#433

Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER)

Report to
the Mississippi Legislature

A Survey of Mississippi Adequate Education Program Revenues and Selected Expenditures

For FYs 1998-02, the Mississippi Legislature established a five-year interim phase-in of the Mississippi Adequate Education Program (MAEP) in order to address local educational funding inequities among the state's public school districts. The program's purpose was to ensure that every school district, regardless of geographic location, would have sufficient funding to provide every student with a minimum adequate education, as defined by the Mississippi Department of Education (MDE). Beginning July 1, 2002, MAEP and its block grant funding approach will replace the state's Minimum Foundation Program, which has been the state's major funding program for public education since the early 1950s.

PEER determined that the state provided approximately $314.5 million to the public school districts for MAEP capital improvements, technology, instructional needs, and program managers during FYs 1998-02. In a PEER survey, the school districts reported spending at least $45.6 million in MAEP funds on 263 firms or individuals providing professional or technical services in 31 service categories from July 1, 1997, through October 31, 2001. Some of these MAEP service providers received approximately $21.2 million in additional public education funds for services provided to other district programs during this same period.

PEER could not determine school district compliance with their MDE-approved MAEP plans because the financial accounting system allowed some MAEP funds to be co-mingled with other school district funds and did not record MAEP expenditures with a statutory spending authority code. As a result, no annual financial management report could be produced to summarize MAEP receipts and expenditures for program performance management or auditing.

Without commenting on the wisdom of a public policy that allows local districts to carry over state funds, such a policy raises serious questions regarding whether or not the Mississippi Board of Education could authorize a local school board to carry over MAEP funds from FY 2002 to FY 2003 since the interim phase of MAEP terminates, effective July 1, 2002.

June 4, 2002

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A flowing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues that may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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Honorable Ronnie Musgrove, Governor
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On June 4, 2002, the PEER Committee authorized release of the report entitled **A Survey of Mississippi Adequate Education Program Revenues and Selected Expenditures.**

Senator William Canon, Chairman

This report does not recommend increased funding or additional staff.

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A Survey of Mississippi Adequate Education Program Revenues and Selected Expenditures

Executive Summary

In response to a legislative request, PEER conducted a survey of Mississippi Adequate Education Program (MAEP) revenues and selected expenditures during its interim five-year phase-in period in FYs 1998-02. The Committee sought to determine the amount of MAEP revenues and expenditures and the professional and technical service providers and their MAEP and other district program costs during FYs 1998-02.

Mississippi Adequate Education Program

In its 1997 Regular Session, the Mississippi Legislature established the Mississippi Adequate Education Program in order to address local educational funding inequities among the state's public school districts. The program's purpose was to ensure that every school district would have sufficient funding to provide every student in the state with at least a Level III accredited school district education. Beginning July 1, 2002, MAEP and its block grant funding approach will replace the state's Minimum Foundation Program.

As the designated MAEP program manager, the Mississippi Board of Education established policies and procedures governing the approval of program expenditures and disbursements of MAEP funds to the school districts. Appendix A on pages 18-19, this report, discusses each authorized spending option in state law.

In its 1998 Regular Session, the Mississippi Legislature amended the MAEP legislation to establish a Center for Education Analysis as a publicly funded advisory group attached to the Public Education Forum of Mississippi. The Center was to submit annual reports to the Legislature and the Governor with specified statutory information for MAEP capital improvement projects and expenditures in each school district. The Center accomplished this responsibility in FYs 1998-00 but did not accomplish the report in FYs 2001-02 because no funding was appropriated. As a result, the state does not have a

complete historical report documenting MAEP achievements.

PEER Survey of Public School Districts

PEER conducted a statewide survey of 151 public school districts, including the agricultural high schools in Coahoma County, Forrest County, and Hinds County, in order to obtain their MAEP revenues and selected expenditures from FYs 1998-02. PEER's survey excluded one district because the State Auditor declared the district's records unauditable during some of the survey period.

PEER asked the school districts to report their MAEP accounting fund code numbers/names and the school district expenditures to professional and technical service providers for MAEP and any other district programs. Appendix B on pages 20-24 lists the self-reported MAEP professional and technical service providers by service category and the amounts paid to them.

PEER determined that some reported architect fees included engineering fees. Further, some reported attorney fees included pass-through payments to service providers associated with bond issuance, such as a credit rating agency and the state bond attorney. PEER estimated the unreported costs for these two service providers totaled approximately $258,200, i.e., credit rating agency ($219,700) and state bond attorney ($38,500).

PEER made no judgments about the worth or merit of any reported professional and technical service providers and their costs since it lacked any objective measure for expenditure significance.

MAEP School District Revenues and Expenditures

During FYs 1998-02, the state provided approximately $314.5 million to the public school districts for MAEP capital improvements, technology, instructional needs, and/or program managers. This amount included approximately $4.9 million in interest earned on approximately $309.6 million of state appropriated dollars.

Considering the school districts could use a combination of MAEP spending options, PEER determined that:

- 170 school districts spent approximately $216.4 million (69%) in interim or long term pledged funds

for new or existing debt service. The pledged amount of MAEP funds could be up to $160 per pupil.

- 104 school districts (68%) chose cash allotments, making it the most popular program funding option.

- 111 school districts (73%) spent $158.2 million on the long-term pledge option for State Aid Capital Improvement Bonds with pay off periods up to twenty years. This amount was the largest percentage of MAEP expenditures (50%).

MAEP Expenditures for Professional and Technical Services

From July 1, 1997, through October 31, 2001, the school districts reported spending at least $45.6 million in MAEP funds on professional and technical services, as defined in the State Auditor's *Financial Accounting Manual for Mississippi School Districts*. The districts paid 263 firms or individuals to provide professional or technical services in 31 service categories. Some of these firms received approximately $21.2 million in additional public education funds for services provided in other district programs during this period.

The categories of service providers receiving the largest amount of MAEP funds, ranked from highest to lowest, were: (1) architects, (2) attorneys, (3) engineers, (4) construction managers, and (5) architects/engineers. Based on MAEP revenues, the list of top ten service providers included eight architect firms, one law firm, and one construction firm. The architectural firm of Johnson, Bailey, Henderson, & McNeel Architects received the highest total MAEP payments from school districts (approximately $10.5 million).

Administrative Authority of The Mississippi Board of Education

PEER determined that at least one district intends to carry over MAEP funds to the next fiscal year. Because MISS. CODE ANN. Section 37-151-7 (1972) does not address whether carry over funds can or cannot be spent after June 30, 2002, the district is seeking permission from the Mississippi Board of Education to spend these funds in FY 2003 for instructional purposes.

Without commenting on the wisdom of a policy that allows local districts to carry over state funds, the interim program is supposed to conclude by statute on July 1, 2002. Such a policy raises serious questions regarding whether or not the Mississippi Board of Education can authorize a school board to carry over funds from a program that is to end at the close of this fiscal year.

Generally, when a statutory authorization for a program expires, the authority to expend funds under the program expires simultaneously.

MAEP Accounting System

The MAEP enabling legislation did not establish any special accounting requirements for the program. MDE used the existing school district accounting system to record the receipts and expenditures for MAEP funds. The department depended on the routine audit system of the State Auditor with a special MAEP compliance audit program to monitor school district compliance with state law.

PEER could not determine school district compliance with their approved long range plans and approved MAEP funding options due to the design of the financial accounting system. In this system, some school districts co-mingled MAEP funds with other school district funds, and MAEP expenditures were not recorded with a statutory spending option code. As a result, the accounting system for school districts cannot produce an annual financial management report that summarizes MAEP receipts and expenditures by spending option, in order to determine compliance with MDE-approved expenditures.

MAEP Audit Process

The State Auditor, working with the Mississippi Department of Education (MDE), established a State Legal Compliance Audit Plan for MAEP that would be accomplished during the annual district audits. The basic audit objectives of this program were to ensure that the school districts were complying with their MDE-approved MAEP Long Range Capital Expenditure Plans and were obtaining approval of the Mississippi Board of Education for any plan modifications prior to expending funds on them.

PEER determined that the state audit process had resulted in at least six of ninety-five audited school districts (6.3%) in FYs 1998-01 receiving findings for program deficiencies. These findings addressed improper project planning/supervision, failure to follow approved plan, incorrect crediting of earned MAEP interest, and the unapproved use of MAEP funds for payroll expenditures.

