

By: Representatives McCoy, Jennings

To: Education;
Appropriations

HOUSE BILL NO. 170

1 AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE REPEALER ON THE PROVISION OF LAW THAT ESTABLISHES
3 THE HIGH-GROWTH SCHOOL DISTRICT FORMULA UNDER THE ADEQUATE
4 EDUCATION PROGRAM; 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. The district's average daily
20 attendance shall be computed and currently maintained in
21 accordance with regulations promulgated by the State Board of
22 Education.

23 (b) **Determination of base student cost.** The State
24 Board of Education, on or before August 1, with adjusted estimate
25 no later than January 2, shall annually submit to the Legislative
26 Budget Office and the Governor a proposed base student cost
27 adequate to provide the following cost components of educating a
28 pupil in an average school district meeting Level III

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

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

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

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

85 Multiply the average daily attendance of the district by the
86 base student cost as established by the Legislature, which yields
87 the total base program cost for each school district.

88 (d) **Adjustment to the base student cost for at-risk**
89 **pupils.** The amount to be included for at-risk pupil programs for
90 each school district shall be computed as follows: Multiply the
91 base student cost for the appropriate fiscal year as determined
92 under paragraph (b) by five percent (5%), and multiply that
93 product by the number of pupils participating in the federal free
94 school lunch program in such school district, which yields the

95 total adjustment for at-risk pupil programs for such school
96 district.

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

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

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

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

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

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

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

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

126 The sum of the items listed above (i) transportation, (ii)
127 vocational or technical education, (iii) special education, (iv)

128 gifted education, (v) alternative school, (vi) extended school
129 year, (vii) university-based, and (viii) bus driver training shall
130 yield the add-on cost for each school district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

237 (d) If the school board of any school district shall
238 determine that it is not economically feasible or practicable to
239 operate any school within the district for the full one hundred
240 eighty (180) days required for a school term of a scholastic year
241 as required in Section 37-13-63, Mississippi Code of 1972, due to
242 an enemy attack, a manmade, technological or natural disaster in
243 which the Governor has declared a disaster emergency under the
244 laws of this state or the President of the United States has
245 declared an emergency or major disaster to exist in this state,
246 said school board may notify the State Department of Education of
247 such disaster and submit a plan for altering the school term. If
248 the State Board of Education finds such disaster to be the cause
249 of the school not operating for the contemplated school term and
250 that such school was in a school district covered by the
251 Governor's or President's disaster declaration, it may permit said
252 school board to operate the schools in its district for less than
253 one hundred eighty (180) days and, in such case, the State
254 Department of Education shall not reduce the state contributions
255 to the adequate education program allotment for such district,
256 because of the failure to operate said schools for one hundred
257 eighty (180) days.

258 (4) If during the year for which adequate education program
259 funds are appropriated, any school district experiences a three
260 percent (3%) or greater increase in average daily attendance
261 during the second and third month over the preceding year's second
262 and third month and the school district has requested a minimum
263 increase of four percent (4%) in local ad valorem revenues over
264 the previous year as authorized in Sections 37-57-104 and
265 37-57-105, an additional allocation of adequate education program
266 funds calculated in the following manner shall be granted to that
267 district, using any additional funds available to the Department
268 of Education that exceed the amount of funds due to the school
269 districts under the basic adequate education program distribution
270 as provided for in this chapter:

271 (a) Determine the percentage increase in average daily
272 attendance for the second and third months of the year for which
273 adequate education program funds are appropriated over the
274 preceding year's second and third month average daily attendance.

275 (b) For those districts that have a three percent (3%)
276 or greater increase as calculated in paragraph (a) of this
277 subsection, multiply the total increase in students in average
278 daily attendance for the second and third months of the year for
279 which adequate education program funds are appropriated over the
280 preceding year's second and third month average daily attendance
281 times the base student cost used in the appropriation.

282 (c) Subtract the percentage of the district's local
283 contribution arrived at in subsection (2) of this section from the
284 amount calculated in paragraph (b) of this subsection. The
285 remainder is the additional allocation in adequate education
286 program funds for that district.

287 If the funds available to the Department of Education are not
288 sufficient to fully fund the additional allocations to school
289 districts eligible for those allocations, then the department
290 shall prorate the available funds among the eligible school

291 districts, using the same percentage of the total funds that the
292 school district would have received if the allocations were fully
293 funded. The State Department of Education shall study and develop
294 a report to the Chairmen of the Senate and House Committees on
295 Education by January 1, 2005, with options for legislative
296 consideration that will insure that the Mississippi Adequate
297 Education funds are distributed to school districts based on
298 current year student attendance or enrollment.

