

**OFFICE OF EDUCATIONAL ACCOUNTABILITY**  
**Summary of State Board of Education Agenda Items**  
**Consent Agenda**  
**May 26, 2022**

**OFFICE OF PUBLIC REPORTING**

- R.05. Approval to repeal Miss. Admin. Code 7-3: 50 and 50.1, State Board Policy Chapter 50 – Mississippi Adequate Education Capital Improvement Section, Rule 50.1 – Mississippi Adequate Education Capital Improvement Section  
(Has cleared the Administrative Procedures Act process with no public comment)

Background Information: To repeal Miss. Admin. Code 7-3: 50 and 50.1, State Board Policy Chapter 50 – Mississippi Adequate Education Capital Improvement Section, Rule 50.1 – Mississippi Adequate Education Capital Improvement Section policy in accordance with Miss. Code Ann. § 25-43-3.114 which requires an agency to review all of its rules at least every five years to determine whether any rule should be repealed, amended, or a new rule adopted.

Recommendation: Approval

Back-up material attached

**Part 3 Chapter 50: Mississippi Adequate Education Capital Improvement Section**

*Rule 50.1 Mississippi Adequate Education Capital Improvement Section. CAPITAL IMPROVEMENT SECTION MISSISSIPPI ADEQUATE EDUCATION PROGRAM ACT OF 1997. The Mississippi Board of Education has established Policy and Procedures to enable local school districts to receive approval for the use of Interim School District Capital Expenditure Funds. The local school district may choose any one or a combination of the options available, except where otherwise noted.*

The school board of any district shall have authority to expend Mississippi Adequate Education Program (MAEP) funds in accordance with Section 37-151-7(5), Mississippi Code of 1972, annotated, subject to the following:

1. Cash Allotments

A. In accordance with Section 37-151-7(5)(a), Mississippi Code of 1972, annotated, districts are authorized to spend the interim school district capital expenditure funds for "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 the purchasing of land therefor."

The Mississippi Board of Education must approve the following:

Long Range Capital Expenditure Plan  
Application(s) for the Expenditure of MAEP Funds for a Capital Improvement Project

Disbursement and Expenditure of MAEP Funds: Upon approval of the Long Range Capital Expenditure Plan and the Application(s) for the Expenditure of MAEP Funds for a Capital Improvement Project by the Mississippi Board of Education, all appropriated MAEP funds will be distributed by the Department of Education as requested by the school district subject to fund availability. The expenditure of MAEP funds will be subject to state law and accounted for by the local school district in accordance with the guidelines prescribed by the State Auditor.

AND/OR

B. In accordance with Section 37-151-7(5)(b), Mississippi Code of 1972, annotated, districts are authorized to spend the interim school district capital expenditure funds for "Providing necessary water, light, heating, air conditioning and sewerage facilities for school buildings, and the purchasing of land therefor."

The Mississippi Board of Education must approve the following:

Long Range Capital Expenditure Plan  
Application(s) for the Expenditure of MAEP Funds for a Capital Improvement Project

Disbursement and Expenditure of MAEP Funds:

Upon approval of the Long Range Capital Expenditure Plan and the Application(s) for the Expenditure of MAEP Funds for a Capital Improvement Project by the Mississippi Board of Education, all appropriated MAEP funds will be distributed by the Department of Education as requested by the school district subject to fund availability. The expenditure of MAEP funds will be subject to state law and accounted for by the local school district in accordance with the guidelines prescribed by the State Auditor.

AND/OR

C. In accordance with Section 37-151-7(5)(c), Mississippi Code of 1972, annotated, districts are authorized to spend the interim school district capital expenditure funds for "Paying debt service on existing capital improvement debt of the district or refinancing outstanding debt of the district if such refinancing will result in an interest cost savings to the district." For purposes of this section districts are authorized to spend district maintenance funds and repay these funds to the district maintenance fund with the interim school district capital expenditure funds that are available to the district.

The Mississippi Board of Education must approve the following:

#### Long Range Capital Expenditure Plan Disbursement and Expenditure of MAEP Funds:

Upon approval of the Long Range Capital Expenditure Plan by the Mississippi Board of Education, all appropriated MAEP funds will be distributed by the Department of Education as requested by the school district subject to fund availability. The expenditure of MAEP funds will be subject to state law and accounted for by the local school district in accordance with the guidelines prescribed by the State Auditor.