Recommendations

1. When enacting new programs for a specific purpose, with a designated lifespan (e.g., MAEP interim phase), the Legislature should mandate accounting controls necessary to provide a clear audit trail which may be used to determine whether funds were expended in accordance with program mandates.

   Further, in establishing any such program, the Legislature should designate a state agency to issue an annual report documenting program costs and accomplishments.

2. The Mississippi Department of Education should request an opinion from the State Attorney General to determine if the Mississippi Board of Education has the authority to authorize a school district to spend any unspent MAEP funds from FYs 1998-02 in FY 2003 and subsequent years.

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A Survey of Mississippi Adequate Education Program Revenues and Selected Expenditures

Introduction

Authority

The PEER Committee authorized a survey of Mississippi Adequate Education Program (MAEP) revenues and selected expenditures, pursuant to the authority granted by MISS. CODE ANN. Section 5-3-57 et seq. (1972).

Scope and Purpose

This survey focused on MAEP revenues and selected expenditures of public school districts during the program's five-year interim phase (FY 1998-October 31, 2001). Its purposes were to determine:

- the amount of MAEP revenues and expenditures during FYs 1998-02;
- the professional and technical service providers for MAEP and their costs; and,
- the other public education funds that were paid to the MAEP professional and technical service providers for services in other district programs.

PEER attempted to determine whether the school districts' MAEP fund expenditures complied with their Mississippi Department of Education (MDE)-approved expenditures for the five-year interim phase. However, PEER could not make this determination for the reasons discussed on pages 14-16.

The data contained herein is self-reported by the school districts and is presented for informational purposes only. PEER made no judgments about the worth or merit of any

reported professional and technical service providers and their costs.

Method

PEER Survey of Public School Districts

PEER surveyed 151 of 152 public school districts for MAEP revenue and expenditure fund codes, and fees paid to professional and technical service providers. PEER excluded one district from its survey because the State Auditor declared the district's records unauditable.

PEER followed up with the school districts to clarify and correct observed questionable and missing responses. PEER also standardized the data base nomenclature for the submitted professional and technical service categories and their names.

Other Information Sources

In addition to the survey, PEER:

- examined MDE annual school district expense reports; MDE policies, procedures, and documentation governing MAEP; state law; appropriation bills; and state Attorney General opinions;
- reviewed the Office of The State Auditor's financial accounting system for the school districts, his school district compliance audit program for MAEP, and audit reports for school districts; and,
- interviewed MAEP program and financial staff at MDE.

Background

In 1997, the Mississippi Legislature established the Mississippi Adequate Education Program (MAEP) (MISS. CODE ANN. Section 37-151-1 et seq (1972) in order to address local educational funding inequities among the state's public school districts. This program was to ensure that every school district, regardless of geographic location, would have sufficient funding to provide every student with a minimum adequate education (defined as at least Level III of the State Board of Education's accreditation system).

Beginning July 1, 2002, the MAEP formula for funding full operations of Mississippi's public school districts goes into effect. Based on a block grant approach, the new funding method gives districts the flexibility to determine the use of the state allocated funds within established state guidelines and district obligations. This program replaces the state's Minimum Foundation Program, which has been the state's major funding program for public education since the early 1950s.

Interim Phase of the Mississippi Adequate Education Program

State law required phasing in MAEP during FYs 1998-02 with increasing funding until full funding in FY 2003.

The legislature established a five-year interim phase-in period for MAEP during which districts would receive MAEP funds to address capital improvements, instructional needs, technology needs, and use of a program manager. Each district would receive annual fund allocations that were determined through a funding formula in MISS. CODE ANN. Section 37-151-7 (1972). During this interim phase, MAEP funds were placed in a fund called the Interim School District Capital Expenditure Fund.

MISS. CODE ANN. Section 37-151-7 (1972) required the Legislature to appropriate an increasing percentage of MAEP funds to the school districts in order to complete their MAEP Long Range Capital Expenditure Plans during FYs 1998-02. These funding percentages for the school districts' were FY 1998 (9.2%); FY 1999 (20%); FY 2000 (40%); FY 2001 (60%); and FY 2002 (80%). In FY 2003, the school districts were to receive 100% funding and the Interim School District Capital Expenditure Fund would be replaced with the State Adequate Education Program Fund.

The statutory formula for determining MAEP fund was changed for FY 2003 due to state budget constraints.

Using the established funding formula, the Legislature determined that MAEP would be under-funded approximately $60.0 million for FY 2003 during the budget appropriation process. As a result, fifty school districts would have received insufficient funds to maintain the level of FY 2002 educational

services and provide the required teacher pay raise.

Fifty school districts received insufficient funding for their FY 2003 MAEP plans and paying the teacher pay raise.

The Legislature passed Senate Bill 2969 in its 2002 Regular Session to change the MAEP funding formula for FY 2003 since this program was never intended to negatively affect the funding of any school district. This revised formula ensured that each school district received a guaranteed minimum adequate education program funding level in FY 2003 totaling at least the:

- FY 2002 state MAEP funds. These funds excluded funds for add-on programs, state Uniform Millage Assistance Grants, and textbook allocations.
- FY 2003 adequate education program funds for the teacher salary schedule that includes the teacher pay raise.
- FY 2003 pledged per pupil student amounts to pay off debt under other statutory school district authority and long term State Aid Capital Improvement Bonds, as discussed below on this page.

Funds for the fifty school districts came from the remaining one hundred two school districts.

The amended legislation also reduced the funding for the remaining 102 school districts whose full funding calculation exceeded the guaranteed minimum funding level discussed in the above paragraph. These district's excess funds would be reduced up to 21% and redistributed proportionately among the fifty districts receiving insufficient funds to meet their minimum funding levels.

State law defined the spending options for MAEP expenditures during FYs 1998-02.

Appendix A on pages 18-19 details MAEP interim phase expenditure options available to the school districts under MISS. CODE ANN. Section 37-151-7 (1972). Basically, the MAEP law allowed the districts to either receive the MAEP funds in cash allotments or irrevocably pledge up to $160.00 per pupil, per fiscal year, for long-term debt up to twenty years. If a school district chose the irrevocable pledge option, it has to budget and use this amount of funds every year to pay on this long term debt until it is paid off. These pledged funds could be used to pay all, a portion, or refinance new or existing debt under other state laws or new long-term State Aid Capital Improvement Bond debt. Expenditure options focused on:

- new or existing capital and related facilities, sewage, utilities, and land for these items;
- specified expenditures under other state laws governing school district expenditures;
- instructional and technology needs. The small allowance for instructional needs are authorized in order for the school district to meet state accreditation requirements; and,
- program managers.

Mississippi Board of Education Requirements for Receipt of MAEP Funds

The Board established program policies and procedures to manage MAEP in accordance with state law.

The Mississippi Board of Education established policies and procedures governing MAEP authorized expenditures and MAEP fund disbursements. Under Board policy, in order to receive these funds, each district had to submit for board approval a long-range capital expenditure plan with spending priorities for the various statutory funding options. Districts had to expend their MAEP funds in accordance with their approved plans and spending priorities.

Requirements for Reporting Data on Use of MAEP Funds

The Legislature created the Center for Education Analysis to provide annual reporting of MAEP accomplishments.

In 1998, the Mississippi Legislature established the Center for Education Analysis as a publicly funded advisory group attached to the Public Education Forum of Mississippi. The Center was to collect and disseminate data relating to public education, including the submission of annual reports to the Legislature and the Governor on the implementation of MAEP funding formula and the Interim School District Capital Expenditure Fund.

The law specifically required the Center for Education Analysis to include the following information in its annual reports:

- the amount of MAEP funds available to each school district during FYs 1998-02 compared to the amount of funds available in FY 2003;

- a listing of the school district facilities to be constructed, purchased, repaired, renovated, remodeled, or enlarged using MAEP funds, with designation of the nature of each such project as new construction, retrofitting/renovation, or site work and/or preparation;

- a listing, by individual project, of each completed capital improvement project using MAEP funds and the completion of any approved capital expenditure plan, to include:

  - total dimensions of each construction, renovation, or site preparation project;

  - total project cost in dollars;

  - project cost per square foot of newly constructed space;

- project cost per square foot of the principal structure affected by a renovation project;

- total cost of all furniture and equipment per project;

- total amount of non-construction fees per project;

- total of other costs associated with each project; and

- number of classrooms created and/or affected by the project.

