MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Clark

To: Education;
Appropriations

# HOUSE BILL NO. 261

AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972, TO INCREASE THE ADJUSTMENT TO THE BASE STUDENT COST FOR AT-RISK STUDENTS UNDER THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM; AND FOR RELATED PURPOSES.

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

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

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

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

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

preceding school years of the year for which funds are being appropriated. For any school district that experiences a positive growth in the average of months two (2) and three (3) ADA each year of the three (3) years, the average percentage growth over the three-year period shall be multiplied times the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated. The resulting amount shall be added to the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated to arrive at the ADA to be used in determining a school district's MAEP allocation. Otherwise, months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated will be used in determining a school district's MAEP allocation. In any fiscal year prior to 2010 in which the MAEP formula is not fully funded, for those districts that do not demonstrate a three-year positive growth in months two (2) and three (3) ADA, months one (1) through nine (9) ADA of the second preceding year for which funds are being appropriated or months two (2) and three (3) ADA of the preceding year for which funds are being appropriated, whichever is greater, shall be used to calculate the district's MAEP allocation. The district's average daily attendance shall be computed and currently maintained in accordance with regulations promulgated by the State Board of Education. The district's

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

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

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

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

Fund 1130 All Functions, Object Code 210 and 215;

Fund 2001 Functions 1110-1199 Objects 100-999;

Fund 2070 Functions 1110-1199 Objects 100-999;

Fund 2420 Functions 1110-1199 Objects 100-999;

Fund 2711 All Functions, Object Code 210 and 215.

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

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

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

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

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

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

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

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

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

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

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

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

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

Fund 2001 Functions 2100-2129, Objects 100-999;

Fund 2001 Functions 2140-2149, Objects 100-999;

Fund 2001 Functions 2220-2229, Objects 100-999.

The total base cost for each year shall be the sum of the instructional cost component, administrative cost component, plant and maintenance cost component and ancillary support cost component, and any estimated adjustments for additional state requirements as determined by the State Board of Education. Provided, however, that the base student cost in fiscal year 1998 shall be Two Thousand Six Hundred Sixty-four Dollars ($2,664.00).

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

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

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

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

(d) **Adjustment to the base student cost for at-risk pupils.** The amount to be included for at-risk pupil programs for each school district shall be computed as follows: Multiply the base student cost for the appropriate fiscal year as determined under paragraph (b) by *** * *** fifty percent (50%), and multiply that product by the number of pupils participating in the federal free school lunch program in such school district, which yields the total adjustment for at-risk pupil programs for such school district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The Interim School District Capital Expenditure Fund is hereby established in the State Treasury which shall be used to distribute any funds specifically appropriated by the Legislature to such fund to school districts entitled to increased allocations of state funds under the adequate education program funding formula prescribed in Sections 37-151-3 through 37-151-7, Mississippi Code of 1972, until such time as the said adequate education program is fully funded by the Legislature. The following percentages of the total state cost of increased allocations of funds under the adequate education program funding formula shall be appropriated by the Legislature into the Interim School District Capital Expenditure Fund to be distributed to all school districts under the formula: Nine and two-tenths percent (9.2%) shall be appropriated in fiscal year 1998, twenty percent

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

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

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

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

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

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

Expenditure Fund allotments shall not be reduced below the amount certified by the department or the district's total allotment under the Interim Capital Expenditure Fund if fully funded, so long as such debt remains outstanding.

(e) [Repealed]

(f) [Repealed]

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

(h) To the extent a school district has not utilized twenty percent (20%) of its annual allotment for technology purposes under paragraph (g), a school district may expend not more than twenty percent (20%) of its annual allotment or Twenty Thousand Dollars ($20,000.00), whichever is greater, for instructional purposes. The State Board of Education may authorize a school district to expend more than said twenty

percent (20%) of its annual allotment for instructional purposes if it determines that such expenditures are needed for accreditation purposes.

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

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

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

(5) The State Department of Education shall make payments to charter schools for each student in average daily attendance at the charter school equal to the state share of the adequate education program payments for each student in average daily attendance at the school district in which the public charter

school is located. In calculating the local contribution for purposes of determining the state share of the adequate education program payments, the department shall deduct the pro rata local contribution of the school district in which the student resides as determined in subsection (2)(a) of this section.

**SECTION 2.** This act shall take effect and be in force from and after July 1, 2021.


ST: MAEP; increase adjustment to base student cost for at-risk students.