

By: Senator(s) Bryan

To: Education;
Appropriations

SENATE BILL NO. 2969
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,
2 TO PRESCRIBE THE STATE COST OF THE MISSISSIPPI ADEQUATE EDUCATION
3 PROGRAM FOR PURPOSES OF DETERMINING ALLOCATIONS TO SCHOOL
4 DISTRICTS IN FISCAL YEAR 2003; TO AMEND SECTIONS 37-151-95 AND
5 37-151-103, MISSISSIPPI CODE OF 1972, TO CLARIFY COST COMPONENTS
6 OF THE ADEQUATE EDUCATION PROGRAM FORMULA; TO AMEND SECTIONS
7 37-57-105 AND 37-57-107, MISSISSIPPI CODE OF 1972, TO CLARIFY THE
8 DELETION OF PROVISIONS RELATING TO THE REQUIRED MINIMUM PROGRAM
9 AND EQUITY FUNDING AD VALOREM TAX LEVY; TO REPEAL SECTIONS
10 37-19-20 AND 37-19-22, MISSISSIPPI CODE OF 1972, WHICH PROVIDE
11 CERTAIN ALLOCATIONS UNDER THE MINIMUM EDUCATION PROGRAM; TO AMEND
12 SECTION 37-61-33, MISSISSIPPI CODE OF 1972, TO CLARIFY THE USE OF
13 EDUCATION ENHANCEMENT FUNDS FOR THE PURCHASE OF TEXTBOOKS FOR
14 APPROVED NONPUBLIC SCHOOLS; TO AMEND SECTION 37-57-104,
15 MISSISSIPPI CODE OF 1972, TO CLARIFY THE APPLICATION OF REQUIRED
16 LOCAL CONTRIBUTIONS TO THE COST OF THE ADEQUATE EDUCATION PROGRAM
17 TO THE AD VALOREM TAX LIMITATION CAP; AND FOR RELATED PURPOSES.

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

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

21 37-151-7. The annual allocation to each school district for
22 the operation of the adequate education program shall be
23 determined as follows:

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

28 (a) **Determination of average daily attendance.** During
29 months two (2) and three (3) of the current school year, the
30 average daily attendance of a school district shall be computed,
31 or the average daily attendance for the prior school year shall be
32 used, whichever is greater. The district's average daily
33 attendance shall be computed and currently maintained in



34 accordance with regulations promulgated by the State Board of
35 Education.

36 (b) **Determination of base student cost.** The State
37 Board of Education, on or before August 1, with adjusted estimate
38 no later than January 2, shall annually submit to the Legislative
39 Budget Office and the Governor a proposed base student cost
40 adequate to provide the following cost components of educating a
41 pupil in an average school district meeting Level III
42 accreditation standards required by the Commission on School
43 Accreditation: (i) Instructional Cost; (ii) Administrative Cost;
44 (iii) Operation and Maintenance of Plant; and (iv) Ancillary
45 Support Cost. The department shall utilize a statistical
46 methodology which considers such factors as, but not limited to,
47 (i) school size; (ii) assessed valuation per pupil; (iii) the
48 percentage of students receiving free lunch; (iv) the local
49 district maintenance tax levy; (v) other local school district
50 revenues; and (vi) the district's accreditation level, in the
51 selection of the representative Mississippi school districts for
52 which cost information shall be obtained for each of the above
53 listed cost areas.

54 For the instructional cost component, the department shall
55 determine the instructional cost of each of the representative
56 school districts selected above, excluding instructional cost of
57 self-contained special education programs and vocational education
58 programs, and the average daily attendance in the selected school
59 districts. The instructional cost is then totaled and divided by
60 the total average daily attendance for the selected school
61 districts to yield the instructional cost component. For the
62 administrative cost component, the department shall determine the
63 administrative cost of each of the representative school districts
64 selected above, excluding administrative cost of self-contained
65 special education programs and vocational education programs, and
66 the average daily attendance in the selected school districts.



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

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



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

101 (d) **Adjustment to the base student cost for at-risk**
102 **pupils.** The amount to be included for at-risk pupil programs for
103 each school district shall be computed as follows: Multiply the
104 base student cost for the appropriate fiscal year as determined
105 under paragraph (b) by five percent (5%), and multiply that
106 product by the number of pupils participating in the federal free
107 school lunch program in such school district, which yields the
108 total adjustment for at-risk pupil programs for such school
109 district.

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

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

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

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

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

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



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

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

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

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

144 (f) **Total projected adequate education program cost.**
145 The total Mississippi Adequate Education Program Cost shall be the
146 sum of the total basic adequate education program cost (paragraph
147 (c)), and the adjustment to the base student cost for at-risk
148 pupils (paragraph (d)) for each school district.

149 (g) **Supplemental grant to school districts.** In
150 addition to the adequate education program grant, the State
151 Department of Education shall annually distribute an additional
152 amount as follows: Multiply the base student cost for the
153 appropriate fiscal year as determined under paragraph (b) by .13%
154 and multiply that product by the average daily attendance of each
155 school district. Such grant shall not be subject to the local
156 revenue requirement provided in subsection (2).

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



161 (a) The State Board of Education shall certify to each
162 school district that twenty-eight (28) mills, less the estimated
163 amount of the yield of the School Ad Valorem Tax Reduction Fund
164 grants as determined by the State Department of Education, is the
165 millage rate required to provide the district required local
166 effort for that year, or twenty-seven percent (27%) of the basic
167 adequate education program cost for such school district as
168 determined under subsection (c), whichever is a lesser amount. In
169 the case of an agricultural high school the millage requirement
170 shall be set at a level which generates an equitable amount per
171 pupil to be determined by the State Board of Education.

172 (b) The State Board of Education shall determine (i)
173 the total assessed valuation of nonexempt property for school
174 purposes in each school district; (ii) assessed value of exempt
175 property owned by homeowners aged sixty-five (65) or older or
176 disabled as defined in Section 27-33-67(2), Mississippi Code of
177 1972; (iii) the school district's tax loss from exemptions
178 provided to applicants under the age of sixty-five (65) and not
179 disabled as defined in Section 27-33-67(1), Mississippi Code of
180 1972; and (iv) the school district's homestead reimbursement
181 revenues.

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

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

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

192 (a) The required state effort in support of the
193 adequate education program shall be determined by subtracting the



194 sum of the required local tax effort as set forth in subsection
195 (2) (a) of this section and the other local revenue sources as set
196 forth in subsection (2) (c) of this section in an amount not to
197 exceed twenty-seven percent (27%) of the total projected adequate
198 education program cost as set forth in subsection (1) (f) of this
199 section from the total projected adequate education program cost
200 as set forth in subsection (1) (f) of this section.

201 (b) Provided, however, that in fiscal year 1998 and in
202 the fiscal year in which the adequate education program is fully
203 funded by the Legislature, any increase in the said state
204 contribution, including the supplemental grant to school districts
205 provided under subsection (1) (g), to any district calculated under
206 this section shall be not less than eight percent (8%) in excess
207 of the amount received by said district from state funds for the
208 fiscal year immediately preceding. For purposes of this paragraph
209 (b), state funds shall include minimum program funds less the
210 add-on programs, state Uniform Millage Assistance Grant funds,
211 Education Enhancement Funds appropriated for Uniform Millage
212 Assistance Grants and state textbook allocations, and State
213 General Funds allocated for textbooks.