- a listing of all State Aid Capital Improvement Bonds secured by MAEP funds issued by school districts and the capital improvements funded through such bond issue;

- a description of any other local bond issue proceeds combined with MAEP funds for capital improvement purposes;

- any other appropriate information relating to capital improvements by school districts as determined by the State Board of Education;

- an annual impact assessment of MAEP funding on school districts with less than a Level III accreditation; and,

- an annual impact assessment of teacher recruitment incentives on the employment of licensed teachers in critical teacher shortage geographic areas, including, but not limited to, all authorized incentive programs in House Bill No. 609, 1998 Regular Session, i.e., The Mississippi Critical Teacher Act of 1998.

The Center for Education Analysis did not submit reports for FYs 2001-02 due to no state funding.

The Center for Education Analysis submitted annual reports for FYs 1998-00 to the Legislature and the Governor. These reports were a compilation of self-reported school district information that addressed the statutory information. The Center did not perform any field verifications of the submitted district reports.

The state has no complete historical report with MAEP accomplishments and project cost for interim program.

The Legislature did not appropriate funds to the Center for Education Analysis in FYs 2001-02 due to budgetary constraints. Therefore, the Center did not prepare and submit reports for these two fiscal years since it would have been at their expense.

PEER Survey Results

PEER conducted a statewide survey of 151 public school districts in order to obtain information concerning their MAEP revenues and selected expenditures from FY 1998 through October 31, 2001. Specifically, PEER asked the school districts to report the:

- account fund code numbers and names used for MAEP revenues and expenditures in each survey year;
- professional and technical service firms, service category, and MAEP funds paid to them by fiscal year; and,
- amount of other school district funds paid to these MAEP professional and technical service providers , by fiscal year, e.g., district maintenance for general operations, sixteenth section land, or special education.

Appendix B on pages 20 through 24, this report, contains the reported MAEP professional and technical service providers by service category and total amounts paid to these providers from MAEP and other district funds. All survey revenues and expenditures included in the text of this report section are rounded, e.g., $314,505,107 is reported as $314.5 million.

Some school districts combined service provider costs due to state construction or professional service practices.

After analyzing the school district submissions and conducting follow-up discussions with most districts, PEER determined that some reported fees paid to providers included pass-through fees paid to other providers. For example, some of the reported fees paid to architects include payment of project engineering fees. This practice is in accordance with state construction contract practices published in the *Bureau of Building Procedure Manual* of the Mississippi Department of Finance and Administration. Also, some reported payments to attorneys included pass-through payments to service providers associated with bond issuance, such as a credit rating agency and the state bond attorney.

Some school districts did not report approximately $258,200 for credit rating agency and state bond attorney services.

To estimate the maximum possible impact of these pass-through payments to attorneys, PEER assumed that all districts that did not report credit rating or state bond attorney fees associated with a bond issue actually paid these expenses through their attorney fees. Using this method, the seventy-seven districts that reported no state bond attorney fees could have paid up to $38,500 in bond attorney fees to their attorneys (the state bond attorney charges a standard fee of $500 per bond issue).

To estimate credit agency fees for those districts not reporting such fees, PEER analyzed the size of bond issues and amount of credit agency fees paid by the forty-eight districts that separately reported credit agency fee payments. This method

resulted in an estimate of $219,700 in credit rating agency fees for the sixty-three districts reporting no credit rating agency fees paid.

MAEP School District Revenues and Expenditures

The state provided approximately $314.5 million to the public school districts for MAEP capital improvements, technological needs, instructional needs, and program managers during FYs 1998-02 with pledged debt service funds constituting approximately $216.4 million or 69% of the state expenditures.

The Legislature appropriated a total of $309.6 million for MAEP for FYs 1998-02. Between July 1997 and March 2002, interest earnings on these funds totaled $4.9 million, making a total of $314.5 million available to the state's school districts as of March 31, 2002.

As shown in Exhibit 1, page 9, MDE has disbursed $248.8 million of the $314.5 million in available state funds to the school districts. In accordance with state law, the remaining balance of $65.7 million must be requested, disbursed, and obligated no later than June 30, 2002. The MAEP Long Range Capital Expenditure Plans contain MDE-approved expenditure items for the monies in the Non-Disbursed Funds column.

Exhibit 1: FYs1998-02 MAEP Funds Approved for Disbursement to School Districts By MDE under The Mississippi Adequate Education Program (As of March 31, 2002)

Fiscal Year	MDE Disbursed MAEP Funds	Non-Disbursed MAEP Funds	Total MAEP Funds
1998	$11,248,922	$530,781	$11,779,703
1999	27,518,423	225,233	27,743,656
2000	58,587,026	2,220,398	60,807,424
2001	84,553,950	1,968,597	86,522,547
2002	66,939,358	60,712,419	127,651,777
Total	$248,847,679 79.1%	$65,657,428 20.9%	$314,505,107 100.0%

SOURCE: MDE Office of Financial Accountability Records.

MAEP Funding Options Used by the School Districts

While the majority of public school districts chose the cash allotment funding option (104 or 68% of the districts), the funding option accounting for the largest percentage of MAEP funds was the long-term pledge option ($158.2 million or 50% of total MAEP funds)

Exhibit 2, page 10 shows how the school districts budgeted the $314.5 million for the various MAEP funding options as discussed in Appendix A on pages 18 and 19. Considering the school districts could use a combination of MAEP spending options, this exhibit shows the most popular option for school districts was cash allotments (104 districts totaling $89.8 million), and the highest cost option was the long-term debt pledge to pay off State Aid Capital Improvement Bonds ($158.2 million for 111 districts).

Exhibit 2: FYs 1998-02 Appropriated Funding for MAEP Statutory Spending Options of School Districts (as of March 15, 2002)

Spending Option	Option Name	School Districts	MAEP Funds
1	Cash Allotment	104	$ 89,808,638
2	Interim Pledge	59	58,196,194
3A	Long-term Pledge (Hancock Bank)	94	142,790,908
3B	Long-term Pledge (School District)	17	15,382,590
4	Alternative Uses	46	8,326,777
Total		N/A	$314,505,107

SOURCE: MDE Office of Financial Accountability Records.

Note 1: Cash Allotment funds include the earned interest ($4,856,602) from the Interim School District Capital Expenditure Fund deposits and program manager funds. The interest was disbursed on a prorated share basis to each school district according to its percentage of the total funds earning interest.

Note 2: The "school district" column does not total 151 since a school district could spend MAEP funds in one or more spending option categories.

MAEP Expenditures for Professional and Technical Services

From July 1, 1997, through October 31, 2001, school districts spent at least $45.6 million in MAEP funds on professional and technical services.

The survey used the State Auditor's definitions for professional and technical services.

The State Auditor's *Financial Accounting Manual for Mississippi School District* defines professional and technical services as:

"...services that, by their nature, can be performed only by firms or persons with specialized skills and knowledge. While a product may or may not result from the transaction, the primary reason for the purchase is the service provided."

This accounting manual further describes professional and technical services, respectively, as:

> "*...services other than educational supporting the operation of the LEA (Local Educational Authority).*" Some examples are accountants, architects, attorneys, engineers, program manager, etc.
>
> "*...services which are not regarded as professional but require basic scientific knowledge, manual skills, or both.*" Some examples are credit rating, data processing, landscaping, and soil testing services.

MAEP funds were paid to 263 firms or individuals providing professional or technical services in 31 service categories.

Appendix B on pages 20 through 24 shows the MAEP and other district funds paid to each service provider within each service category. The data is presented in alphabetical order, by category of service provider (e.g., architects, attorneys).

The architectural firm of Johnson, Bailey, Henderson, & McNeel Architects received the highest total MAEP payments from school districts ($10.5 million). The construction manager company of Carothers Construction and the law firm of Adams & Reese received $2.7 million and $1.8 million, respectively.

The top ten firms in terms of MAEP expenditures included eight architect firms, one law firm, and one construction firm.

As shown in Exhibit 3 on page 12, the categories of service providers receiving the largest amount of MAEP funds, ranked from highest to lowest, were: (1) architects, (2) attorneys, (3) engineers, (4) construction managers, and (5) architects/engineers. This breakdown is not surprising, given the capital improvement project intensity of MAEP during its interim phase. MISS. CODE ANN. Section 73-13-45 (1972) required a registered professional architect or engineer to plan and supervise each building project, including renovations and repairs in excess of $50,000.

