

By: Representative Moore

To: Education

HOUSE BILL NO. 76

1 AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE FOR THE DISCRETIONARY DETERMINATION OF THE ANNUAL
 3 ALLOCATION OF ADEQUATE EDUCATION PROGRAMS FUNDS IN ORDER TO REMOVE
 4 THE AMBIGUOUS INTERPRETATION THAT THE STATE DEPARTMENT OF
 5 EDUCATION IS REQUIRED TO REQUEST FULL FUNDING OF MAEP IN ITS
 6 ANNUAL LEGISLATIVE BUDGET REQUEST; TO REPEAL SECTION 37-151-6,
 7 MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE LEGISLATURE TO FULLY
 8 FUND THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM EACH FISCAL YEAR;
 9 AND FOR RELATED PURPOSES.

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

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

13 37-151-7. In making the annual allocation to each school
 14 district for the operation of the adequate education program * * *
 15 the following determining computation may be used:

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

20 (a) **Determination of average daily attendance.**

21 Effective with fiscal year * * * 2015, the State Department of



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



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

58 (b) **Determination of base student cost.** Effective with
59 fiscal year * * * 2015 and every fourth fiscal year thereafter,
60 the State Board of Education, on or before August 1, with adjusted
61 estimate no later than January 2, shall submit to the Legislative
62 Budget Office and the Governor a proposed base student cost
63 adequate to provide the following cost components of educating a
64 pupil in a successful school district: (i) Instructional Cost;
65 (ii) Administrative Cost; (iii) Operation and Maintenance of
66 Plant; and (iv) Ancillary Support Cost. For purposes of these
67 calculations, the Department of Education * * * may utilize
68 financial data from the second preceding year of the year for
69 which funds are being appropriated.

70 For the instructional cost component, the Department of
71 Education * * * may select districts that have been identified as



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

82 Fund 1120 Functions 1110-1199 Objects 100-999, Functions
83 1210, 1220, 2150-2159 Objects 210 and 215;
84 Fund 1130 All Functions, Object Code 210 and 215;
85 Fund 2001 Functions 1110-1199 Objects 100-999;
86 Fund 2070 Functions 1110-1199 Objects 100-999;
87 Fund 2420 Functions 1110-1199 Objects 100-999;
88 Fund 2711 All Functions, Object Code 210 and 215.

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

94 For the administrative cost component, the Department of
95 Education * * * may select districts that have been identified as
96 instructionally successful and have a ratio of an administrative



97 staff to nonadministrative staff between one (1) standard
98 deviation above the mean and two (2) standard deviations below the
99 mean of the statewide average administrative staff to
100 nonadministrative staff. The administrative cost component then
101 shall be calculated by dividing the latest available months one
102 (1) through nine (9) ADA of the selected districts into the
103 administrative expenditures of these selected districts. For the
104 purpose of this calculation, the Department of Education * * * may
105 use the following funds, functions and objects:

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

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

110 For the plant and maintenance cost component, the Department
111 of Education * * * may select districts that have been identified
112 as instructionally successful and have a ratio of plant and
113 maintenance expenditures per one hundred thousand (100,000) square
114 feet of building space and a ratio of maintenance workers per one
115 hundred thousand (100,000) square feet of building space that are
116 both between one (1) standard deviation above the mean and two (2)
117 standard deviations below the mean of the statewide average. The
118 plant and maintenance cost component shall be calculated by
119 dividing the latest available months one (1) through nine (9) ADA
120 of the selected districts into the plant and maintenance
121 expenditures of these selected districts. For the purpose of this



122 calculation, the Department of Education * * * may use the
123 following funds, functions and objects:

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

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

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

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

144 Fund 1120 Functions 2110-2129, Objects 100-999;

145 Fund 1120 Functions 2140-2149, Objects 100-999;

146 Fund 1120 Functions 2220-2229, Objects 100-999;



147 Fund 2001 Functions 2100-2129, Objects 100-999;
148 Fund 2001 Functions 2140-2149, Objects 100-999;
149 Fund 2001 Functions 2220-2229, Objects 100-999.

150 The total base cost for each year shall be the sum of the
151 instructional cost component, administrative cost component, plant
152 and maintenance cost component and ancillary support cost
153 component, and any estimated adjustments for additional state
154 requirements as determined by the State Board of Education. * * *
155 However, the base student cost in fiscal year 1998 shall be Two
156 Thousand Six Hundred Sixty-four Dollars (\$2,664.00).