299 * * *

300 (5) The Interim School District Capital Expenditure Fund is
301 hereby established in the State Treasury which shall be used to
302 distribute any funds specifically appropriated by the Legislature
303 to such fund to school districts entitled to increased allocations
304 of state funds under the adequate education program funding
305 formula prescribed in Sections 37-151-3 through 37-151-7,
306 Mississippi Code of 1972, until such time as the said adequate
307 education program is fully funded by the Legislature. The
308 following percentages of the total state cost of increased
309 allocations of funds under the adequate education program funding
310 formula shall be appropriated by the Legislature into the Interim
311 School District Capital Expenditure Fund to be distributed to all
312 school districts under the formula: Nine and two-tenths percent
313 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
314 (20%) shall be appropriated in fiscal year 1999, forty percent
315 (40%) shall be appropriated in fiscal year 2000, sixty percent
316 (60%) shall be appropriated in fiscal year 2001, eighty percent
317 (80%) shall be appropriated in fiscal year 2002, and one hundred
318 percent (100%) shall be appropriated in fiscal year 2003 into the
319 State Adequate Education Program Fund created in subsection (4).
320 Until July 1, 2002, such money shall be used by school districts
321 for the following purposes:

322 (a) Purchasing, erecting, repairing, equipping,
323 remodeling and enlarging school buildings and related facilities,

324 including gymnasiums, auditoriums, lunchrooms, vocational training
325 buildings, libraries, school barns and garages for transportation
326 vehicles, school athletic fields and necessary facilities
327 connected therewith, and purchasing land therefor. Any such
328 capital improvement project by a school district shall be approved
329 by the State Board of Education, and based on an approved
330 long-range plan. The State Board of Education shall promulgate
331 minimum requirements for the approval of school district capital
332 expenditure plans.

333 (b) Providing necessary water, light, heating, air
334 conditioning, and sewerage facilities for school buildings, and
335 purchasing land therefor.

336 (c) Paying debt service on existing capital improvement
337 debt of the district or refinancing outstanding debt of a district
338 if such refinancing will result in an interest cost savings to the
339 district.

340 (d) From and after October 1, 1997, through June 30,
341 1998, pursuant to a school district capital expenditure plan
342 approved by the State Department of Education, a school district
343 may pledge such funds until July 1, 2002, plus funds provided for
344 in paragraph (e) of this subsection (5) that are not otherwise
345 permanently pledged under such paragraph (e) to pay all or a
346 portion of the debt service on debt issued by the school district
347 under Sections 37-59-1 through 37-59-45, 37-59-101 through
348 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
349 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
350 issued by boards of supervisors for agricultural high schools
351 pursuant to Section 37-27-65, Mississippi Code of 1972, or
352 lease-purchase contracts entered into pursuant to Section 31-7-13,
353 Mississippi Code of 1972, or to retire or refinance outstanding
354 debt of a district, if such pledge is accomplished pursuant to a
355 written contract or resolution approved and spread upon the
356 minutes of an official meeting of the district's school board or

357 board of supervisors. It is the intent of this provision to allow
358 school districts to irrevocably pledge their Interim School
359 District Capital Expenditure Fund allotments as a constant stream
360 of revenue to secure a debt issued under the foregoing code
361 sections. To allow school districts to make such an irrevocable
362 pledge, the state shall take all action necessary to ensure that
363 the amount of a district's Interim School District Capital
364 Expenditure Fund allotments shall not be reduced below the amount
365 certified by the department or the district's total allotment
366 under the Interim Capital Expenditure Fund if fully funded, so
367 long as such debt remains outstanding.

368 (e) From and after October 1, 1997, through June 30,
369 1998, in addition to any other authority a school district may
370 have, any school district may issue State Aid Capital Improvement
371 Bonds secured in whole by a continuing annual pledge of any
372 Mississippi Adequate Education Program funds available to the
373 district, in an amount not to exceed One Hundred Sixty Dollars
374 (\$160.00) per pupil based on the latest completed average daily
375 attendance count certified by the department prior to the issuance
376 of the bonds. Such State Aid Capital Improvement Bonds may be
377 issued for the purposes enumerated in paragraphs (a), (b), (c) and
378 (g) of this section. Prior to issuing such bonds, the school
379 board of the district shall adopt a resolution declaring the
380 necessity for and its intention of issuing such bonds and
381 borrowing such money, specifying the approximate amount to be so
382 borrowed, how such money is to be used and how such indebtedness
383 is to be evidenced. Any capital improvement project financed with
384 State Aid Capital Improvement Bonds shall be approved by the
385 department, and based on an approved long-range plan. The State
386 Board of Education shall promulgate minimum requirements for the
387 approval of such school district capital expenditure plans. The
388 State Board of Education shall not approve any capital expenditure
389 plan for a pledge of funds under this paragraph unless it

390 determines (i) that the quality of instruction in such district
391 will not be reduced as a result of this pledge, and (ii) the
392 district has other revenue available to attain and maintain at
393 least Level III accreditation.