Exhibit 3: FYs 1998-02 School District Costs for MAEP Professional or Technical Service Categories (Ranked from Highest to Lowest Total Cost - as of October 31, 2001)

	Service Category	Service Firms	School Districts	MAEP Costs	Other District Costs	Total Cost
1	Architect	57	137	$33,334,651	$12,247,463	$45,582,114
2	Attorney	74	118	3,999,603	6,533,379	10,532,982
3	Engineer	61	63	2,307,363	634,880	2,942,243
4	Construction Manager	1	5	2,672,789	0	2,672,789
5	Architect/Engineer	2	4	1,323,577	958,807	2,282,384
6	Computer Services Consultant	5	3	306,807	210,242	517,049
7	Environmental Engineer	6	24	216,085	199,437	415,523
8	Program Manager	1	1	412,896	0	412,896
9	Geotechnical Engineer	5	12	131,132	151,721	282,854
10	Credit Rating Services	1	48	185,700	15,430	201,130
11	Environmental Consultant	1	1	89,439	108,963	198,402
12	Surveyor	12	11	74,620	99,135	173,755
13	Architect, Engineer, and Surveyor	1	2	108,274	5,498	113,771
14	Security Consultant	1	1	73,925	0	73,925
15	Asbestos Consultant	6	9	45,918	11,220	57,138
16	Engineer and Surveyor	4	7	50,026	3,720	53,746
17	Engineer/Landscape Architect	1	3	42,274	8,500	50,774
18	Financial Advisor	1	1	29,000	19,500	48,500
19	Computer Cabling Consultant	1	1	44,250	0	44,250
20	Real Estate Appraiser	10	8	16,932	16,931	33,863
21	Soil Testing	1	3	25,292	4,000	29,292
22	Auditor	1	1	250	27,866	28,116
23	State Bond Attorney	1	34	19,500	2,000	21,500
24	Educational Planning Consultant	1	1	3,886	16,726	20,612
25	Interior Designer	1	2	16,900	0	16,900
26	Arbitrator	1	1	14,700	0	14,700
27	Facility Planning Consultant	1	1	12,000	0	12,000
28	Investment Consultant	2	1	1,107	6,922	8,029
29	Architectural Services Provider	1	1	2,196	0	2,196
30	Accountant	1	1	500	0	500
31	Environmental Inspector	1	4	500	0	500
	Grand Total	263	N/A	$45,562,091 68.2%	$21,282,341 31.8%	$66,844,432 100.0%

SOURCE: MDE School District Surveys.

Administrative Authority of The Mississippi Board of Education

MDE plans to seek Mississippi Board of Education approval for at least one school district to expend some FY 2002 carry over MAEP funds in FY 2003, raising serious questions about administratively extending the spending authority of a program past its statutory date of program termination.

At least one local school board has adopted an FY 2003 budget that uses MAEP carry over funds for general operations.

PEER determined that at least one district intends to carry over FY 2002 interim funds to the next fiscal year. Because MISS. CODE ANN. Section 37-151-7 (1972) does not address whether carry over funds can or cannot be spent after June 30, 2002, the district is seeking permission from the Mississippi Board of Education to spend these funds in FY 2003 for instructional purposes.

School districts have historically co-mingled state and local district funds in their financial accounting practices.

According to MDE personnel, state assistance to local districts has historically been deposited to the district's maintenance fund for general operations. As a result, state funds are co-mingled with local funds without a clear audit trail to determine if funds remaining on hand at the end of a fiscal year are state or local funds. Thus, districts have probably carried over state funds between fiscal years without reauthorization from any entity other than the local school boards.

Serious questions exist concerning the Mississippi Board of Education's authority to authorize the use of MAEP carry over funds in FY 2003.

Without commenting on the wisdom of a policy that allows local districts to carry over state funds, the interim program is scheduled to conclude by statute on July 1, 2002. Such a policy raises serious questions regarding whether or not the Mississippi Board of Education can authorize a school board to carry over funds from a program that is to end at the close of this fiscal year. Generally, when a statutory authorization for a program expires, the authority to expend funds under the program expires simultaneously.

MAEP Financial Management System

The MAEP enabling legislation did not establish any special accounting requirements for the program. To account for the MAEP funds, the Mississippi Department of Education used the existing school district accounting system, while it depended on the routine audit system of the State Auditor including a special MAEP compliance audit program to monitor school district compliance with state law.

MAEP Accounting System

The accounting system for school districts cannot produce an annual financial management report that summarizes MAEP receipts and expenditures or determines compliance with MDE approved expenditures.

MDE used the existing school district accounting system and new policies and procedures to manage MAEP.

MDE instructed the school districts to use the established state accounting system for MAEP receipts and expenditures. MDE did establish and strictly enforce formal management action requirements for MAEP Long Range Capital Expenditure Plans, any plan modifications, and MAEP fund disbursements. In each case, the school district had to obtain approval from its local board of education and the Mississippi Board of Education, respectively, for these MAEP actions. These formal approval requirements were necessary:

- to ensure that the school districts expended their MAEP funds only for legislatively authorized expenditures; and
- to provide an MDE management system for documenting MAEP projects and the amounts of necessary fund disbursements in each fiscal year.

MDE did not require any annual program or financial performance reports from the school districts.

MDE considered the legislated annual reports of the Center for Education Analysis to fulfill the "after-the-fact" reporting requirement for MAEP accomplishments discussed on pages 5-6. Therefore, the department did not require the school districts to provide any annual reports concerning the specifics of their completed capital improvement projects like the number of completed classrooms, gymnasiums, new schools, renovated schools, athletic facilities, the additional square footage of instructional areas, and their actual costs.

Some school districts did not accurately record MAEP revenues and expenditures in their accounting systems.

The school districts submitted annual expense reports with MAEP revenues or expenditures that did not either accurately match MDE-disbursed funds or contain some known program expenditures. For example, the 152 school districts recorded $184.3 million in MAEP revenues or $2.4 million more than MDE

disbursed to them for FYs 1998-01. However, they only recorded $80.3 million in specifically identified MAEP expenditures in their accounting systems. As a result, these expenditures excluded $98.5 million in MAEP funds that MDE paid directly to Hancock Bank for some districts' bond debt payments.

The accounting system for school districts does not include a program performance management reporting capability.

PEER could not determine school district compliance with their approved long range plans and approved MAEP funding options discussed in Appendix A on pages 18 and 19, because the financial accounting system for school districts could not produce the necessary MAEP information for program performance management. In this system, MAEP funds were not segregated from other school district funds and MAEP expenditures were not recorded by spending option.

MAEP Audit Process

The state audit process was used to determine school district compliance with MAEP law, policies, or procedures.

The State Auditor, working with MDE, established a State Legal Compliance Audit Plan for MAEP that would be accomplished during the annual district audits. The audit objectives of this plan were to determine if a district had:

- expended their MAEP funds in compliance with their approved long range plan and fund applications.
- followed the order of project priorities in its long range plan.
- hired a registered professional architect or engineer to supervise any project, including renovations and repairs in excess of $50,000. The fees paid from state funds could not exceed six percent of the project contract cost.
- received approval from the State Board of Education for any change in its long range plan or fund applications.
- received approval from the State Board of Education for any change in its fund applications that resulted in:
  - -- deviating from the original intended use of the facility;
  - -- reducing the number of instructional areas;
  - -- an actual bid price that exceeded the total estimated project cost by greater than five percent; or
  - -- a change in the financing method for a project.

Some school districts did not comply with MAEP law, policies, or procedures.

PEER reviewed the FYs 1998-01 school district audits at the State Auditor's website. They showed the following MAEP findings for six school districts (out of the approximately ninety-five districts (6.3%) that were audited):

- one renovation project ($75,000) without proper planning and supervision by a registered professional architect or engineer.
- work that did not follow its approved long range capital expenditure plan. Two districts had this finding with one district having this finding in two successive years.
- incorrect accounting adjustments for MAEP funds.
- incorrect crediting of earned MAEP interest to local district maintenance funds.
- the use of MAEP funds for unapproved payroll expenditures with only local school board approval.