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

166 (c) **Determination of the basic adequate education**
167 **program cost.** The basic amount for current operation to be
168 included in the Mississippi Adequate Education Program for each
169 school district * * * may be computed as follows:



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

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

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

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

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



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

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

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

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

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

209 (viii) Bus driver training programs shall be the
210 amount provided for those driver training programs as provided for
211 in Section 37-41-1 * * *.

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



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

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

232 (2) **Computation of the required local revenue in support of**
233 **the adequate education program.** The amount that each
234 district * * * provides toward the cost of the adequate education
235 program * * * may be calculated as follows:

236 (a) The State Department of Education shall certify to
237 each school district that twenty-eight (28) mills, less the
238 estimated amount of the yield of the School Ad Valorem Tax
239 Reduction Fund grants as determined by the State Department of
240 Education, is the millage rate required to provide the district
241 required local effort for that year, or twenty-seven percent (27%)



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

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



267 defined in Section 27-33-67(1) * * *; and (iv) the school
268 district's homestead reimbursement revenues.

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

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

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

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

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

290 (b) * * * However, * * * in fiscal year 1998 and in the
291 fiscal year in which the adequate education program is fully



292 funded by the Legislature, any increase in the * * * state
293 contribution to any district calculated under this section shall
294 be not less than eight percent (8%) in excess of the amount
295 received by * * * the district from state funds for the fiscal
296 year immediately preceding. For purposes of this paragraph (b),
297 state funds shall include minimum program funds less the add-on
298 programs, State Uniform Millage Assistance Grant Funds, Education
299 Enhancement Funds appropriated for Uniform Millage Assistance
300 Grants and state textbook allocations, and State General Funds
301 allocated for textbooks.

302 (c) If the school board of any school district shall
303 determine that it is not economically feasible or practicable to
304 operate any school within the district for the full one hundred
305 eighty (180) days required for a school term of a scholastic year
306 as required in Section 37-13-63, * * * due to an enemy attack, a
307 man-made, technological or natural disaster in which the Governor
308 has declared a disaster emergency under the laws of this state or
309 the President of the United States has declared an emergency or
310 major disaster to exist in this state, * * * the school board may
311 notify the State Department of Education of * * * the disaster and
312 submit a plan for altering the school term. If the State Board of
313 Education finds * * * the disaster to be the cause of the school
314 not operating for the contemplated school term and that * * * the
315 school was in a school district covered by the Governor's or
316 President's disaster declaration, it may permit * * * the school



317 board to operate the schools in its district for less than one
318 hundred eighty (180) days and, in such case, the State Department
319 of Education shall not reduce the state contributions to the
320 adequate education program allotment for * * * the district,
321 because of the failure to operate said schools for one hundred
322 eighty (180) days.

323 (4) The Interim School District Capital Expenditure Fund is
324 hereby established in the State Treasury which shall be used to
325 distribute any funds specifically appropriated by the Legislature
326 to * * * the fund to school districts entitled to increased
327 allocations of state funds under the adequate education program
328 funding formula prescribed in Sections 37-151-3 through
329 37-151-7, * * * until such time as the * * * adequate education
330 program is fully funded by the Legislature. The following
331 percentages of the total state cost of increased allocations of
332 funds under the adequate education program funding formula shall
333 be appropriated by the Legislature into the Interim School
334 District Capital Expenditure Fund to be distributed to all school
335 districts under the formula: Nine and two-tenths percent (9.2%)
336 shall be appropriated in fiscal year 1998, twenty percent (20%)
337 shall be appropriated in fiscal year 1999, forty percent (40%)
338 shall be appropriated in fiscal year 2000, sixty percent (60%)
339 shall be appropriated in fiscal year 2001, eighty percent (80%)
340 shall be appropriated in fiscal year 2002, and one hundred percent
341 (100%) shall be appropriated in fiscal year 2003 into the State



342 Adequate Education Program Fund. Until July 1, 2002, * * * the
343 money shall be used by school districts for the following
344 purposes:

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

356 (b) Providing necessary water, light, heating,
357 air-conditioning, and sewerage facilities for school buildings,
358 and purchasing land therefor.

