

By: Senator(s) Chaney

To: Education

SENATE BILL NO. 2964

1 AN ACT TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE REQUIRED LOCAL REVENUE TO SUPPORT THE MISSISSIPPI  
3 ADEQUATE EDUCATION PROGRAM; TO AMEND SECTIONS 37-57-1 AND  
4 37-57-104, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO, AND TO  
5 INCREASE THE CAP ON THE MILLAGE RATE OF SCHOOL AD VALOREM TAXES  
6 FOR THE SUPPORT OF LOCAL SCHOOL DISTRICTS; AND FOR RELATED  
7 PURPOSES.

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

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

11 37-151-7. The annual allocation to each school district for  
12 the operation of the adequate education program shall be  
13 determined as follows:

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

18 (a) **Determination of average daily attendance.** During  
19 months two (2) and three (3) of the current school year, the  
20 average daily attendance of a school district shall be computed,  
21 or the average daily attendance for the prior school year shall be  
22 used, whichever is greater. For purposes of this calculation,  
23 "current" school year shall mean the school year for which  
24 appropriations are made by the Legislature, and "prior" school  
25 year shall mean the school year immediately preceding the year for  
26 which appropriations are made by the Legislature. The district's  
27 average daily attendance shall be computed and currently  
28 maintained in accordance with regulations promulgated by the State  
29 Board of Education.

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

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

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

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

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

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

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

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

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

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

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

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

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

126                   (vii) University-based programs shall be the  
127 amount allocated to school districts for those university-based

128 programs for handicapped children as defined and provided for in  
129 Section 37-23-131 et seq., Mississippi Code of 1972.

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

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

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

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

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

156 (a) The State Board of Education shall certify to each  
157 school district that thirty-one (31) mills, less the estimated  
158 amount of the yield of the School Ad Valorem Tax Reduction Fund  
159 grants as determined by the State Department of Education, is the  
160 millage rate required to provide the district required local

161 effort for that year, or thirty percent (30%) of the basic  
162 adequate education program cost for such school district as  
163 determined under subsection (c), whichever is a greater amount.  
164 In the case of an agricultural high school the millage requirement  
165 shall be set at a level which generates an equitable amount per  
166 pupil to be determined by the State Board of Education.

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

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

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

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

187 (a) The required state effort in support of the  
188 adequate education program shall be determined by subtracting the  
189 sum of the required local tax effort as set forth in subsection  
190 (2)(a) of this section and the other local revenue sources as set  
191 forth in subsection (2)(c) of this section in an amount not to  
192 exceed thirty percent (30%) of the total projected adequate  
193 education program cost as set forth in subsection (1)(f) of this

194 section from the total projected adequate education program cost  
195 as set forth in subsection (1)(f) of this section.

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

209 (c) If the appropriation is less than full funding for  
210 fiscal year 2003, allocations for state contributions to school  
211 districts in support of the adequate education program will be  
212 determined by the State Department of Education in the following  
213 manner:

214 (i) Calculation of the full funding amount under  
215 this chapter, with proportionate reductions as required by the  
216 appropriation level.

217 (ii) Calculation of the amount equal to the state  
218 funds allocated to school districts for fiscal year 2002 plus the  
219 estimated amount to fund the adequate education program salary  
220 schedule for fiscal year 2003. For purposes of this item (ii),  
221 state funds shall be those described in paragraph (b) and an  
222 amount equal to the allocation for the adequate education program  
223 in fiscal year 2002, plus any additional amount required to  
224 satisfy fiscal year 2003 pledges in accordance with paragraphs  
225 (d), (e) and (f) of subsection (5) of this section. If a school  
226 district's fiscal year 2003 pledge is different than the pledge

227 amount for fiscal year 2002, the district shall receive an amount  
228 equal to the fiscal year 2003 pledge or the amount of funds  
229 calculated under the adequate education formula for fiscal year  
230 2002 before any pledge guarantee for fiscal year 2002, whichever  
231 is greater. If the pledge is no longer in effect, the district  
232 shall receive the amount of funds calculated under the formula for  
233 fiscal year 2002 before any pledge guarantee for fiscal year 2002.

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

244 (d) If the school board of any school district shall  
245 determine that it is not economically feasible or practicable to  
246 operate any school within the district for the full one hundred  
247 eighty (180) days required for a school term of a scholastic year  
248 as required in Section 37-13-63, Mississippi Code of 1972, due to  
249 an enemy attack, a manmade, technological or natural disaster in  
250 which the Governor has declared a disaster emergency under the  
251 laws of this state or the President of the United States has  
252 declared an emergency or major disaster to exist in this state,  
253 said school board may notify the State Department of Education of  
254 such disaster and submit a plan for altering the school term. If  
255 the State Board of Education finds such disaster to be the cause  
256 of the school not operating for the contemplated school term and  
257 that such school was in a school district covered by the  
258 Governor's or President's disaster declaration, it may permit said  
259 school board to operate the schools in its district for less than



260 one hundred eighty (180) days and, in such case, the State  
261 Department of Education shall not reduce the state contributions  
262 to the adequate education program allotment for such district,  
263 because of the failure to operate said schools for one hundred  
264 eighty (180) days.