The state audit process did not provide the necessary information for legislative or MDE oversight of the MAEP program.

The information in the school district audits is not sufficient for legislative oversight needs for MAEP. For example, the Legislature cannot obtain financial management information in a time frame that differs from the audited financial statements and assures it that the state-approved programs were achieved in the public school districts.

Recommendations

1. When enacting new programs for a specific purpose, with a designated lifespan (e.g., MAEP interim phase), the Legislature should mandate accounting controls necessary to provide a clear audit trail which may be used to determine whether funds were expended in accordance with program mandates.

   Further, in establishing any such program, the Legislature should designate a state agency to issue an annual report documenting program costs and accomplishments.

2. The Mississippi Department of Education should request an opinion from the State Attorney General to determine if the Mississippi Board of Education has the authority to authorize a school district to spend any unspent MAEP funds from FYs 1998-02 in FY 2003 and subsequent years.

Appendix A: MAEP Funding Options in MISS. CODE ANN. Section 37-151-7 (1972)

A. *Option 1 - Cash Allotments*: These allotments were disbursed to the school district and could be used to:

   1. Purchase, erect, repair, equip, remodel, or enlarge school buildings and related facilities and any land for them. The related facilities include gymnasiums, auditoriums, lunchrooms, vocational training buildings, libraries, school barns and garages for transportation vehicles, school athletic fields, and necessary facilities connected to them.

   2. Provide necessary water, light, heating, air conditioning, and sewerage facilities for school buildings, and any land for them.

   3. Pay debt service on existing capital improvement debt of the district or refinance outstanding district debt if such refinancing would result in an interest cost savings.

   MDE disbursed the funds for sub-paragraph 1 and 2 expenditures to the school district after the district received approval for its MAEP Long Range Capital Expenditure Plan and submitted an *Application for the Expenditure of MAEP Funds for a Capital Improvement Project* that the Mississippi Board of Education approved at its next meeting.

   MDE disbursed these funds for sub-paragraph 3 expenditures automatically to the school district when the Mississippi Board of Education approved the expenditure item as part of the districts' long range plan.

B. *Option 2 - Interim Pledge*: A school district could irrevocably pledge MAEP funds up to $160.00 per student to pay all or a portion of debt issued by the school districts under other current state laws. This debt was any legal document that a school district used to borrow money that had to be paid back to creditors within a specified period of time or to lease-purchase items specified in MISS. CODE ANN. Section 37-151-7 (5)(a through i). Some examples are a bond, lease-purchase contract, loan, mortgage, or note.

   MDE disbursed the funds monthly to the school district for the debt service payments when the Mississippi Board of Education approved the expenditure item on the districts' MAEP Long Range Capital Expenditure Plan. MAEP funds could only be used to pay this debt during FYs 1998-02. The authorized debt and their Mississippi Code Sections included:

   1. General obligation bonds (§37-59-1 through §37-59-45).

   2. Capital improvement loans (§37-59-101 through §37-59-115).

   3. Leased real or personal property facilities (§37-7-351 through §37-7-359).

   4. Transportation note (§37-41-89 through §37-41-99).

   5. Lease-Purchase of School Buildings (§37-7-301).

   6. Asbestos removal (§37-7-302).

7. School transportation equipment, school bus shops (erect and equip), and any land for them (§37-41-81).

8. Facility and equipment debt issued by agricultural high schools' board of supervisors (§37-27-65).
9. Lease-purchase contracts of agricultural high schools issued by its board of supervisors (§31-7-13).

10. Outstanding debt of a school district, if such pledge is pursuant to an approved written contract or resolution and contained in the minutes of the school district's board or board of supervisors.

C. *Option 3 - Long-term Pledge*: A school district could irrevocably pledge MAEP funds up to $160.00 per student to pay off long-term debt up to twenty years for the purposes described above in Cash Allotments and specified technology needs. MISS. CODE ANN. Section 37-151-7 (1972) defined these needs as:

> "*...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 school district had the option of servicing its own debt through periodic cash disbursements or allowing Hancock Bank to service the debt for a paying agent fee during the term of the debt. In this instance, MDE made semi-annual debt service payments to Hancock Bank in January and July for the ninety-four districts that chose this option.

MDE disbursed these pledged funds to the seventeen school districts servicing their own debt after the district received approval for its MAEP Long Range Capital Expenditure Plan and submitted an *Application for the Expenditure of MAEP Funds for a Capital Improvement Project* that the Mississippi Board of Education approved at its next meeting.

D. *Option 4 - Alternate Uses*: A school district could also expend up to 20% of its annual MAEP funds or $20,000.00, whichever was greater, for *technology needs*, as defined in Paragraph C, this exhibit, and *instructional purposes*, if the Mississippi Board of Education determined that such expenditures were needed for school district accreditation purposes.

MDE disbursed these funds monthly to the school district for the approved *technology needs* or *instructional need* when the Mississippi Board of Education approved the expenditure item on the districts' MAEP Long Range Capital Expenditure Plan. Any funds used for *technology needs* reduced the maximum amount of expenditures available for *instructional needs* on a "dollar for dollar" ratio.

E. *Option 5 - Program Manager*: A school district could use a Program Manager to manage its MAEP capital improvement program with MDE approval if the cost was more than $5.0 million. MDE disbursed these funds monthly to the school districts for program manager payments when the Mississippi Board of Education approved the expenditure item on the districts' MAEP Long Range Capital Expenditure Plan.

SOURCE: Mississippi Laws and MDE Policies and Procedures for MAEP

Appendix B: FYs 1998-02 School District Expenses for MAEP Professional and Technical Service Categories (as of October 31, 2001)

Category Numbers	Service Category	Service Provider	MAEP Funds	Other District Program Funds	Total Funds
1	Accountant	KPMG Peat Marwick, LLP	$500	$0	$500
		Total	$500	$0	$500
1	Arbitrator	Thomas Prewitt, PA	$14,700	$0	$14,700
		Total	$14,700	$0	$14,700
1	Architects	Albert & Associates	$656,437	$535,761	$1,192,198
2	Architects	Archer and Archer	181,377	77,566	258,943
3	Architects	Architects & Engineers & Assoc	82,171	0	82,171
4	Architects	Architects South, PA	73,875	0	73,875
5	Architects	Barnes Comish Deweese	78,654	0	78,654
6	Architects	Belinda Stewart Architects	78,803	0	78,803
7	Architects	C. E. Frazer	1,401	49,060	50,461
8	Architects	Carl, Frieler, Noble	204,425	35,253	239,679
9	Architects	Carter Computer & Blueprinting	1,310	0	1,310
10	Architects	Clemmer & Clark	39,175	190,498	229,673
11	Architects	Dale & Associates	176,790	252,821	429,612
12	Architects	Deborah G Hilton, AIA	2,553	0	2,553
13	Architects	Dickson, Tyson & Associates	963,418	634,903	1,598,320
14	Architects	Dunn & Associates	69,728	102,223	171,951
15	Architects	Duvall Decker Architects	8,833	184,443	193,276
16	Architects	Easom Architects	1,082,945	335,327	1,418,272
17	Architects	Eldridge & Associates	48,091	86,662	134,753
18	Architects	Eley Associates	92,126	139,342	231,467
19	Architects	Fleming & Associates	363,999	409,017	773,016
20	Architects	Foil Wyatt Architects and Planners	143,471	0	143,471
21	Architects	Guild Jaubert & Hardy	1,547,630	535,902	2,083,532
22	Architects	Henry & Sibley, Architects	58,179	40,613	98,792
23	Architects	Hobgood & Associates	258,793	10,760	269,552
24	Architects	James Lee & Associates	54,185	12,031	66,216
25	Architects	Joey Broome	8,970	10,323	19,293
26	Architects	Johnson, Bailey, Henderson & McNeel Architects	10,504,828	2,714,851	13,219,679
27	Architects	Jones-Zander, LTD	1,935,773	239,371	2,175,144
28	Architects	JH&H Architects	2,632,035	575,748	3,207,783
29	Architects	Kemp Associates	127,326	0	127,326
30	Architects	Kevin S. Fitzpatrick	72,352	23,146	95,498
31	Architects	Landry & Lewis Architects	2,714,144	544,641	3,258,785
32	Architects	Larry Bishop	275,928	143,557	419,485
33	Architects	Mangialardi Architect	76,592	0	76,592
34	Architects	McElroy Ward & Associates	3,558	3,317	6,875
35	Architects	Michael R. McMahan	116,699	34,424	151,123
36	Architects	Michael Reeves	153,781	2,929	156,710
37	Architects	Mills & Mills Architect	180,683	0	180,683
38	Architects	Oakman & Harvey AIA	249,016	16,320	265,337
39	Architects	Planning Concepts	162,070	30,778	192,848
40	Architects	Pryor & Morrow	1,121,948	462,334	1,584,282
41	Architects	Rosamond & Associates	863,785	0	863,785
42	Architects	Sam Mohon	12,622	0	12,622
43	Architects	Schaffer & Banner	578,327	166,745	745,072
44	Architects	Shaw Design	522,264	374,400	896,665
45	Architects	Simmons Associates	95,554	0	95,554
46	Architects	Slaughter, Allred & McNabb, P.A.	201,028	905,476	1,106,505
47	Architects	Staub Robinson Williams, Architects	678,553	163,936	842,489
48	Architects	Stone Architecture	238,710	72,784	311,494
49	Architects	The Henry Group, Inc	211,979	0	211,979
50	Architects	Thomas Shelton Jones Architects	464,943	61,092	526,035
51	Architects	Tompkins, Barron & Finley	1,028,537	1,333,668	2,362,205
52	Architects	Watkins & Cox Architects	63,675	235,817	299,491
53	Architects	Waycaster & Associates	285,942	139,267	425,208
54	Architects	Wenzel & Associates	529,164	143,696	672,860
55	Architects	William A. Easom	388,294	176,413	564,708
56	Architects	Williams & Associates	499,206	40,246	539,452
57	Architects	WFT Architects PA	67,996	0	67,996
		Total	$33,334,651	$12,247,463	$45,582,114
1	Architects/Engineers	Allen & Hoshall	$841,407	$614,079	$1,455,486
2		Cooke Douglass Farr Lemons/LTD Architects & Engineers	482,170	344,728	826,898
		Total	$1,323,577	$958,807	$2,282,384