214 (c) If the appropriation is less than full funding for
215 fiscal year 2003, allocations for state contributions to school
216 districts in support of the adequate education program will be
217 determined by the State Department of Education in the following
218 manner:

219 (i) Calculation of the full funding amount under
220 this chapter, with proportionate reductions as required by the
221 appropriation level.

222 (ii) Calculation of the amount equal to the state
223 funds allocated to school districts for fiscal year 2002 plus the
224 estimated amount to fund the adequate education program salary
225 schedule for fiscal year 2003. For purposes of this item (ii),
226 state funds shall be those described in paragraph (b) and an



227 amount equal to the allocation for the adequate education program
228 in fiscal year 2002, plus any additional amount required to
229 satisfy fiscal year 2003 pledges in accordance with paragraphs
230 (d), (e) and (f) of subsection (5) of this section. If a school
231 district's fiscal year 2003 pledge is different than the pledge
232 amount for fiscal year 2002, the district shall receive an amount
233 equal to the fiscal year 2003 pledge or the amount of funds
234 calculated under the adequate education formula for fiscal year
235 2002 before any pledge guarantee for fiscal year 2002, whichever
236 is greater. If the pledge is no longer in effect, the district
237 shall receive the amount of funds calculated under the formula for
238 fiscal year 2002 before any pledge guarantee for fiscal year 2002.

239 (iii) The portion of any district's allocation
240 calculated in item (i) of this paragraph which exceeds amounts as
241 calculated in item (ii) shall be reduced by an amount not to
242 exceed twenty-one percent (21%). The amount of funds generated by
243 this reduction of funds shall be redistributed proportionately
244 among those districts receiving insufficient funds to meet the
245 amount calculated in item (ii). In no case may any district
246 receive funds in an amount greater than the amount that the
247 district would have received under full funding of the program for
248 fiscal year 2003.

249 (4) The State Adequate Education Program Fund is hereby
250 established in the State Treasury which shall be used to
251 distribute any funds specifically appropriated by the Legislature
252 to such fund, to school districts entitled to increased
253 allocations of state funds under the adequate education program
254 funding formula prescribed in Sections 37-151-3, 37-151-5 and
255 37-151-7 of this article. If the Legislature provides less funds
256 than the total state funds needed for support of such increased
257 allocations under the adequate education program, the State
258 Department of Education shall reduce all elements of the cost of
259 the adequate education program proportionately. Any such adequate



260 education program funds shall be transferred to the school
261 district maintenance fund of such district in the manner
262 prescribed in Section 37-19-47, Mississippi Code of 1972, and
263 shall be expended in the manner provided by law.

264 (5) The Interim School District Capital Expenditure Fund is
265 hereby established in the State Treasury which shall be used to
266 distribute any funds specifically appropriated by the Legislature
267 to such fund to school districts entitled to increased allocations
268 of state funds under the adequate education program funding
269 formula prescribed in Sections 37-151-3 through 37-151-7,
270 Mississippi Code of 1972, until such time as the said adequate
271 education program is fully funded by the Legislature. The
272 following percentages of the total state cost of increased
273 allocations of funds under the adequate education program funding
274 formula shall be appropriated by the Legislature into the Interim
275 School District Capital Expenditure Fund to be distributed to all
276 school districts under the formula: Nine and two-tenths percent
277 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
278 (20%) shall be appropriated in fiscal year 1999, forty percent
279 (40%) shall be appropriated in fiscal year 2000, sixty percent
280 (60%) shall be appropriated in fiscal year 2001, eighty percent
281 (80%) shall be appropriated in fiscal year 2002, and one hundred
282 percent (100%) shall be appropriated in fiscal year 2003 into the
283 State Adequate Education Program Fund created in subsection (4).
284 Until July 1, 2002, such money shall be used by school districts
285 for the following purposes:

286 (a) Purchasing, erecting, repairing, equipping,
287 remodeling and enlarging school buildings and related facilities,
288 including gymnasiums, auditoriums, lunchrooms, vocational training
289 buildings, libraries, school barns and garages for transportation
290 vehicles, school athletic fields and necessary facilities
291 connected therewith, and purchasing land therefor. Any such
292 capital improvement project by a school district shall be approved



293 by the State Board of Education, and based on an approved
294 long-range plan. The State Board of Education shall promulgate
295 minimum requirements for the approval of school district capital
296 expenditure plans.

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

300 (c) Paying debt service on existing capital improvement
301 debt of the district or refinancing outstanding debt of a district
302 if such refinancing will result in an interest cost savings to the
303 district.

304 (d) From and after October 1, 1997, through June 30,
305 1998, pursuant to a school district capital expenditure plan
306 approved by the State Department of Education, a school district
307 may pledge such funds until July 1, 2002, plus funds provided for
308 in paragraph (e) of this subsection (5) that are not otherwise
309 permanently pledged under such paragraph (e) to pay all or a
310 portion of the debt service on debt issued by the school district
311 under Sections 37-59-1 through 37-59-45, 37-59-101 through
312 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
313 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
314 issued by boards of supervisors for agricultural high schools
315 pursuant to Section 37-27-65, Mississippi Code of 1972, or
316 lease-purchase contracts entered into pursuant to Section 31-7-13,
317 Mississippi Code of 1972, or to retire or refinance outstanding
318 debt of a district, if such pledge is accomplished pursuant to a
319 written contract or resolution approved and spread upon the
320 minutes of an official meeting of the district's school board or
321 board of supervisors. It is the intent of this provision to allow
322 school districts to irrevocably pledge their Interim School
323 District Capital Expenditure Fund allotments as a constant stream
324 of revenue to secure a debt issued under the foregoing code
325 sections. To allow school districts to make such an irrevocable



326 pledge, the state shall take all action necessary to ensure that
327 the amount of a district's Interim School District Capital
328 Expenditure Fund allotments shall not be reduced below the amount
329 certified by the department or the district's total allotment
330 under the Interim Capital Expenditure Fund if fully funded, so
331 long as such debt remains outstanding.

332 (e) From and after October 1, 1997, through June 30,
333 1998, in addition to any other authority a school district may
334 have, any school district may issue State Aid Capital Improvement
335 Bonds secured in whole by a continuing annual pledge of any
336 Mississippi Adequate Education Program funds available to the
337 district, in an amount not to exceed One Hundred Sixty Dollars
338 (\$160.00) per pupil based on the latest completed average daily
339 attendance count certified by the department prior to the issuance
340 of the bonds. Such State Aid Capital Improvement Bonds may be
341 issued for the purposes enumerated in subsections (a), (b), (c)
342 and (g) of this section. Prior to issuing such bonds, the school
343 board of the district shall adopt a resolution declaring the
344 necessity for and its intention of issuing such bonds and
345 borrowing such money, specifying the approximate amount to be so
346 borrowed, how such money is to be used and how such indebtedness
347 is to be evidenced. Any capital improvement project financed with
348 State Aid Capital Improvement Bonds shall be approved by the
349 department, and based on an approved long-range plan. The State
350 Board of Education shall promulgate minimum requirements for the
351 approval of such school district capital expenditure plans. The
352 State Board of Education shall not approve any capital expenditure
353 plan for a pledge of funds under this paragraph unless it
354 determines (i) that the quality of instruction in such district
355 will not be reduced as a result of this pledge, and (ii) the
356 district has other revenue available to attain and maintain at
357 least Level III accreditation.