265 (4) If during the year for which adequate education program  
266 funds are appropriated, any school district experiences a three  
267 percent (3%) or greater increase in average daily attendance  
268 during the second and third month over the preceding year's second  
269 and third month, an additional allocation of adequate education  
270 program funds calculated in the following manner shall be granted  
271 to that district, using any additional funds available to the  
272 Department of Education that exceed the amount of funds due to the  
273 school districts under the basic adequate education program  
274 distribution as provided for in this chapter:

275 (a) Determine the percentage increase in average daily  
276 attendance for the second and third months of the year for which  
277 adequate education program funds are appropriated over the  
278 preceding year's second and third month average daily attendance.

279 (b) For those districts that have a three percent (3%)  
280 or greater increase as calculated in paragraph (a) of this  
281 subsection, multiply the total increase in students in average  
282 daily attendance for the second and third months of the year for  
283 which adequate education program funds are appropriated over the  
284 preceding year's second and third month average daily attendance  
285 times the base student cost used in the appropriation.

286 (c) Subtract the percentage of the district's local  
287 contribution arrived at in subsection (2) of this section from the  
288 amount calculated in paragraph (b) of this subsection. The  
289 remainder is the additional allocation in adequate education  
290 program funds for that district.

291 If the funds available to the Department of Education are not  
292 sufficient to fully fund the additional allocations to school

293 districts eligible for those allocations, then the department  
294 shall prorate the available funds among the eligible school  
295 districts, using the same percentage of the total funds that the  
296 school district would have received if the allocations were fully  
297 funded.

298 This subsection (4) shall stand repealed on July 1, 2004.

299 (5) The Interim School District Capital Expenditure Fund is  
300 hereby established in the State Treasury which shall be used to  
301 distribute any funds specifically appropriated by the Legislature  
302 to such fund to school districts entitled to increased allocations  
303 of state funds under the adequate education program funding  
304 formula prescribed in Sections 37-151-3 through 37-151-7,  
305 Mississippi Code of 1972, until such time as the said adequate  
306 education program is fully funded by the Legislature. The  
307 following percentages of the total state cost of increased  
308 allocations of funds under the adequate education program funding  
309 formula shall be appropriated by the Legislature into the Interim  
310 School District Capital Expenditure Fund to be distributed to all  
311 school districts under the formula: Nine and two-tenths percent  
312 (9.2%) shall be appropriated in fiscal year 1998, twenty percent  
313 (20%) shall be appropriated in fiscal year 1999, forty percent  
314 (40%) shall be appropriated in fiscal year 2000, sixty percent  
315 (60%) shall be appropriated in fiscal year 2001, eighty percent  
316 (80%) shall be appropriated in fiscal year 2002, and one hundred  
317 percent (100%) shall be appropriated in fiscal year 2003 into the  
318 State Adequate Education Program Fund created in subsection (4).  
319 Until July 1, 2002, such money shall be used by school districts  
320 for the following purposes:

321 (a) Purchasing, erecting, repairing, equipping,  
322 remodeling and enlarging school buildings and related facilities,  
323 including gymnasiums, auditoriums, lunchrooms, vocational training  
324 buildings, libraries, school barns and garages for transportation  
325 vehicles, school athletic fields and necessary facilities

326 connected therewith, and purchasing land therefor. Any such  
327 capital improvement project by a school district shall be approved  
328 by the State Board of Education, and based on an approved  
329 long-range plan. The State Board of Education shall promulgate  
330 minimum requirements for the approval of school district capital  
331 expenditure plans.

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

335 (c) Paying debt service on existing capital improvement  
336 debt of the district or refinancing outstanding debt of a district  
337 if such refinancing will result in an interest cost savings to the  
338 district.

339 (d) From and after October 1, 1997, through June 30,  
340 1998, pursuant to a school district capital expenditure plan  
341 approved by the State Department of Education, a school district  
342 may pledge such funds until July 1, 2002, plus funds provided for  
343 in paragraph (e) of this subsection (5) that are not otherwise  
344 permanently pledged under such paragraph (e) to pay all or a  
345 portion of the debt service on debt issued by the school district  
346 under Sections 37-59-1 through 37-59-45, 37-59-101 through  
347 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,  
348 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt  
349 issued by boards of supervisors for agricultural high schools  
350 pursuant to Section 37-27-65, Mississippi Code of 1972, or  
351 lease-purchase contracts entered into pursuant to Section 31-7-13,  
352 Mississippi Code of 1972, or to retire or refinance outstanding  
353 debt of a district, if such pledge is accomplished pursuant to a  
354 written contract or resolution approved and spread upon the  
355 minutes of an official meeting of the district's school board or  
356 board of supervisors. It is the intent of this provision to allow  
357 school districts to irrevocably pledge their Interim School  
358 District Capital Expenditure Fund allotments as a constant stream