SOURCES: MDE School District Surveys

Category Numbers	Service Category	Service Provider	MAEP Funds	Other District Program Funds	Total Funds
1	Architect/Engineer/Surveyor	AES Ltd	$108,274	$5,498	$113,771
		Total	$108,274	$5,498	$113,771
1	Architectural Support Services	Micro Printing & Blueprints	$2,196	$0	$2,196
		Total	$2,196	$0	$2,196
1	Asbestos Consultants	Abatement Contractors	$10,010	$0	$10,010
2	Asbestos Consultants	Albert Love	13,452	0	13,452
3	Asbestos Consultants	Asbestoes Abatement	8,400	0	8,400
4	Asbestos Consultants	Carter & Associates	5,725	6,980	12,705
5	Asbestos Consultants	Cinjon, Inc	338	0	338
6	Asbestos Consultants	Hazclean Corporation	7,993	4,240	12,233
		Total	$45,918	$11,220	$57,138
1	Attorneys	Adams & Reese	$1,816,561	$2,128,638	$3,945,199
2	Attorneys	Albert Necaise	48,800	54,271	103,071
3	Attorneys	Alford, Thomas & Kilgore	10,538	24,035	34,573
4	Attorneys	Allen, Allen, Boerner & Breeland	7,254	217,506	224,759
5	Attorneys	Balch & Bingham	82,751	158,401	241,152
6	Attorneys	Bobby Everett	5,250	15,037	20,287
7	Attorneys	Bradley & Dees	2,500	0	2,500
8	Attorneys	Butler, Snow, O'Mara, Stevens	14,693	0	14,693
9	Attorneys	Campbell, Delong, Hagwood & Wade	1,010	8,682	9,692
10	Attorneys	Carnathan & Malski	33,191	8,132	41,323
11	Attorneys	Caves & Caves	30,244	201,641	231,885
12	Attorneys	Charles Jim Beckett	10,000	56,891	66,891
13	Attorneys	Christopher & Sykes	15,000	49,000	64,000
14	Attorneys	Conrad Mord	27,975	0	27,975
15	Attorneys	Corporate Law Offices	9,750	115,993	125,743
16	Attorneys	Covington Law Office	14,298	0	14,298
17	Attorneys	Crosthwait Terney and Noble	599,486	92,146	691,632
18	Attorneys	D. Rook Moore, III	18,868	41,039	59,906
19	Attorneys	Dabbs	4,400	0	4,400
20	Attorneys	Danny L. Lowrey	15,000	0	15,000
21	Attorneys	Delgado Acosta & Wallace	42,000	0	42,000
22	Attorneys	Douglas Magee	5,976	0	5,976
23	Attorneys	Dunn, Webb, McEwen & Studdard	6,961	246,100	253,061
24	Attorneys	Edwards Storey Marshall & Helveston	54,046	79,267	133,312
25	Attorneys	Edwin Perry	10,000	0	10,000
26	Attorneys	Fox & Earwood	16,988	142,703	159,691
27	Attorneys	Fred Harrell, Jr.	34,999	421,799	456,798
28	Attorneys	Freeland & Freeland	2,066	78,214	80,280
29	Attorneys	Gerald & Brand	4,984	0	4,984
30	Attorneys	Gifford & Allred	18,341	79,892	98,232
31	Attorneys	Guy Gillespie	12,000	0	12,000
32	Attorneys	Harris Geno & Dunbar	41,624	0	41,624
33	Attorneys	Harvey Henderson	8,220	48,429	56,649
34	Attorneys	Henry J. Applewhite	7,758	51,347	59,105
35	Attorneys	Holcomb & Dunbar	147,174	41,635	188,809
36	Attorneys	Hood Law Office	9,150	14,082	23,232
37	Attorneys	Houston Law Office	13,075	65,260	78,335
38	Attorneys	J. B. VanSlyke, Jr.	13,300	166,085	179,385
39	Attorneys	J. Lane Greenlee	8,075	10,818	18,893
40	Attorneys	Jacks, Adams & Norquist	328	93,175	93,502
41	Attorneys	Jackson & Fenwick	3,660	14,600	18,260
42	Attorneys	James C. Simpson, Jr.	32,200	49,449	81,649
43	Attorneys	James E. Winfield	32,500	62,519	95,019
44	Attorneys	James R. Johnson	16,682	0	16,682
45	Attorneys	John A. Howell	945	0	945
46	Attorneys	John Gregory	5,000	0	5,000
47	Attorneys	Lewis & Miller	25,624	0	25,624
48	Attorneys	Lott, Franklin, Fonda & Flanagan	1,000	0	1,000
49	Attorneys	McAlpin Law Office	2,572	29,575	32,147
50	Attorneys	McTeer & Associates	3,656	37,704	41,360
51	Attorneys	Merkel & Cocke	14,004	0	14,004
52	Attorneys	Nettles & Rhea	7,694	0	7,694
53	Attorneys	Olen C. Bryant, Jr.	9,766	0	9,766
54	Attorneys	Phillip L. Tutor	7,500	23,433	30,933