394 A district issuing State Aid Capital Improvement Bonds may
395 pledge for the repayment of such bonds all funds received by the
396 district from the state, in an amount not to exceed One Hundred
397 Sixty Dollars (\$160.00) per pupil in average daily attendance in
398 the school district as set forth above, and not otherwise
399 permanently pledged under paragraph (d) of this subsection or
400 under Section 37-61-33(2)(d), Mississippi Code of 1972. The
401 district's school board shall specify by resolution the amount of
402 state funds, which are being pledged by the district for the
403 repayment of the State Aid Capital Improvement Bonds. Once such a
404 pledge is made to secure the bonds, the district shall notify the
405 department of such pledge. Upon making such a pledge, the school
406 district may request the department which may agree to irrevocably
407 transfer a specified amount or percentage of the district's state
408 revenue pledged to repay the district's State Aid Capital
409 Improvement Bonds directly to a state or federally chartered bank
410 serving as a trustee or paying agent on such bonds for the payment
411 of all or portion of such State Aid Capital Improvement Bonds.
412 Such instructions shall be incorporated into a resolution by the
413 school board for the benefit of holders of the bonds and may
414 provide that such withholding and transfer of such other available
415 funds shall be made only upon notification by a trustee or paying
416 agent on such bonds that the amounts available to pay such bonds
417 on any payment date will not be sufficient. It is the intent of
418 this provision to allow school districts to irrevocably pledge a
419 certain, constant stream of revenue as security for State Aid
420 Capital Improvement Bonds issued hereunder. To allow school
421 districts to make such an irrevocable pledge, the state shall take
422 all action necessary to ensure that the amount of a district's

423 state revenues up to an amount equal to One Hundred Sixty Dollars
424 (\$160.00) per pupil as set forth above which have been pledged to
425 repay debt as set forth herein shall not be reduced so long as any
426 State Aid Capital Improvement Bonds are outstanding.

427 Any such State Aid Capital Improvement Bonds shall mature as
428 determined by the district's school bond over a period not to
429 exceed twenty (20) years. Such bonds shall not bear a greater
430 overall maximum interest rate to maturity than that allowed in
431 Section 75-17-101, Mississippi Code of 1972. The further details
432 and terms of such bonds shall be as determined by the school board
433 of the district.

434 The provisions of this subsection shall be cumulative and
435 supplemental to any existing funding programs or other authority
436 conferred upon school districts or school boards. Debt of a
437 school district secured in whole by a pledge of revenue pursuant
438 to this section shall not be subject to any debt limitation.

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

443 This paragraph (e) shall stand repealed from and after June
444 30, 1998.

445 (f) As an alternative to the authority granted under
446 paragraph (e), a school district, in its discretion, may authorize
447 the State Board of Education to withhold an amount of the
448 district's adequate education program allotment equal to up to One
449 Hundred Sixty Dollars (\$160.00) per student in average daily
450 attendance in the district to be allocated to the State Public
451 School Building Fund to the credit of such school district. A
452 school district may choose the option provided under this
453 paragraph (e) or paragraph (f), but not both. In addition to the
454 grants made by the state pursuant to Section 37-47-9, a school
455 district shall be entitled to grants based on the allotments to

456 the State Public School Building Fund credited to such school
457 district under this paragraph. This paragraph (f) shall stand
458 repealed from and after June 30, 1998.

459 (g) The State Board of Education may authorize the
460 school district to expend not more than twenty percent (20%) of
461 its annual allotment of such funds or Twenty Thousand Dollars
462 (\$20,000.00), whichever is greater, for technology needs of the
463 school district, including computers, software,
464 telecommunications, cable television, interactive video, film
465 low-power television, satellite communications, microwave
466 communications, technology-based equipment installation and
467 maintenance, and the training of staff in the use of such
468 technology-based instruction. Any such technology expenditure
469 shall be reflected in the local district technology plan approved
470 by the State Board of Education under Section 37-151-17,
471 Mississippi Code of 1972.

472 (h) To the extent a school district has not utilized
473 twenty percent (20%) of its annual allotment for technology
474 purposes under paragraph (g), a school district may expend not
475 more than twenty percent (20%) of its annual allotment or Twenty
476 Thousand Dollars (\$20,000.00), whichever is greater, for
477 instructional purposes. The State Board of Education may
478 authorize a school district to expend more than said twenty
479 percent (20%) of its annual allotment for instructional purposes
480 if it determines that such expenditures are needed for
481 accreditation purposes.

482 (i) The State Department of Education or the State
483 Board of Education may require that any project commenced under
484 this section with an estimated project cost of not less than Five
485 Million Dollars (\$5,000,000.00) shall be done only pursuant to
486 program management of the process with respect to design and
487 construction. Any individuals, partnerships, companies or other
488 entities acting as a program manager on behalf of a local school

489 district and performing program management services for projects
490 covered under this subsection shall be approved by the State
491 Department of Education.

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

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

499 **SECTION 2.** This act shall take effect and be in force from
500 and after June 30, 2005.