under the adequate education program funding  
265 formula shall be appropriated by the Legislature into the Interim  
266 School District Capital Expenditure Fund to be distributed to all  
267 school districts under the formula: Nine and two-tenths percent  
268 (9.2%) shall be appropriated in fiscal year 1998, twenty percent  
269 (20%) shall be appropriated in fiscal year 1999, forty percent  
270 (40%) shall be appropriated in fiscal year 2000, sixty percent  
271 (60%) shall be appropriated in fiscal year 2001, eighty percent  
272 (80%) shall be appropriated in fiscal year 2002, and one hundred  
273 percent (100%) shall be appropriated in fiscal year 2003 into the  
274 State Adequate Education Program Fund created in subsection (4).  
275 Until July 1, 2002, such money shall be used by school districts  
276 for the following purposes:

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

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



291           (c) Paying debt service on existing capital improvement  
292 debt of the district or refinancing outstanding debt of a district  
293 if such refinancing will result in an interest cost savings to the  
294 district.

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



323 (e) From and after October 1, 1997, through June 30,  
324 1998, in addition to any other authority a school district may  
325 have, any school district may issue State Aid Capital Improvement  
326 Bonds secured in whole by a continuing annual pledge of any  
327 Mississippi Adequate Education Program funds available to the  
328 district, in an amount not to exceed One Hundred Sixty Dollars  
329 (\$160.00) per pupil based on the latest completed average daily  
330 attendance count certified by the department prior to the issuance  
331 of the bonds. Such State Aid Capital Improvement Bonds may be  
332 issued for the purposes enumerated in subsections (a), (b), (c)  
333 and (g) of this section. Prior to issuing such bonds, the school  
334 board of the district shall adopt a resolution declaring the  
335 necessity for and its intention of issuing such bonds and  
336 borrowing such money, specifying the approximate amount to be so  
337 borrowed, how such money is to be used and how such indebtedness  
338 is to be evidenced. Any capital improvement project financed with  
339 State Aid Capital Improvement Bonds shall be approved by the  
340 department, and based on an approved long-range plan. The State  
341 Board of Education shall promulgate minimum requirements for the  
342 approval of such school district capital expenditure plans. The  
343 State Board of Education shall not approve any capital expenditure  
344 plan for a pledge of funds under this paragraph unless it  
345 determines (i) that the quality of instruction in such district  
346 will not be reduced as a result of this pledge, and (ii) the  
347 district has other revenue available to attain and maintain at  
348 least Level III accreditation.

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



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

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



389           The provisions of this subsection shall be cumulative and  
390 supplemental to any existing funding programs or other authority  
391 conferred upon school districts or school boards. Debt of a  
392 school district secured in whole by a pledge of revenue pursuant  
393 to this section shall not be subject to any debt limitation.

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

398           This paragraph (e) shall stand repealed from and after June  
399 30, 1998.

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

414           (g) The State Board of Education may authorize the  
415 school district to expend not more than twenty percent (20%) of  
416 its annual allotment of such funds or Twenty Thousand Dollars  
417 (\$20,000.00), whichever is greater, for technology needs of the  
418 school district, including computers, software,  
419 telecommunications, cable television, interactive video, film  
420 low-power television, satellite communications, microwave  
421 communications, technology-based equipment installation and



422 maintenance, and the training of staff in the use of such  
423 technology-based instruction. Any such technology expenditure  
424 shall be reflected in the local district technology plan approved  
425 by the State Board of Education under Section 37-151-17,  
426 Mississippi Code of 1972.

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

437 (i) The State Department of Education or the State  
438 Board of Education may require that any project commenced pursuant  
439 to this act with an estimated project cost of not less than Five  
440 Million Dollars (\$5,000,000.00) shall be done only pursuant to  
441 program management of the process with respect to design and  
442 construction. Any individuals, partnerships, companies or other  
443 entities acting as a program manager on behalf of a local school  
444 district and performing program management services for projects  
445 covered under this subsection shall be approved by the State  
446 Department of Education.

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

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



454           **SECTION 2.** This act shall take effect and be in force from  
455 and after its passage.