358 A district issuing State Aid Capital Improvement Bonds may
359 pledge for the repayment of such bonds all funds received by the
360 district from the state, in an amount not to exceed One Hundred
361 Sixty Dollars (\$160.00) per pupil in average daily attendance in
362 the school district as set forth above, and not otherwise
363 permanently pledged under paragraph (d) of this subsection or
364 under Section 37-61-33(2)(d), Mississippi Code of 1972. The
365 district's school board shall specify by resolution the amount of
366 state funds, which are being pledged by the district for the
367 repayment of the State Aid Capital Improvement Bonds. Once such a
368 pledge is made to secure the bonds, the district shall notify the
369 department of such pledge. Upon making such a pledge, the school
370 district may request the department which may agree to irrevocably
371 transfer a specified amount or percentage of the district's state
372 revenue pledged to repay the district's State Aid Capital
373 Improvement Bonds directly to a state or federally chartered bank
374 serving as a trustee or paying agent on such bonds for the payment
375 of all or portion of such State Aid Capital Improvement Bonds.
376 Such instructions shall be incorporated into a resolution by the
377 school board for the benefit of holders of the bonds and may
378 provide that such withholding and transfer of such other available
379 funds shall be made only upon notification by a trustee or paying
380 agent on such bonds that the amounts available to pay such bonds
381 on any payment date will not be sufficient. It is the intent of
382 this provision to allow school districts to irrevocably pledge a
383 certain, constant stream of revenue as security for State Aid
384 Capital Improvement Bonds issued hereunder. To allow school
385 districts to make such an irrevocable pledge, the state shall take
386 all action necessary to ensure that the amount of a district's
387 state revenues up to an amount equal to One Hundred Sixty Dollars
388 (\$160.00) per pupil as set forth above which have been pledged to
389 repay debt as set forth herein shall not be reduced so long as any
390 State Aid Capital Improvement Bonds are outstanding.



391 Any such State Aid Capital Improvement bonds shall mature as
392 determined by the district's school bond over a period not to
393 exceed twenty (20) years. Such bonds shall not bear a greater
394 overall maximum interest rate to maturity than that allowed in
395 Section 75-17-101, Mississippi Code of 1972. The further details
396 and terms of such bonds shall be as determined by the school board
397 of the district.

398 The provisions of this subsection shall be cumulative and
399 supplemental to any existing funding programs or other authority
400 conferred upon school districts or school boards. Debt of a
401 school district secured in whole by a pledge of revenue pursuant
402 to this section shall not be subject to any debt limitation.

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

407 This paragraph (e) shall stand repealed from and after June
408 30, 1998.

409 (f) As an alternative to the authority granted under
410 paragraph (e), a school district, in its discretion, may authorize
411 the State Board of Education to withhold an amount of the
412 district's adequate education program allotment equal to up to One
413 Hundred Sixty Dollars (\$160.00) per student in average daily
414 attendance in the district to be allocated to the State Public
415 School Building Fund to the credit of such school district. A
416 school district may choose the option provided under this
417 paragraph (e) or paragraph (f), but not both. In addition to the
418 grants made by the state pursuant to Section 37-47-9, a school
419 district shall be entitled to grants based on the allotments to
420 the State Public School Building Fund credited to such school
421 district under this paragraph. This paragraph (f) shall stand
422 repealed from and after June 30, 1998.



423 (g) The State Board of Education may authorize the
424 school district to expend not more than twenty percent (20%) of
425 its annual allotment of such funds or Twenty Thousand Dollars
426 (\$20,000.00), whichever is greater, for technology needs of the
427 school district, including computers, software,
428 telecommunications, cable television, interactive video, film
429 low-power television, satellite communications, microwave
430 communications, technology-based equipment installation and
431 maintenance, and the training of staff in the use of such
432 technology-based instruction. Any such technology expenditure
433 shall be reflected in the local district technology plan approved
434 by the State Board of Education under Section 37-151-17,
435 Mississippi Code of 1972.

436 (h) To the extent a school district has not utilized
437 twenty percent (20%) of its annual allotment for technology
438 purposes under paragraph (g), a school district may expend not
439 more than twenty percent (20%) of its annual allotment or Twenty
440 Thousand Dollars (\$20,000.00), whichever is greater, for
441 instructional purposes. The State Board of Education may
442 authorize a school district to expend more than said twenty
443 percent (20%) of its annual allotment for instructional purposes
444 if it determines that such expenditures are needed for
445 accreditation purposes.

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



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

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

463 **SECTION 2.** Section 37-151-95, Mississippi Code of 1972, is
464 amended as follows:

465 37-151-95. Adequate education program funds shall include
466 one hundred percent (100%) of the cost of the State and School
467 Employees' Life and Health Insurance Plan created under Article 7,
468 Chapter 15, Title 25, Mississippi Code of 1972, for all district
469 employees who work no less than twenty (20) hours during each week
470 and regular nonstudent school bus drivers employed by the
471 district.

472 Where the use of federal funding is allowable to defray, in
473 full or in part, the cost of participation in the insurance plan
474 by district employees who work no less than twenty (20) hours
475 during each week and regular nonstudent school bus drivers, whose
476 salaries are paid, in full or in part, by federal funds, the
477 allowance under this section shall be reduced to the extent of the
478 federal funding. Where the use of federal funds is allowable but
479 not available, it is the intent of the Legislature that school
480 districts contribute the cost of participation for such employees
481 from local funds, except that parent fees for child nutrition
482 programs shall not be increased to cover such cost.

483 The State Department of Education, in accordance with rules
484 and regulations established by the State Board of Education, may
485 withhold a school district's adequate education program funds for
486 failure of the district to timely report student, fiscal and
487 personnel data necessary to meet state and/or federal
488 requirements. The rules and regulations promulgated by the State



489 Board of Education shall require the withholding of adequate
490 education program funds for those districts that fail to remit
491 premiums, interest penalties and/or late charges under the State
492 and School Employees' Life and Health Insurance Plan.
493 Noncompliance with such rules and regulations shall result in a
494 violation of compulsory accreditation standards as established by
495 the State Board of Education and Commission on School
496 Accreditation.

497 **SECTION 3.** Section 37-151-103, Mississippi Code of 1972, is
498 amended as follows:

499 37-151-103. (1) Funds due each school district under the
500 terms of this chapter from the * * * Adequate Education Program
501 Fund shall be paid in the following manner: On the twenty-fifth
502 day of each month, or the next business date after that date,
503 there shall be paid to each school district by electronic funds
504 transfer one-twelfth (1/12) of the funds to which the district is
505 entitled from funds appropriated for the * * * Adequate Education
506 Program Fund. Provided, however, that in December said payments
507 shall be made on December 15th or the next business day after that
508 date.

509 Provided, however, that if the cash balance in the State
510 General Fund is not adequate on the due date to pay the amounts
511 due to all school districts in the state as determined by the
512 State Superintendent of Education, the State Fiscal Officer shall
513 not transfer said funds payable to any school district or
514 districts until money is available to pay the amount due to all
515 districts.