#### 2. Interim Pledge

In accordance with Section 37-151-7(5)(d), Mississippi Code of 1972, annotated, "From and after October 1, 1997 through June 30, 1998, ... a school district may pledge such funds until July 1, 2002, plus funds provided for in paragraph (e) of this subsection (5) 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" (general obligation bonds), "37-59-101 through 37-59-115" (3 mill, ten year), "37-7-351 through 37-7-359" (Emergency School Leasing Authority Act of 1986), "37-41-89 through 37-41-99" (transportation note), "37-7-301" (lease purchase of school buildings), "37-7-302" (asbestos removal), "and 37-41-81" (general grant of authority to purchase school transportation equipment, erect and equip school bus shops and to purchase land) "Mississippi Code of 1972, or debt issued by board of supervisors for agricultural high schools pursuant to Section 37-27-65, Mississippi Code of 1972, or lease purchase contracts entered into pursuant to Section 31-7-13, Mississippi Code of 1972, 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." The Mississippi Board of Education must approve the following:

#### Long Range Capital Expenditure Plan

**Additional Requirement:**

Attach a copy of the local board resolution as required by Section 37-151-7(5)(d)

**Disbursement and Expenditure of MAEP Funds:**

Upon approval of the Long Range Capital Expenditure Plan by the Mississippi Board of Education, all appropriated MAEP funds will be distributed by the Department of Education as requested by the school district subject to fund availability. The expenditure of MAEP funds will be subject to state law and accounted for by the local school district in accordance with the guidelines prescribed by the State Auditor.

**3. Long Term Pledge District may select A or B, but not both.**

**A.** In accordance with Section 37-151-7(5)(e), Mississippi Code of 1972, annotated, "From and after October 1, 1997 through June 30, 1998, in addition to any other authority a school district may have, any school district may issue State Aid Capital Improvement Bonds secured in whole by a continuing annual pledge of any Mississippi Adequate Education Program Funds available to the district, in an amount not to exceed One Hundred Sixty Dollars (\$160.00) per pupil based on the latest completed average daily attendance count certified by the department prior to the issuance of the bonds. Such State Aid Capital Improvement Bonds may be issued for the purposes enumerated in subsections (a), (b), (c) and (g) of this section. Prior to issuing such bonds, the school board of the district shall adopt a resolution declaring the necessity for and its intention of issuing such bonds and borrowing such money, specifying the approximate amount to be so borrowed, how such money is to be used and how such indebtedness is to be evidenced... The State Board of Education shall not approve any capital expenditure plan for a pledge of funds under this paragraph unless it determines (i) that the quality of instruction in such district will not be reduced as a result of this pledge and (ii) the district has other revenue available to attain and maintain at least Level III accreditation."

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

"Any such State Aid Capital Improvement bonds shall mature as determined by the district's school board over a period not to exceed twenty (20) years. Such bonds shall not bear a greater overall maximum interest rate to maturity than that allowed in Section 75-17-101, Mississippi Code of 1972. The further details and terms of such bonds shall be as determined by the school board of the district... State Aid Capital Improvement Bonds shall mean any bond, note, or other certificate of indebtedness issued by a school district under the provisions hereof. "School boards have the discretion to determine the terms and conditions of the indebtedness as well as the manner in which the indebtedness will be sold, i.e., open market, financial institution, Mississippi Development Bank, or other legal means."

~~"This paragraph (e) shall stand repealed from and after June 30, 1998." Note 1: The \$160.00 limitation is subject to adjustment based on lesser amounts received during the interim period. At no time during the term of the bonds can the district's pledge for repayment exceed \$160.00 per pupil. Note 2: Average daily attendance is as defined by MAEP.~~

~~The Mississippi Board of Education must approve the following:  
Long Range Capital expenditure plan~~

~~Application for the Expenditure of MAEP Funds for a Capital Improvement Project [Not required for Section 37-151-7(5)(e) and Section 37-151-7(5)(g)]~~

~~Additional requirement: Attach a copy of the local board resolution as required by Section 37-151-7(5)(e)~~

~~Disbursement and expenditure of MAEP Funds:  
Upon approval of the Long Range Capital Expenditure Plan and the Application(s) for the Expenditure of MAEP Funds for a Capital Improvement Project [when applicable] by the Mississippi Board of Education, all appropriated MAEP funds will be distributed by the Department of Education as requested by the school district subject to fund availability. The expenditure of MAEP funds will be subject to state law and accounted for by the local school district in accordance with the guidelines prescribed by the State Auditor.~~

~~OR~~

~~B. In accordance with Section 37-151-7(5)(f), Mississippi Code of 1972, annotated, "As an alternative to the authority granted under paragraph (e), a school district, in its discretion, may authorize the State Board of Education to withhold an amount of the district's adequate education program allotment equal to up to One Hundred Sixty Dollars (\$160.00) per student in average daily attendance in the district to be allocated to the State Public School Building Fund to the credit of such school district. A school district may choose the option under this paragraph (e) or paragraph (f), but not both. In addition to the grants made by the state pursuant to Section 37-47-9, a school district shall be entitled to grants based on the allotments to the State Public School Building Fund credited to such school district under this paragraph. This paragraph (f) shall stand repealed from and after June 30, 1998."~~