SOURCES: MDE School District Surveys

Category Numbers	Service Category	Service Provider	MAEP Funds	Other District Program Funds	Total Funds
55	Attorneys	Pope & Pope	2,790	0	2,790
56	Attorneys	Price & Krohn, LLP	4,375	0	4,375
57	Attorneys	Rex F. Sanderson	13,903	39,709	53,612
58	Attorneys	Rex Gordon, Jr.	1,350	4,650	6,000
59	Attorneys	Robert Don Baker	160	0	160
60	Attorneys	Rodney Shands	14,463	0	14,463
61	Attorneys	Sanders & Associates	36,375	81,928	118,303
62	Attorneys	Shannon Clark	35,600	0	35,600
63	Attorneys	Steve Benvenutti	5,112	26,348	31,460
64	Attorneys	T. Jack Riley	12,320	40,660	52,980
65	Attorneys	Teller Chaney Hassell & Hopson	20,896	178,513	199,410
66	Attorneys	Teller, Martin, Chaney	12,909	63,449	76,358
67	Attorneys	Thomas Riley	7,705	2,852	10,557
68	Attorneys	Truly, Richard	12,650	19,500	32,150
69	Attorneys	Truly, Smith, Latham, & Kuehnle	15,658	74,976	90,634
70	Attorneys	Watkins Ludlam Winter & Stennis	326,648	571,394	898,042
71	Attorneys	Watson & Jernigan	2,500	178,314	180,814
72	Attorneys	William E. Andrews, III	28,247	214,584	242,831
73	Attorneys	Witherspoon & Compton	41,181	109,008	150,188
74	Attorneys	Zachary & Leggett	17,328	0	17,328
		Total	$3,999,603	$6,533,379	$10,532,982
1	Auditors	Day & Company	$250	$27,866	$28,116
		Auditors	$250	$27,866	$28,116
1	Computer Cabling Consultants	Network Cabling Solutions	$44,250	$0	$44,250
		Total	$44,250	$0	$44,250
1	Computer Services Consultants	Information Media Systems	$16,800	$79	$16,879
2	Computer Services Consultants	Microage Solutions	100	0	100
3	Computer Services Consultants	Nance Enterprises	284,607	210,163	494,770
4	Computer Services Consultants	Novell, Inc	1,000	0	1,000
5	Computer Services Consultants	Software Technology	4,300	0	4,300
		Total	$306,807	$210,242	$517,049
1	Construction Manager	Carothers Construction	$2,672,789	$0	$2,672,789
		Total	$2,672,789	$0	$2,672,789
1	Credit Rating Services	Standard & Poor's	$185,700	$15,430	$201,130
		Total	$185,700	$15,430	$201,130
1	Educational Planning Consultant	Preps, Inc	$3,886	$16,726	$20,612
		Total	$3,886	$16,726	$20,612
1	Engineers	A. M. Pitts Consulting	$1,850	$0	$1,850
2	Engineers	Aquaterra Engineering	21,475	0	21,475
3	Engineers	Arthur Cook & Associates	5,380	0	5,380
4	Engineers	Askew, Hargraves & Harcourt	15,273	15,655	30,928
5	Engineers	Atherton Consulting Engineers	58,830	0	58,830
6	Engineers	Batson & Brown	8,241	0	8,241
7	Engineers	Benchmark Engineering	1,300	3,465	4,765
8	Engineers	Browning, Inc	450	0	450
9	Engineers	Carpenter Engineering	465	0	465
10	Engineers	Carter Miller Associates	73,534	32,983	106,517
11	Engineers	Civiltech, Inc	16,901	0	16,901
12	Engineers	Clark, Geer, Latham	2,094	0	2,094
13	Engineers	Clearpoint Consultants	31,003	6,990	37,993
14	Engineers	Compton Engineering	46,234	41,486	87,719
15	Engineers	Continental Engineering	18,275	0	18,275
16	Engineers	Crosby & Associates	6,505	0	6,505
17	Engineers	Donald Cuevas	20,770	0	20,770
18	Engineers	Dungan Engineering	39,761	795	40,556
19	Engineers	E+Engineering	21,411	1,000	22,411
20	Engineers	Edwin Smith	7,906	0	7,906
21	Engineers	Elliott & Britt	8,784	0	8,784
22	Engineers	Engineering Consultants	300	2,185	2,485
23	Engineers	Engineering Plus	10,074	0	10,074
24	Engineers	Engineering Resource Group	201,229	51,409	252,638
25	Engineers	Environmental Consultants	920	0	920
26	Engineers	Environmental Control	41,368	0	41,368
27	Engineers	Eubank & Moore	1,235	0	1,235

SOURCES: MDE School District Surveys

Category Numbers	Service Category	Service Provider	MAEP Funds	Other District Program Funds	Total Funds
28	Engineers	Facility Engineers, Inc	525,051	208,081	733,132
29	Engineers	Foley & Assoc	5,500	0	5,500
30	Engineers	Gordin McCool	200,453	0	200,453
31	Engineers	Guest Consultants	33,261	124,505	157,766
32	Engineers	GEO Engineering	128,483	7,902	136,386
33	Engineers	Hooker Engineering	8,108	8,203	16,310
34	Engineers	Hubert Foley Jr & Associates	4,000	0	4,000
35	Engineers	IMS Engineers	121,603	0	121,603
36	Engineers	Jenkins Engineering	7,512	0	7,512
37	Engineers	Joe Sutherland, Jr.	1,500	1,710	3,210
38	Engineers	Lad Engineering	56,703	41,544	98,247
39	Engineers	McBride Engineering	28,725	0	28,725
40	Engineers	Miller Engineering	95,537	32,595	128,132
41	Engineers	Moody & Associates	9,493	0	9,493
42	Engineers	Myron James & Associates	10,518	0	10,518
43	Engineers	Neel-Schaffer Engineering	8,597	0	8,597
44	Engineers	Precision Engineering	7,800	0	7,800
45	Engineers	Pritchard Engineering	22,230	0	22,230
46	Engineers	Robert B. Eley, P.E.	7,725	0	7,725
47	Engineers	Robert Hawkins	25,363	0	25,363
48	Engineers	Rutter & Associates	12,489	865	13,354
49	Engineers	Shelby Consulting Services	17,200	0	17,200
50	Engineers	Shows, Dearman & Waites	3,600	0	3,600
51	Engineers	Southern Earth Sciences,Inc	3,617	0	3,617
52	Engineers	Spencer-Engineers, Inc	73,622	4,855	78,477
53	Engineers	Springer Engineering	36,920	16,873	53,793
54	Engineers	Thomas R. Dabbs	35,350	2,180	37,530
55	Engineers	Tucker Engineering	33,174	0	33,174
56	Engineers	Watkins & O'Gwynn	59,236	24,011	83,246
57	Engineers	Wayne Gardner	3,635	0	3,635
58	Engineers	William W Adams	2,888	0	2,888
59	Engineers	Williams Engineering	1,000	0	1,000
60	Engineers	Windsor Engineering	27,026	0	27,026
61	Engineers	Wolverton Engineering	27,877	5,589	33,466
		Total	$2,307,363	$634,880	$2,942,243
1	Engineers/Landscape Architects	Case & Associates	$42,274	$8,500	$50,774
		Total	$42,274	$8,500	$50,774
1	Engineers/Surveyors	Calvert Spradling	$14,302	$0	$14,302
2	Engineers/Surveyors	Dalhoff, Thomas, Daws	7,900	0	7,900
3	Engineers/Surveyors	Davis Engineering	6,854	0	6,854
4	Engineers/Surveyors	Robert B. Barnes, Civil Eng.	20,970	3,720	24,690
		Total	$50,026	$3,720	$53,746
1	Environmental Consultant	Advanced Environmental Consultants Inc	$89,439	$108,963	$198,402
		Total	$89,439	$108,963	$198,402
1	Environmental Engineers	Environmental Evaluation & Control	21,606	0	21,606
2	Environmental Engineers	Environmental Management Plus Inc	13,271	36,674	49,945
3	Environmental Engineers	Environmental Services	28,220	3,365	31,585
4	Environmental Engineers	ERG Environmental	15,850	9,765	25,615
5	Environmental Engineers	Pickering Environment Consultants Inc	13,950	33,668	47,618
6	Environmental Engineers	Power Management Control Inc	123,188	115,965	239,153
		Total	$216,085	$199,437	$415,523
1	Environmental Inspector	MS Department of Health	$500	$0	$500
		Total	$500	$0	$500
1	Facility Planning Consultant	Facility Program Management	$12,000	$0	$12,000
		Total	$12,000	$0	$12,000
1	Financial Advisor	Holley, Grubbs, Mitcham & Phillips	$29,000	$19,500	$48,500
		Total	$29,000	$19,500	$48,500
1	Geotechnical Engineers	Burns Cooley Dennis	$43,918	$6,942	$50,860
2	Geotechnical Engineers	Engineering Testing Service	19,593	0	19,593
3	Geotechnical Engineers	Geoscience Engineers	20,102	34,409	54,511
4	Geotechnical Engineers	Ladner Testing	42,400	84,266	126,666
5	Geotechnical Engineers	PSI, Inc	5,120	26,104	31,224
		Total	$131,132	$151,721	$282,854