516 (2) Notwithstanding any provision of this chapter or any
517 other law requiring the number of children in average daily
518 attendance or the average daily attendance of transported children
519 to be determined on the basis of the preceding year, the State
520 Board of Education is hereby authorized and empowered to make
521 proper adjustments in allotments in cases where major changes in



522 the number of children in average daily attendance or the average
523 daily attendance of transported children occurs from one (1) year
524 to another as a result of changes or alterations in the boundaries
525 of school districts, the sending of children from one (1) county
526 or district to another upon a contract basis, the termination or
527 discontinuance of a contract for the sending of children from one
528 (1) county or district to another, a change in or relocation of
529 attendance centers, or for any other reason which would result in
530 a major decrease or increase in the number of children in average
531 daily attendance or the average daily attendance of transported
532 children during the current school year as compared with the
533 preceding year.

534 (3) In the event of an inordinately large number of
535 absentees in any school district as a result of epidemic, natural
536 disaster, or any concerted activity discouraging school
537 attendance, then in such event school attendance for the purposes
538 of determining average daily attendance under the adequate
539 education program shall be based upon the average daily attendance
540 for the preceding school year for such school district.

541 **SECTION 4.** Section 37-57-105, Mississippi Code of 1972, is
542 amended as follows:

543 37-57-105. (1) In addition to the taxes levied under
544 Section 37-57-1, the levying authority for the school district, as
545 defined in Section 37-57-1, upon receipt of a certified copy of an
546 order adopted by the school board of the school district
547 requesting an ad valorem tax effort in dollars for the support of
548 the school district, shall, at the same time and in the same
549 manner as other ad valorem taxes are levied, levy an annual ad
550 valorem tax in the amount fixed in such order upon all of the
551 taxable property of such school district, which shall not be less
552 than the millage rate certified by the State Board of Education as
553 the uniform minimum school district ad valorem tax levy for the
554 support of the adequate education program in such school district



555 under Section 37-57-1. Provided, however, that any school
556 district levying less than the uniform minimum school district ad
557 valorem tax levy on July 1, 1997, shall only be required to
558 increase its local district maintenance levy in four (4) mill
559 annual increments in order to attain such millage requirements.
560 In making such levy, the levying authority shall levy an
561 additional amount sufficient to cover anticipated delinquencies
562 and costs of collection so that the net amount of money to be
563 produced by such levy shall be equal to the amount which is
564 requested by said school board. The proceeds of such tax levy,
565 excluding levies for the payment of the principal of and interest
566 on school bonds or notes and excluding levies for costs of
567 collection, shall be placed in the school depository to the credit
568 of the school district and shall be expended in the manner
569 provided by law for the purpose of supplementing teachers'
570 salaries, extending school terms, purchasing furniture, supplies
571 and materials, and for all other lawful operating and incidental
572 expenses of such school district, funds for which are not provided
573 by adequate education program fund allotments.

574 The monies authorized to be received by school districts from
575 the School Ad Valorem Tax Reduction Fund pursuant to Section
576 37-61-35 shall be included as ad valorem tax receipts. The
577 levying authority for the school district, as defined in Section
578 37-57-1, shall reduce the ad valorem tax levy for such school
579 district in an amount equal to the amount distributed to such
580 school district from the School Ad Valorem Tax Reduction Fund each
581 calendar year pursuant to said Section 37-61-35. Such reduction
582 shall not be less than the millage rate necessary to generate a
583 reduction in ad valorem tax receipts equal to the funds
584 distributed to such school district from the School Ad Valorem Tax
585 Reduction Fund pursuant to Section 37-61-35. Such reduction shall
586 not be deemed to be a reduction in the aggregate amount of support
587 from ad valorem taxation for purposes of Section 37-19-11. The



588 millage levy certified by the State Board of Education as the
589 uniform minimum ad valorem tax levy or the millage levy that would
590 generate funds in an amount equal to a school district's district
591 entitlement, as defined in Section 37-22-1(2)(e), shall be subject
592 to the provisions of this paragraph.

593 In any county where there is located a nuclear generating
594 power plant on which a tax is assessed under Section 27-35-309(3),
595 such required levy and revenue produced thereby may be reduced by
596 the levying authority in an amount in proportion to a reduction in
597 the base revenue of any such county from the previous year. Such
598 reduction shall be allowed only if the reduction in base revenue
599 equals or exceeds five percent (5%). "Base revenue" shall mean
600 the revenue received by the county from the ad valorem tax levy
601 plus the revenue received by the county from the tax assessed
602 under Section 27-35-309(3) and authorized to be used for any
603 purposes for which a county is authorized by law to levy an ad
604 valorem tax. For purposes of determining if the reduction equals
605 or exceeds five percent (5%), a levy of millage equal to the prior
606 year's millage shall be hypothetically applied to the current
607 year's ad valorem tax base to determine the amount of revenue to
608 be generated from the ad valorem tax levy. For the purposes of
609 this section and Section 37-57-107, the portion of the base
610 revenue used for the support of any school district shall be
611 deemed to be the aggregate receipts from ad valorem taxes for the
612 support of any school district. This paragraph shall apply to
613 taxes levied for the 1987 fiscal year and for each fiscal year
614 thereafter. If the Mississippi Supreme Court or another court
615 finally adjudicates that the tax levied under Section 27-35-309(3)
616 is unconstitutional, then this paragraph shall stand repealed.

617 (2) When the tax is levied upon the territory of any school
618 district located in two (2) or more counties, the order of the
619 school board requesting the levying of such tax shall be certified
620 to the levying authority of each of the counties involved, and



621 each of the levying authorities shall levy the tax in the manner
622 specified herein. The taxes so levied shall be collected by the
623 tax collector of the levying authority involved and remitted by
624 the tax collector to the school depository of the home county to
625 the credit of the school district involved as provided above,
626 except that taxes for collection fees may be retained by the
627 levying authority for deposit into its general fund.

628 (3) The aggregate receipts from ad valorem taxes levied for
629 school district purposes, excluding collection fees, pursuant to
630 this section and Section 37-57-1 * * * shall be subject to the
631 increased limitation under Section 37-57-107; however, if the ad
632 valorem tax effort in dollars requested by the school district for
633 the fiscal year exceeds the next preceding fiscal year's ad
634 valorem tax effort in dollars by more than four percent (4%) but
635 not more than seven percent (7%), then the school board shall
636 publish notice thereof once each week for at least three (3)
637 consecutive weeks in a newspaper having general circulation in the
638 school district involved, with the first publication thereof to be
639 made not less than fifteen (15) days prior to the final adoption
640 of the budget by the school board. If at any time prior to said
641 adoption a petition signed by not less than twenty percent (20%)
642 or fifteen hundred (1500), whichever is less, of the qualified
643 electors of the school district involved shall be filed with the
644 school board requesting that an election be called on the question
645 of exceeding the next preceding fiscal year's ad valorem tax
646 effort in dollars by more than four percent (4%) but not more than
647 seven percent (7%), then the school board shall, not later than
648 the next regular meeting, adopt a resolution calling an election
649 to be held within such school district upon such question. The
650 election shall be called and held, and notice thereof shall be
651 given, in the same manner for elections upon the questions of the
652 issuance of the bonds of school districts, and the results thereof
653 shall be certified to the school board. The ballot shall contain



654 the language "For the School Tax Increase Over Four Percent (4%)"
655 and "Against the School Tax Increase Over Four Percent (4%)." If
656 a majority of the qualified electors of the school district who
657 voted in such election shall vote in favor of the question, then
658 the stated increase requested by the school board shall be
659 approved. For the purposes of this paragraph, the revenue sources
660 excluded from the increased limitation under Section 37-57-107
661 shall also be excluded from the limitation described herein in the
662 same manner as they are excluded under Section 37-57-107.