~~The Mississippi Board of Education must approve the following:  
Long Range Capital Expenditure Plan~~

~~Application(s) for the Expenditure of MAEP Funds for a Capital Improvement Project~~

~~Construction Contracts including plans and specifications~~

~~Change Orders greater than 1% of the total contract amount in accordance with Section 31-7-13(g), MS Code of 1972, annotated~~

A school board resolution authorizing the State Board of Education to withhold an amount of the district's Adequate Education Program allotment equal to up to One Hundred Sixty Dollars (\$160.00) per student in average daily attendance in the district School district grant for capital improvements under the provisions of the Mississippi Adequate Education Program Act will be computed as follows:

ESTIMATED MAEP PLEDGE			
Fiscal Year	\$ Per Student	x ADA*	Total
1997-1998	_____	_____	_____
1998-1999	_____	_____	_____
1999-2000	_____	_____	_____
2000-2001	_____	_____	_____
2001-2002	_____	_____	_____
Full Funding (beginning July 1, 2002)	_____	x _____	_____ (Years)
			TOTAL: _____
_____ Total MAEP Funds Pledge			
_____ Bond Interest and Issuance Cost			
_____ = Net MAEP District Grant			

Note 1: The \$160.00 limitation is subject to adjustment based on lesser amounts received during the interim period. At no time during the term of the bonds can the district's pledge for repayment exceed \$160.00 per pupil.

Note 2: \*Average daily attendance is as defined by MAEP.

Disbursement of MAEP District Grant: Under the State Public School Building Fund, proceeds from the State bond sale will be distributed by the Mississippi Department of Education to the school district according to the following payment schedule:

1. 60% upon approval of Contract Documents by the MS Board of Education
2. 30% upon written certificate from the Architect/Engineer that the project is 50% completed
3. 10% upon completion of the project, including completion of all items noted at the final inspection, and approval of the final report by the MS Department of Education, Office of School Building and Transportation

Applicable procedures for submission of documents supporting capital improvement project(s) under the State Public School Building Fund will be provided by the Mississippi Department of Education, Office of School Building and Transportation.

4. Alternate Uses

A. In accordance with Section 37-151-7(5)(g), Mississippi Code of 1972, annotated,

~~"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."~~

~~The Mississippi Board of Education must approve the following:~~

#### ~~Long Range Capital Expenditure Plan~~

~~Disbursement and Expenditure of MAEP Funds: Upon approval of the Long Range Capital Expenditure Plan by the Mississippi Board of Education, all appropriated MAEP funds will be distributed by the Department of Education as requested by the school district subject to fund availability. The expenditure of MAEP funds will be subject to state law and accounted for by the local school district in accordance with the guidelines prescribed by the State Auditor.  
AND/OR~~

~~B. In accordance with Section 37-151-7(5)(h), Mississippi Code of 1972, annotated, "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." The Mississippi Board of Education must approve the following:~~

~~Long Range Capital Expenditure Plan Disbursement and Expenditure of MAEP Funds: Upon approval of the Long Range Capital Expenditure Plan by the Mississippi Board of Education, all appropriated MAEP funds will be distributed by the Department of Education as requested by the school district subject to fund availability. The expenditure of MAEP funds will be subject to state law and accounted for by the local school district in accordance with the guidelines prescribed by the State Auditor.~~

#### ~~5. Program Management~~

~~In accordance with Section 37-151-7(5)(i), Mississippi Code of 1972, annotated, the Mississippi Board of Education will not require that any district use the services of a program manager, unless upon review of the Long Range Capital Expenditure Plan, the Board determines that such a need exists. However, if a district elects to use a program manager, or the Board requires the district to use a program manager, the Mississippi Board of Education approval is required. The Mississippi Board of Education must approve the following:~~

~~A school board resolution identifying the firm, explaining the selection criteria utilized and addressing the cost effectiveness~~

#### ~~Additional Requirements for All Options~~

~~1. The Mississippi Board of Education or the Mississippi Department of Education may, upon review of the Long Range Capital Expenditure Plan and the Application(s) for the Expenditure of MAEP Funds for a Capital Improvement Project, request additional information from the school district as deemed necessary prior to final approval.~~

~~2. Each building project, including renovations and repairs in excess of Fifty Thousand Dollars (\$50,000.00), must be planned and supervised by a registered professional architect/engineer in accordance with Section 73-13-45, Mississippi Code of 1972, annotated. Architectural and engineering fees paid from state funds shall not exceed 6% of the contract.~~

~~3. Mississippi Department of Education staff is authorized to make on-site visits to observe the construction of school facilities as deemed necessary or upon the request of the district.~~

~~4. Any change in the district's Long Range Capital Expenditure Plan shall require Mississippi Board of Education approval.~~