359 (c) Paying debt service on existing capital improvement
360 debt of the district or refinancing outstanding debt of a district
361 if * * * the refinancing will result in an interest cost savings
362 to the district.

363 (d) From and after October 1, 1997, through June 30,
364 1998, * * * in accordance with a school district capital
365 expenditure plan approved by the State Department of Education, a
366 school district may pledge * * * those funds until July 1, 2002,



367 plus funds provided for in paragraph (e) of this subsection (4)
368 that are not otherwise permanently pledged under * * * paragraph
369 (e) to pay all or a portion of the debt service on debt issued by
370 the school district under Sections 37-59-1 through 37-59-45,
371 37-59-101 through 37-59-115, 37-7-351 through 37-7-359, 37-41-89
372 through 37-41-99, 37-7-301, 37-7-302 and 37-41-81, * * * or debt
373 issued by boards of supervisors for agricultural high
374 schools * * * under Section 37-27-65, * * * or lease-purchase
375 contracts entered into * * * under the provisions of Section
376 31-7-13, * * * or to retire or refinance outstanding debt of a
377 district, if * * * the pledge is accomplished * * * under a
378 written contract or resolution approved and spread upon the
379 minutes of an official meeting of the district's school board or
380 board of supervisors. It is the intent of this provision to allow
381 school districts to irrevocably pledge their Interim School
382 District Capital Expenditure Fund allotments as a constant stream
383 of revenue to secure a debt issued under the foregoing code
384 sections. To allow school districts to make such an irrevocable
385 pledge, the state shall take all action necessary to ensure that
386 the amount of a district's Interim School District Capital
387 Expenditure Fund allotments shall not be reduced below the amount
388 certified by the department or the district's total allotment
389 under the Interim Capital Expenditure Fund if fully funded, so
390 long as * * * the debt remains outstanding.

391 (e) [Repealed]



392 (f) [Repealed]

393 (g) The State Board of Education may authorize the
394 school district to expend not more than twenty percent (20%) of
395 its annual allotment of * * * the funds or Twenty Thousand Dollars
396 (\$20,000.00), whichever is greater, for technology needs of the
397 school district, including computers, software,
398 telecommunications, cable television, interactive video, film,
399 low-power television, satellite communications, microwave
400 communications, technology-based equipment installation and
401 maintenance, and the training of staff in the use of * * * the
402 technology-based instruction. Any such technology expenditure
403 shall be reflected in the local district technology plan approved
404 by the State Board of Education under Section 37-151-17 * * *.

405 (h) To the extent a school district has not utilized
406 twenty percent (20%) of its annual allotment for technology
407 purposes under paragraph (g), a school district may expend not
408 more than twenty percent (20%) of its annual allotment or Twenty
409 Thousand Dollars (\$20,000.00), whichever is greater, for
410 instructional purposes. The State Board of Education may
411 authorize a school district to expend more than * * * twenty
412 percent (20%) of its annual allotment for instructional purposes
413 if it determines that * * * the expenditures are needed for
414 accreditation purposes.

415 (i) The State Department of Education or the State
416 Board of Education may require that any project commenced under



417 this section with an estimated project cost of not less than Five
418 Million Dollars (\$5,000,000.00) shall be done only * * * in
419 accordance with program management of the process with respect to
420 design and construction. Any individuals, partnerships, companies
421 or other entities acting as a program manager on behalf of a local
422 school district and performing program management services for
423 projects covered under this subsection shall be approved by the
424 State Department of Education.

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

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

432 (5) The State Department of Education shall make payments to
433 charter schools for each student in average daily attendance at
434 the charter school equal to the state share of the adequate
435 education program payments for each student in average daily
436 attendance at the school district in which the public charter
437 school is located. In calculating the local contribution for
438 purposes of determining the state share of the adequate education
439 program payments, the department shall deduct the pro rata local
440 contribution of the school district in which the student resides
441 as determined in subsection (2) (a) of this section.



442 **SECTION 2.** Section 37-151-6, Mississippi Code of 1972, which
443 requires the Legislature to fully fund the Mississippi Adequate
444 Education Program each fiscal year, is repealed.

445 **SECTION 3.** This act shall take effect and be in force from
446 and after July 1, 2014.