663 **SECTION 5.** Section 37-57-107, Mississippi Code of 1972, is
664 amended as follows:

665 37-57-107. Beginning with the tax levy for the 1997 fiscal
666 year and for each fiscal year thereafter, the aggregate receipts
667 from taxes levied for school district purposes pursuant to
668 Sections 37-57-105 and 37-57-1 shall not exceed the aggregate
669 receipts from those sources during any one (1) of the immediately
670 preceding three (3) fiscal years, as determined by the school
671 board, plus an increase not to exceed seven percent (7%). For the
672 purpose of this limitation, the term "aggregate receipts" when
673 used in connection with the amount of funds generated in a
674 preceding fiscal year shall not include excess receipts required
675 by law to be deposited into a special account * * *. The
676 additional revenue from the ad valorem tax on any newly
677 constructed properties or any existing properties added to the tax
678 rolls or any properties previously exempt which were not assessed
679 in the next preceding year may be excluded from the seven percent
680 (7%) increase limitation set forth herein. Taxes levied for
681 payment of principal of and interest on general obligation school
682 bonds issued heretofore or hereafter shall be excluded from the
683 seven percent (7%) increase limitation set forth herein. Any
684 additional millage levied to fund any new program mandated by the
685 Legislature shall be excluded from the limitation for the first
686 year of the levy and included within such limitation in any year



687 thereafter. For the purposes of this section, the term "new
688 program" shall include, but shall not be limited to, (a) the Early
689 Childhood Education Program required to commence with the
690 1986-1987 school year as provided by Section 37-21-7 and any
691 additional millage levied and the revenue generated therefrom,
692 which is excluded from the limitation for the first year of the
693 levy, to support the mandated Early Childhood Education Program
694 shall be specified on the minutes of the school board and of the
695 governing body making such tax levy; (b) any additional millage
696 levied and the revenue generated therefrom which shall be excluded
697 from the limitation for the first year of the levy, for the
698 purpose of generating additional local contribution funds required
699 for the adequate education program for the 2003 fiscal year and
700 for each fiscal year thereafter under Section 37-151-7(2); and (c)
701 any additional millage levied and the revenue generated therefrom
702 which shall be excluded from the limitation for the first year of
703 the levy, for the purpose of support and maintenance of any
704 agricultural high school which has been transferred to the
705 control, operation and maintenance of the school board by the
706 board of trustees of the community college district under
707 provisions of Section 37-29-272.

708 The seven percent (7%) increase limitation prescribed in this
709 section may be increased an additional amount only when the school
710 board has determined the need for additional revenues and has held
711 an election on the question of raising the limitation prescribed
712 in this section. The limitation may be increased only if
713 three-fifths (3/5) of those voting in the election shall vote for
714 the proposed increase. The resolution, notice and manner of
715 holding the election shall be as prescribed by law for the holding
716 of elections for the issuance of bonds by the respective school
717 boards. Revenues collected for the fiscal year in excess of the
718 seven percent (7%) increase limitation pursuant to an election
719 shall be included in the tax base for the purpose of determining



720 aggregate receipts for which the seven percent (7%) increase
721 limitation applies for subsequent fiscal years.

722 Except as otherwise provided for excess revenues generated
723 pursuant to an election, if revenues collected as the result of
724 the taxes levied for the fiscal year pursuant to this section and
725 Section 37-57-1 exceed the increase limitation, then it shall be
726 the mandatory duty of the school board of the school district to
727 deposit such excess receipts over and above the increase
728 limitation into a special account and credit it to the fund for
729 which the levy was made. It will be the further duty of such
730 board to hold said funds and invest the same as authorized by law.
731 Such excess funds shall be calculated in the budgets for the
732 school districts for the purpose for which such levies were made,
733 for the succeeding fiscal year. Taxes imposed for the succeeding
734 year shall be reduced by the amount of excess funds available.
735 Under no circumstances shall such excess funds be expended during
736 the fiscal year in which such excess funds are collected.

737 For the purposes of determining ad valorem tax receipts for a
738 preceding fiscal year under this section, the term "fiscal year"
739 means the fiscal year beginning October 1 and ending September 30.

740 **SECTION 6.** Sections 37-19-20 and 37-19-22, Mississippi Code
741 of 1972, which provide certain allocations under the Minimum
742 Education Program, are hereby repealed.

743 **SECTION 7.** Section 37-61-33, Mississippi Code of 1972, is
744 amended as follows:

745 **[Until July 1, 2002, this section reads as follows:]**

746 37-61-33. (1) There is created within the State Treasury a
747 special fund to be designated the "Education Enhancement Fund"
748 into which shall be deposited all the revenues collected pursuant
749 to Sections 27-65-75(7) and (8) and 27-67-31(a) and (b).

750 (2) Of the amount deposited into the Education Enhancement
751 Fund, Sixteen Million Dollars (\$16,000,000.00) shall be
752 appropriated each fiscal year to the State Department of Education



753 to be distributed to all school districts. Such money shall be
754 distributed to all school districts in the proportion that the
755 average daily attendance of each school district bears to the
756 average daily attendance of all school districts within the state
757 for the following purposes:

758 (a) Purchasing, erecting, repairing, equipping,
759 remodeling and enlarging school buildings and related facilities,
760 including gymnasiums, auditoriums, lunchrooms, vocational training
761 buildings, libraries, teachers' homes, school barns,
762 transportation vehicles (which shall include new and used
763 transportation vehicles) and garages for transportation vehicles,
764 and purchasing land therefor.

765 (b) Establishing and equipping school athletic fields
766 and necessary facilities connected therewith, and purchasing land
767 therefor.

768 (c) Providing necessary water, light, heating, air
769 conditioning and sewerage facilities for school buildings, and
770 purchasing land therefor.

771 (d) As a pledge to pay all or a portion of the debt
772 service on debt issued by the school district under Sections
773 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351
774 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302
775 and 37-41-81, or debt issued by boards of supervisors for
776 agricultural high schools pursuant to Section 37-27-65, if such
777 pledge is accomplished pursuant to a written contract or
778 resolution approved and spread upon the minutes of an official
779 meeting of the district's school board or board of supervisors.
780 The annual grant to such district in any subsequent year during
781 the term of the resolution or contract shall not be reduced below
782 an amount equal to the district's grant amount for the year in
783 which the contract or resolution was adopted. The intent of this
784 provision is to allow school districts to irrevocably pledge a
785 certain, constant stream of revenue as security for long-term



786 obligations issued under the code sections enumerated in this
787 paragraph or as otherwise allowed by law. It is the intent of the
788 Legislature that the provisions of this paragraph shall be
789 cumulative and supplemental to any existing funding programs or
790 other authority conferred upon school districts or school boards.
791 Debt of a district secured by a pledge of sales tax revenue
792 pursuant to this paragraph shall not be subject to any debt
793 limitation contained in the foregoing enumerated code sections.