SOURCES: MDE School District Surveys

Category Numbers	Service Category	Service Provider	MAEP Funds	Other District Program Funds	Total Funds
1	Interior Designer	Futch Design Assn	$16,900	$0	$16,900
		Total	$16,900	$0	$16,900
1	Investment Consultants	Ameristar Investment & Trust	$377	$907	$1,283
2	Investment Consultants	AmSouth Bank	730	6,016	6,746
		Total	$1,107	$6,922	$8,029
1	Program Manager	Johnson, Bailey, Henderson & McNeel Architects	$412,896	$0	$412,896
		Total	$412,896	$0	$412,896
1	Real Estate Appraisers	Brewer Appraisal	$3,000	$0	$3,000
2	Real Estate Appraisers	Charence A. Boone Agency	400	0	400
3	Real Estate Appraisers	Cobie Collins	1,500	0	1,500
4	Real Estate Appraisers	Dewey Knight	2,582	16,931	19,513
5	Real Estate Appraisers	Hal Fiser Agency	1,200	0	1,200
6	Real Estate Appraisers	J. D. Jordan & Co.	3,000	0	3,000
7	Real Estate Appraisers	Kirk Land Co	350	0	350
8	Real Estate Appraisers	Realty Valuation	3,000	0	3,000
9	Real Estate Appraisers	Reynolds Realty	1,600	0	1,600
10	Real Estate Appraisers	White & Frasier	300	0	300
		Total	$16,932	$16,931	$33,863
1	Security Consultant	Alarm-Tel Inc	$73,925	$0	$73,925
		Total	$73,925	$0	$73,925
1	Soil Testing Services	Geocon Laboratories	$25,292	$4,000	$29,292
		Total	$25,292	$4,000	$29,292
1	State Bond Attorney	State Bond Attorney	$19,500	$2,000	$21,500
		Total	$19,500	$2,000	$21,500
1	Surveyors	Chas. N. Clark Associates	$1,225	$0	$1,225
2	Surveyors	Flynt & Associates	22,412	11,695	34,107
3	Surveyors	Gary A. Burt & Associates	3,320	14,023	17,343
4	Surveyors	H. D. Lang	7,500	32,740	40,240
5	Surveyors	John W. Weilenman Jr	800	750	1,550
6	Surveyors	Larry Dixon	1,800	0	1,800
7	Surveyors	MapTech	2,800	0	2,800
8	Surveyors	Mears & Kirksey	22,075	1,500	23,575
9	Surveyors	Surveying Services	165	14,939	15,104
10	Surveyors	Tom L. Gregory	1,073	0	1,073
11	Surveyors	Williford, Gearhart & Knight	9,900	23,489	33,389
12	Surveyors	Wise Land Surveying	1,550	0	1,550
		Total	$74,620	$99,135	$173,755
		Grand Total	$45,562,091	$21,282,341	$66,844,432

NOTES

1 The Mississippi Adequate Education Program (MAEP) funds are the state appropriated funds used to pay for the state-approved expenditures of the school districts including new and existing debt obligations. They also include any local district maintenance fund expenditures for authorized items that were reimbursed with MAEP funds in accordance with statutory authority.

2 The Other District Program Funds are any local district funds that were paid to a professional and technical service provider who did MAEP work for the districts. These funds include federal, local district, and other state funds like the Public School Building Program

3 The fees for architects, attorneys, and engineers include a service fee plus reimbursable expenses for their program work. The attorney fees also included some professional and technical service fees of school districts issuing State Aid Capital Improvement Bonds.

4 The fees for some architects also include the engineering project costs which is in accordance with state construction contract policy and practices.

5 The *Financial Accounting Manual for Mississippi School Districts* defines professional and technical services a

"*...services that, by their nature, can be performed only by firms or persons with specialized skills and knowledge. While a product may or may not result from the transaction, the primary reason for the purchase is the service provided.*"

Professional services are further described as "*other than educational supporting the operation of the LEA (Local Educational Authority).*"

Technical services are further described as "*services which are not regarded as professional but require basic scientific knowledge, manual skills, or both.*"

SOURCES: MDE School District Surveys

STATE OF MISSISSIPPI
DEPARTMENT OF EDUCATION
Richard L. Thompson
State Superintendent of Education

June 24, 2002

Dr. Max Arinder, Director
Joint Legislative Committee on Performance
Evaluation and Expenditure Committee
P. O. Box 1204
Jackson, Mississippi 39215-1204

Dear Dr. Arinder:

Thank you for the opportunity to respond to the report on the Mississippi Adequate Education Program (MAEP) revenues and selected expenditures. The survey conducted by your staff was performed in a professional manner and brought to light several points. One key point questioned the authority for the State Board of Education to continue to approve expenditures for local school districts from the MAEP Interim School District Capital Expenditure Fund after June 30, 2002.

The Department of Education has always contended that MAEP funds earned during the phase in period should be allowed to carry over to following years. Following this line of reasoning we feel that the MAEP Interim School District Capital Expenditure Fund should continue and the monies residing in the fund should be available for the Department of Education to disburse to school districts after the phase in period ends. However, due to questions raised by PEER staff, the State Department of Education requested and received an Attorney General's opinion (copy attached). The opinion supports the availability of funds after June 30, 2002.

Again, thank you for the professional manner in which this review was conducted. If I may be of further assistance, please contact the Department.

Sincerely,

for Richard L. Thompson
State Superintendent of Education

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STATE OF MISSISSIPPI

OFFICE OF THE ATTORNEY GENERAL

MIKE MOORE
ATTORNEY GENERAL

OPINION
DIVISION

June 19, 2002

Richard L. Thompson, State Superintendent of Education
State of Mississippi Department of Education
Post Office Box 771
Jackson, Mississippi 39205

Re: Section 37-151-7

Dear Dr. Thompson:

OFFICIAL OPINION

Attorney General Mike Moore has received your request for an official opinion and has assigned it to me for research and reply. Your letter states:

> I write in order to obtain an opinion that may assist the State Board of Education in interpreting Senate Bill No. 2969, which amends Mississippi Code Ann. Section 37-151-7 subsection 5 as follows:
>
> > 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

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> 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 created in subsection (4). Until July 1, 2002, such money shall be used by school districts for the following purposes:

This statute states that the Interim School District Capital Expenditure Fund ("Fund") was established to distribute funds appropriated by the Legislature until such time that the Mississippi Adequate Education Program (MAEP) is fully funded. MAEP, in fact, is not fully funded for fiscal year 2003. Also, all funds earned during the MAEP. phase-in period can be used for any purpose set forth in the statute. Lastly, I think it is important to note that districts have been carrying forward MAEP. funds each year this Fund has been in existence. If a district did not expend its funds in a particular year, the district did not lose the funds.

OFFICIAL OPINION

Since the Mississippi Board of Education ("Board") approves each long-term plan submitted by the districts, thereby approving the method of expending money from this Fund, the following questions have been raised:

(1) May the Board continue to approve plans and expenditures from the Fund by the district?

(2) May the Mississippi Department of Education continue to disperse funds as required from the Interim School District Capital Expenditure Fund into Fiscal year 2003?

A prompt response to these questions would be greatly appreciated as fiscal year 2003 is upon us.

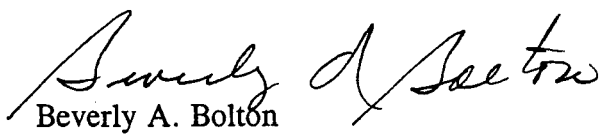
The legislature provided spending authority in House Bill 1803, the appropriations bill for the Mississippi Adequate Education Program ("MAEP") for the Fiscal Year 2003 which states in Section 6:

> Of the funds appropriated herein, an amount not more than Fifty Million Dollars ($50,000,000.00) shall be derived from the Interim School District Capital Expenditure Fund for the benefit of the school districts as authorized in Mississippi Annotated, Section 37-151-7 (5)

It is the opinion of this office that by including the above language in the MAEP appropriation bill, the Mississippi Legislature intended to continue the Interim School District Capital Expenditure Fund ("Fund") for the benefit of the school districts. Therefore, the Mississippi Board of Education may continue to approve plans and expenditures from the Fund by a school district and the Mississippi Department of Education has the authority continue to disperse funds as required from the Interim School District Capital Expenditure Fund into fiscal year 2003.

Sincerely,

MIKE MOORE, ATTORNEY GENERAL

By: 

Beverly A. Bolton
Special Assistant Attorney General

OFFICIAL OPINION

PEER Committee Staff

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James Barber, Deputy Director
Ted Booth, General Counsel

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