~~5. Mississippi Board of Education approval is required for revisions to the Application(s) for the Expenditure of MAEP funds for a Capital Improvement Project that result in: (1) deviation from the original intended use of the facility, (2) reduction in the number of instructional areas, (3) the actual bid price exceeds the total estimated cost by greater than five percent (5%), or (4) a change in the method of financing the project.~~

~~Approval Criteria for Long Range Capital Expenditure Plan and Application(s) for the Expenditure of MAEP Funds for a Capital Improvement Project.~~

~~1. Instructional Area Needs—When considering priorities in the area of capital improvements, generally, the instructional areas are the most important—classrooms, laboratories and libraries—then, followed by cafeteria areas. However, special circumstances may dictate the need to consider other areas.~~

~~2. Renovation vs. New Construction—Renovating an existing facility is often more cost effective than construction of a new facility. A 5-year facility needs survey will define the scope of work needed along with cost estimates of the construction. All construction shall adhere to the current edition of the Standard Building Code, Americans with Disabilities act and all codes and regulations adopted by local jurisdiction.~~

~~3. Debt Structure—The debt structure of a school district must be considered when deciding whether to issue new debt and/or to retire or refinance an existing debt.~~

~~a. Other Justification—In order to justify the need for capital improvements, a summary including detailed district information shall be provided by districts with a current performance index below 3.5 to indicate how the use of funds will enable them to attain and maintain at least Level III accreditation and not reduce the quality of instruction. Districts with a current performance index of 3.5 and above, that choose Option 3 Long Term Pledge, must provide a detailed explanation that, as a result of this pledge, the~~



quality of instruction in the district will not be reduced and the district has other revenue available to attain and maintain at least Level III accreditation.

### Definition of Terms

1. Average Daily Attendance shall mean the average daily attendance for months one through nine less the average daily attendance for self-contained special education classes and alternative school programs for fiscal year 1997 for purposes of calculating the bonding limitation.

2. Capital Improvement Project shall mean a specific plan to address new construction, renovation and repairs within the Long Range Capital Expenditure Plan and may include more than one school site. Such projects should only include construction work expected to be completed during a specified period of time.

3. Instructional Areas shall mean classrooms, libraries and laboratories.

4. Long Range Capital Expenditure Plan shall mean a 5-year facility plan of capital improvement needs.

5. Program Management shall mean professional services to assist the district in the development and management of a project with respect to design and construction.

6. State Aid Capital Improvement Bond shall mean any bond, note, or other certificate of indebtedness issued by a school district as authorized by Section 37-151-7(5)(e).

7. Technology Plan shall mean a 3-5 year approved plan indicating the district's intent to integrate educational technology into the classroom in accordance with Section 37-151-17, MS Code of 1972, annotated.

8. Preliminary architectural plans shall mean drawings of graphic and textural information conveying size, shape, spatial relationships and functional characteristics of the project components.

Section 37-151-7(5)(i) states in part, "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." Interest income that is earned by the State Treasurer during the 1997-98 fiscal year will be disbursed to school districts in the month of July 1998. Interest income that is earned during the 1998-99 fiscal year and subsequent interim fiscal years will be disbursed on a monthly basis during those fiscal years.

The interest income will be available for use by districts in accordance with Section 37-151-7(5)(a), (b) and/or (c) (Option 1—Cash Allotments) and/or Section 37-151-7(5)(g) and/or (h) (Option 4—Alternative Uses). Option 1—Cash Allotments is pay as you go cash that can be used for capital expenditures and/or the retirement of debt while Option 4—Alternative Uses is cash that can be used for technology needs and/or instructional purposes.

It is not necessary that a school district submit or amend an Application for the Expenditure of MAEP funds for the use of the interest income. However, a "Statement of Assurance" must be completed and submitted to the Department of Education that stipulates that interest income will be expended in accordance with Section 37-151-7(5)(a), (b), (c), (g) and/or (h).

~~STATEMENT OF ASSURANCE for EXPENDITURE OF INTEREST INCOME ON MAEP FUNDS EARNED by THE STATE TREASURER~~

The \_\_\_\_\_ School District will expend the Interest Income earned by the State Treasurer on the investment of MAEP funds in accordance with applicable state laws, including, but not limited to Section 37-151-7(5)(a), (b), (c), (g) and/or (h).

By signature below, I assure the State Board of Education and the Department of Education that the expenditure of interest income earned by the State Treasurer on the investment of MAEP funds will be expended by the school district during the interim years in accordance with the above referenced statutes.

\_\_\_\_\_, Superintendent  
(Signature)

\_\_\_\_\_  
(Print)

\_\_\_\_\_  
(Date)

Source: *Miss. Code Ann. § 37-1-3 (Revision 6/1998)*