794 (3) The remainder of the money deposited into the Education
795 Enhancement Fund shall be appropriated as follows:

796 (a) To the State Department of Education as follows:

797 (i) Eight and thirty-five one-hundredths percent
798 (8.35%) to be distributed to public school districts for the
799 support of educational programs authorized by law. The funds
800 distributed to the school districts under this item shall be in
801 the proportion that the average daily attendance of each school
802 district bears to the average daily attendance of all school
803 districts within the state;

804 (ii) Seven and ninety-seven one-hundredths percent
805 (7.97%) to assist the funding of transportation operations and
806 maintenance pursuant to Section 37-19-23;

807 (iii) Eight and twenty-six one-hundredths percent
808 (8.26%) to assist the funding of the Uniform Millage Assistance
809 Grant Program pursuant to Section 37-22-1; and

810 (iv) Nine and sixty-one one-hundredths percent
811 (9.61%), of which Four Million Six Hundred Thousand Dollars
812 (\$4,600,000.00) shall be allocated for classroom supplies,
813 instructional materials and equipment, including computers and
814 computer software, to be distributed to all school districts in
815 the proportion that the average daily attendance of each school
816 district bears to the average daily attendance of all school
817 districts within the state. Classroom supply funds shall not be
818 expended for administrative purposes. Local school districts



819 shall allocate classroom supply funds equally among all classroom
820 teachers in the school district. For purposes of this
821 subparagraph, "teacher" shall mean any employee of the school
822 board of a school district who is required by law to obtain a
823 teacher's license from the State Board of Education and who is
824 assigned to an instructional area of work as defined by the State
825 Department of Education, but shall not include a federally funded
826 teacher. Two (2) or more teachers may agree to pool their
827 classroom supply funds for the benefit of a school within the
828 district pursuant to the development of a spending plan that
829 supports the overall goals of the school which includes the type,
830 quantity and quality of such supplies, instructional materials,
831 equipment, computers or computer software. This plan shall be
832 submitted, in writing, to the school principal for approval.
833 Classroom supply funds allocated under this subparagraph shall
834 supplement, not replace, other local and state funds available for
835 the same purposes. School districts need not fully expend the
836 funds received under this subparagraph in the year in which they
837 are received, but such funds may be carried forward for
838 expenditure in any succeeding school year. The State Board of
839 Education shall develop and promulgate rules and regulations for
840 the administration of this subparagraph consistent with the above
841 criteria, with particular emphasis on allowing the individual
842 teachers to expend funds as they deem appropriate, with minimum
843 input from school principals. The remainder of the funds
844 appropriated to the State Department of Education under this item
845 shall be distributed to public school districts in the proportion
846 that the average daily attendance of each school district bears to
847 the average daily attendance of all school districts in the state
848 for the support of educational programs authorized by law;

849 (b) Twenty-two and nine one-hundredths percent (22.09%)
850 to the Board of Trustees of State Institutions of Higher Learning
851 for the purpose of supporting institutions of higher learning; and



852 (c) Fourteen and forty-one one-hundredths percent
853 (14.41%) to the State Board for Community and Junior Colleges for
854 the purpose of providing support to community and junior colleges.

855 (4) The amount remaining in the Education Enhancement Fund
856 after funds are distributed as provided in subsections (2) and (3)
857 of this section shall be disbursed as follows:

858 (a) Twenty-five Million Dollars (\$25,000,000.00) shall
859 be deposited into the Working Cash-Stabilization Reserve Fund
860 created pursuant to Section 27-103-203(1), until the balance in
861 such fund reaches the maximum balance of seven and one-half
862 percent (7-1/2%) of the General Fund appropriations in the
863 appropriate fiscal year. After the maximum balance in the Working
864 Cash-Stabilization Reserve Fund is reached, such money shall
865 remain in the Education Enhancement Fund to be appropriated in the
866 manner provided for in paragraph (b) of this subsection.

867 (b) The remainder shall be appropriated for other
868 educational needs.

869 (5) None of the funds appropriated pursuant to subsection
870 (3)(a) of this section shall be used to reduce the state's general
871 fund appropriation for the categories listed in an amount below
872 the following amounts:

873 (a) For subsection (3)(a)(i) of this section, Six
874 Million Three Hundred Thirty Thousand Nine Hundred Twenty Dollars
875 (\$6,330,920.00);

876 (b) For subsection (3)(a)(ii) of this section,
877 Thirty-six Million Seven Hundred Thousand Dollars
878 (\$36,700,000.00);

879 (c) For subsection (3)(a)(iii) of this section,
880 Twenty-one Million Four Hundred Thousand Dollars (\$21,400,000.00);
881 and

882 (d) For the aggregate of minimum program allotments
883 provided for in Chapter 19, Title 37, Mississippi Code of 1972, as



884 amended, excluding those funds for transportation as provided for
885 in subsection (5)(b) of this section.

886 **[From and after July 1, 2002, this section reads as follows:]**

887 37-61-33. (1) There is created within the State Treasury a
888 special fund to be designated the "Education Enhancement Fund"
889 into which shall be deposited all the revenues collected pursuant
890 to Sections 27-65-75(7) and (8) and 27-67-31(a) and (b).

891 (2) Of the amount deposited into the Education Enhancement
892 Fund, Sixteen Million Dollars (\$16,000,000.00) shall be
893 appropriated each fiscal year to the State Department of Education
894 to be distributed to all school districts. Such money shall be
895 distributed to all school districts in the proportion that the
896 average daily attendance of each school district bears to the
897 average daily attendance of all school districts within the state
898 for the following purposes:

899 (a) Purchasing, erecting, repairing, equipping,
900 remodeling and enlarging school buildings and related facilities,
901 including gymnasiums, auditoriums, lunchrooms, vocational training
902 buildings, libraries, teachers' homes, school barns,
903 transportation vehicles (which shall include new and used
904 transportation vehicles) and garages for transportation vehicles,
905 and purchasing land therefor.

906 (b) Establishing and equipping school athletic fields
907 and necessary facilities connected therewith, and purchasing land
908 therefor.

909 (c) Providing necessary water, light, heating, air
910 conditioning and sewerage facilities for school buildings, and
911 purchasing land therefor.

912 (d) As a pledge to pay all or a portion of the debt
913 service on debt issued by the school district under Sections
914 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351
915 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302
916 and 37-41-81, or debt issued by boards of supervisors for



917 agricultural high schools pursuant to Section 37-27-65, if such
918 pledge is accomplished pursuant to a written contract or
919 resolution approved and spread upon the minutes of an official
920 meeting of the district's school board or board of supervisors.
921 The annual grant to such district in any subsequent year during
922 the term of the resolution or contract shall not be reduced below
923 an amount equal to the district's grant amount for the year in
924 which the contract or resolution was adopted. The intent of this
925 provision is to allow school districts to irrevocably pledge a
926 certain, constant stream of revenue as security for long-term
927 obligations issued under the code sections enumerated in this
928 paragraph or as otherwise allowed by law. It is the intent of the
929 Legislature that the provisions of this paragraph shall be
930 cumulative and supplemental to any existing funding programs or
931 other authority conferred upon school districts or school boards.
932 Debt of a district secured by a pledge of sales tax revenue
933 pursuant to this paragraph shall not be subject to any debt
934 limitation contained in the foregoing enumerated code sections.

935 (3) The remainder of the money deposited into the Education
936 Enhancement Fund shall be appropriated as follows:

937 (a) To the State Department of Education as follows:

938 (i) Sixteen and sixty-one one-hundredths percent
939 (16.61%) to the cost of the adequate education program determined
940 under Section 37-151-7; of the funds generated by the percentage
941 set forth in this section for the support of the adequate
942 education program, one and one hundred seventy-eight
943 one-thousandths percent (1.178%) of the funds shall be
944 appropriated to be used by the State Department of Education for
945 the purchase of textbooks to be loaned under Sections 37-43-1
946 through 37-43-59 to approved nonpublic schools, as described in
947 Section 37-43-1. The funds to be distributed to each nonpublic
948 school shall be in the proportion that the average daily



949 attendance of each nonpublic school bears to the total average
950 daily attendance of all nonpublic schools;

951 (ii) Seven and ninety-seven one-hundredths percent
952 (7.97%) to assist the funding of transportation operations and
953 maintenance pursuant to Section 37-19-23; and

954 (iii) Nine and sixty-one one-hundredths percent
955 (9.61%) for classroom supplies, instructional materials and
956 equipment, including computers and computer software, to be
957 distributed to all school districts in the proportion that the
958 average daily attendance of each school district bears to the
959 average daily attendance of all school districts within the state.

960 It is the intent of the Legislature that all classroom teachers
961 shall be involved in the development of a spending plan that
962 addresses individual classroom needs and supports the overall
963 goals of the school regarding supplies, instructional materials,
964 equipment, computers or computer software under the provisions of
965 this subparagraph, including the type, quantity and quality of
966 such supplies, materials and equipment. This plan shall be
967 submitted to the school principal for approval. School districts
968 need not fully expend the funds received under this subparagraph
969 in the year in which they are received, but such funds may be
970 carried forward for expenditure in any succeeding school year;

971 (b) Twenty-two and nine one-hundredths percent (22.09%)
972 to the Board of Trustees of State Institutions of Higher Learning
973 for the purpose of supporting institutions of higher learning; and

974 (c) Fourteen and forty-one one-hundredths percent
975 (14.41%) to the State Board for Community and Junior Colleges for
976 the purpose of providing support to community and junior colleges.

977 (4) The amount remaining in the Education Enhancement Fund
978 after funds are distributed as provided in subsections (2) and (3)
979 of this section shall be disbursed as follows:

980 (a) Twenty-five Million Dollars (\$25,000,000.00) shall
981 be deposited into the Working Cash-Stabilization Reserve Fund



982 created pursuant to Section 27-103-203(1), until the balance in
983 such fund reaches the maximum balance of seven and one-half
984 percent (7-1/2%) of the General Fund appropriations in the
985 appropriate fiscal year. After the maximum balance in the Working
986 Cash-Stabilization Reserve Fund is reached, such money shall
987 remain in the Education Enhancement Fund to be appropriated in the
988 manner provided for in paragraph (b) of this subsection.

989 (b) The remainder shall be appropriated for other
990 educational needs.

991 (5) None of the funds appropriated pursuant to subsection
992 (3)(a) of this section shall be used to reduce the state's general
993 fund appropriation for the categories listed in an amount below
994 the following amounts:

995 (a) For subsection (3)(a)(ii) of this section,
996 Thirty-six Million Seven Hundred Thousand Dollars
997 (\$36,700,000.00);

998 (b) For the aggregate of minimum program allotments in
999 the 1997 fiscal year, formerly provided for in Chapter 19, Title
1000 37, Mississippi Code of 1972, as amended, excluding those funds
1001 for transportation as provided for in subsection (5)(a) in this
1002 section.

1003 **SECTION 8.** Section 37-57-104, Mississippi Code of 1972, is
1004 amended as follows:

1005 37-57-104. (1) Each school board shall submit to the
1006 levying authority for the school district a certified copy of an
1007 order adopted by the school board requesting an ad valorem tax
1008 effort in dollars for the support of the school district. The
1009 copy of the order shall be submitted by the school board when the
1010 copies of the school district's budget are filed with the levying
1011 authority pursuant to Section 37-61-9. Upon receipt of the school
1012 board's order requesting the ad valorem tax effort in dollars, the
1013 levying authority shall determine the millage rate necessary to
1014 generate funds equal to the dollar amount requested by the school



1015 board. For the purpose of calculating this millage rate, any
1016 additional amount that is levied pursuant to Section 37-57-105(1)
1017 to cover anticipated delinquencies and costs of collection or any
1018 amount that may be levied for the payment of the principal and
1019 interest on school bonds or notes shall be excluded from the
1020 limitation of fifty-five (55) mills provided for in subsection (2)
1021 of this section.

1022 (2) (a) Except as otherwise provided under paragraph (b) or
1023 (c) of this subsection, if the millage rate necessary to generate
1024 funds equal to the dollar amount requested by the school board is
1025 greater than fifty-five (55) mills, and if this millage rate is
1026 higher than the millage then being levied pursuant to the school
1027 board's order requesting the ad valorem tax effort for the
1028 currently existing fiscal year, then the levying authority shall
1029 call a referendum on the question of exceeding, during the next
1030 fiscal year, the then existing millage rate being levied for
1031 school district purposes. The referendum shall be scheduled for
1032 not more than six (6) weeks after the date on which the levying
1033 authority receives the school board's order requesting the ad
1034 valorem tax effort.

1035 When a referendum has been called, notice of the referendum
1036 shall be published at least five (5) days per week, unless the
1037 only newspaper published in the school district is published less
1038 than five (5) days per week, for at least three (3) consecutive
1039 weeks, in at least one (1) newspaper published in the school
1040 district. The notice shall be no less than one-fourth (1/4) page
1041 in size, and the type used shall be no smaller than eighteen (18)
1042 point and surrounded by a one-fourth-inch solid black border. The
1043 notice may not be placed in that portion of the newspaper where
1044 legal notices and classified advertisements appear. The first
1045 publication of the notice shall be made not less than twenty-one
1046 (21) days before the date fixed for the referendum, and the last
1047 publication shall be made not more than seven (7) days before that



1048 date. If no newspaper is published in the school district, then
1049 the notice shall be published in a newspaper having a general
1050 circulation in the school district. The referendum shall be held,
1051 as far as is practicable, in the same manner as other referendums
1052 and elections are held in the county or municipality. At the
1053 referendum, all registered, qualified electors of the school
1054 district may vote. The ballots used at the referendum shall have
1055 printed thereon a brief statement of the amount and purpose of the
1056 increased tax levy and the words "FOR INCREASING THE MILLAGE
1057 LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY
1058 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S
1059 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR
1060 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)
1061 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)
1062 MILLS." The voter shall vote by placing a cross (X) or checkmark
1063 (✓) opposite his choice on the proposition.

1064 If a majority of the registered, qualified electors of the
1065 school district who vote in the referendum vote in favor of the
1066 question, then the ad valorem tax effort in dollars requested by
1067 the school board shall be approved. However, if a majority of the
1068 registered, qualified electors who vote in the referendum vote
1069 against the question, the millage rate levied by the levying
1070 authority shall not exceed the millage then being levied pursuant
1071 to the school board's order requesting the ad valorem tax effort
1072 for the then currently existing fiscal year.

1073 Nothing in this subsection shall be construed to require any
1074 school district that is levying more than fifty-five (55) mills
1075 pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage
1076 rate to fifty-five (55) mills or less. Further, nothing in this
1077 subsection shall be construed to require a referendum in a school
1078 district where the requested ad valorem tax effort in dollars
1079 requires a millage rate of greater than fifty-five (55) mills but
1080 the requested dollar amount does not require any increase in the



1081 then existing millage rate. Further, nothing in this subsection
1082 shall be construed to require a referendum in a school district
1083 where, because of a decrease in the assessed valuation of the
1084 district, a millage rate of greater than fifty-five (55) mills is
1085 necessary to generate funds equal to the dollar amount generated
1086 by the ad valorem tax effort for the currently existing fiscal
1087 year.

1088 (b) Provided, however, that if a levying authority is
1089 levying in excess of fifty-five (55) mills on July 1, 1997, the
1090 levying authority may levy an additional amount not exceeding
1091 three (3) mills in the aggregate for the period beginning July 1,
1092 1997, and ending June 30, 2003, subject to the limitation on
1093 increased receipts from ad valorem taxes prescribed in Sections
1094 37-57-105 and 37-57-107.

1095 (c) If the levying authority for any school district
1096 lawfully has decreased the millage levied for school district
1097 purposes, but subsequently determines that there is a need to
1098 increase the millage rate due to a disaster in which the Governor
1099 has declared a disaster emergency or the President of the United
1100 States has declared an emergency or major disaster, then the
1101 levying authority may increase the millage levied for school
1102 district purposes up to an amount that does not exceed the millage
1103 rate in any one (1) of the immediately preceding ten (10) fiscal
1104 years without any referendum that otherwise would be required
1105 under this subsection.

1106 (3) If the millage rate necessary to generate funds equal to
1107 the dollar amount requested by the school board is equal to
1108 fifty-five (55) mills or less, but the dollar amount requested by
1109 the school board exceeds the next preceding fiscal year's ad
1110 valorem tax effort in dollars by more than four percent (4%), but
1111 not more than seven percent (7%) (as provided for under subsection
1112 (4) of this section), then the school board shall publish notice
1113 thereof at least five (5) days per week, unless the only newspaper



1114 published in the school district is published less than five (5)
1115 days per week, for at least three (3) consecutive weeks in a
1116 newspaper published in the school district. The notice shall be
1117 no less than one-fourth (1/4) page in size, and the type used
1118 shall be no smaller than eighteen (18) point and surrounded by a
1119 one-fourth-inch solid black border. The notice may not be placed
1120 in that portion of the newspaper where legal notices and
1121 classified advertisements appear. The first publication shall be
1122 made not less than fifteen (15) days before the final adoption of
1123 the budget by the school board. If no newspaper is published in
1124 the school district, then the notice shall be published in a
1125 newspaper having a general circulation in the school district. If
1126 at any time before the adoption of the budget a petition signed by
1127 not less than twenty percent (20%) or fifteen hundred (1500),
1128 whichever is less, of the registered, qualified electors of the
1129 school district is filed with the school board requesting that a
1130 referendum be called on the question of exceeding the next
1131 preceding fiscal year's ad valorem tax effort in dollars by more
1132 than four percent (4%), then the school board shall adopt, not
1133 later than the next regular meeting, a resolution calling a
1134 referendum to be held within the school district upon the
1135 question. The referendum shall be called and held, and notice
1136 thereof shall be given, in the same manner provided for in
1137 subsection (2) of this section. The ballot shall contain the
1138 language "FOR THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)" and
1139 "AGAINST THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)." If a
1140 majority of the registered, qualified electors of the school
1141 district who vote in the referendum vote in favor of the question,
1142 then the increase requested by the school board shall be approved.
1143 For the purposes of this subsection, the revenue sources excluded
1144 from the increase limitation under Section 37-57-107 also shall be
1145 excluded from the limitation described in this subsection in the
1146 same manner as they are excluded under Section 37-57-107.



1147 Provided, however, that any increases requested by the school
1148 board as a result of the required local contribution to the
1149 Mississippi Adequate Education Program, as certified to the local
1150 school district by the State Board of Education under Section
1151 37-151-7(2), Mississippi Code of 1972, shall not be subject to the
1152 four percent (4%) and/or seven percent (7%) tax increase
1153 limitations provided in this section.

1154 (4) If the millage rate necessary to generate funds equal to
1155 the dollar amount requested by the school board is equal to
1156 fifty-five (55) mills or less, but the dollar amount requested by
1157 the school board exceeds the seven percent (7%) increase
1158 limitation provided for in Section 37-57-107, the school board may
1159 exceed the seven percent (7%) increase limitation only after the
1160 school board has determined the need for additional revenues and
1161 three-fifths (3/5) of the registered, qualified electors voting in
1162 a referendum called by the levying authority have voted in favor
1163 of the increase. The notice and manner of holding the referendum
1164 shall be as prescribed in subsection (2) of this section for a
1165 referendum on the question of increasing the millage rate in
1166 school districts levying more than fifty-five (55) mills for
1167 school district purposes.

1168 (5) The aggregate receipts from ad valorem taxes levied for
1169 school district purposes pursuant to Sections 37-57-1 and
1170 37-57-105, excluding collection fees, additional revenue from the
1171 ad valorem tax on any newly constructed properties or any existing
1172 properties added to the tax rolls or any properties previously
1173 exempt which were not assessed in the next preceding year, and
1174 amounts received by school districts from the School Ad Valorem
1175 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject
1176 to the increase limitation under this section and Section
1177 37-57-107.



1178 (6) The school board shall pay to the levying authority all
1179 costs that are incurred by the levying authority in the calling
1180 and holding of any election under this section.

1181 (7) The provisions of this section shall not be construed to
1182 affect in any manner the authority of school boards to levy
1183 millage for the following purposes:

1184 (a) The issuance of bonds, notes and certificates of
1185 indebtedness, as authorized in Sections 37-59-1 through 37-59-45
1186 and Sections 37-59-101 through 37-59-115;

1187 (b) The lease of property for school purposes, as
1188 authorized under the Emergency School Leasing Authority Act of
1189 1986 (Sections 37-7-351 through 37-7-359);

1190 (c) The lease or lease-purchase of school buildings, as
1191 authorized under Section 37-7-301;

1192 (d) The issuance of promissory notes in the event of a
1193 shortfall of ad valorem taxes and/or revenue from local sources,
1194 as authorized under Section 27-39-333; and

1195 (e) The construction of school buildings outside the
1196 school district, as authorized under Section 37-7-401.

1197 Any millage levied for the purposes specified in this
1198 subsection shall be excluded from the millage limitations
1199 established under this section.

1200 **SECTION 9.** This act shall take effect and be in force from
1201 and after July 1, 2002.