359 of revenue to secure a debt issued under the foregoing code  
360 sections. To allow school districts to make such an irrevocable  
361 pledge, the state shall take all action necessary to ensure that  
362 the amount of a district's Interim School District Capital  
363 Expenditure Fund allotments shall not be reduced below the amount  
364 certified by the department or the district's total allotment  
365 under the Interim Capital Expenditure Fund if fully funded, so  
366 long as such debt remains outstanding.

367 (e) From and after October 1, 1997, through June 30,  
368 1998, in addition to any other authority a school district may  
369 have, any school district may issue State Aid Capital Improvement  
370 Bonds secured in whole by a continuing annual pledge of any  
371 Mississippi Adequate Education Program funds available to the  
372 district, in an amount not to exceed One Hundred Sixty Dollars  
373 (\$160.00) per pupil based on the latest completed average daily  
374 attendance count certified by the department prior to the issuance  
375 of the bonds. Such State Aid Capital Improvement Bonds may be  
376 issued for the purposes enumerated in subsections (a), (b), (c)  
377 and (g) of this section. Prior to issuing such bonds, the school  
378 board of the district shall adopt a resolution declaring the  
379 necessity for and its intention of issuing such bonds and  
380 borrowing such money, specifying the approximate amount to be so  
381 borrowed, how such money is to be used and how such indebtedness  
382 is to be evidenced. Any capital improvement project financed with  
383 State Aid Capital Improvement Bonds shall be approved by the  
384 department, and based on an approved long-range plan. The State  
385 Board of Education shall promulgate minimum requirements for the  
386 approval of such school district capital expenditure plans. The  
387 State Board of Education shall not approve any capital expenditure  
388 plan for a pledge of funds under this paragraph unless it  
389 determines (i) that the quality of instruction in such district  
390 will not be reduced as a result of this pledge, and (ii) the

391 district has other revenue available to attain and maintain at  
392 least Level III accreditation.

393 A district issuing State Aid Capital Improvement Bonds may  
394 pledge for the repayment of such bonds all funds received by the  
395 district from the state, in an amount not to exceed One Hundred  
396 Sixty Dollars (\$160.00) per pupil in average daily attendance in  
397 the school district as set forth above, and not otherwise  
398 permanently pledged under paragraph (d) of this subsection or  
399 under Section 37-61-33(2)(d), Mississippi Code of 1972. The  
400 district's school board shall specify by resolution the amount of  
401 state funds, which are being pledged by the district for the  
402 repayment of the State Aid Capital Improvement Bonds. Once such a  
403 pledge is made to secure the bonds, the district shall notify the  
404 department of such pledge. Upon making such a pledge, the school  
405 district may request the department which may agree to irrevocably  
406 transfer a specified amount or percentage of the district's state  
407 revenue pledged to repay the district's State Aid Capital  
408 Improvement Bonds directly to a state or federally chartered bank  
409 serving as a trustee or paying agent on such bonds for the payment  
410 of all or portion of such State Aid Capital Improvement Bonds.  
411 Such instructions shall be incorporated into a resolution by the  
412 school board for the benefit of holders of the bonds and may  
413 provide that such withholding and transfer of such other available  
414 funds shall be made only upon notification by a trustee or paying  
415 agent on such bonds that the amounts available to pay such bonds  
416 on any payment date will not be sufficient. It is the intent of  
417 this provision to allow school districts to irrevocably pledge a  
418 certain, constant stream of revenue as security for State Aid  
419 Capital Improvement Bonds issued hereunder. To allow school  
420 districts to make such an irrevocable pledge, the state shall take  
421 all action necessary to ensure that the amount of a district's  
422 state revenues up to an amount equal to One Hundred Sixty Dollars  
423 (\$160.00) per pupil as set forth above which have been pledged to

424 repay debt as set forth herein shall not be reduced so long as any  
425 State Aid Capital Improvement Bonds are outstanding.

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

433 The provisions of this subsection shall be cumulative and  
434 supplemental to any existing funding programs or other authority  
435 conferred upon school districts or school boards. Debt of a  
436 school district secured in whole by a pledge of revenue pursuant  
437 to this section shall not be subject to any debt limitation.

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

442 This paragraph (e) shall stand repealed from and after June  
443 30, 1998.

444 (f) As an alternative to the authority granted under  
445 paragraph (e), a school district, in its discretion, may authorize  
446 the State Board of Education to withhold an amount of the  
447 district's adequate education program allotment equal to up to One  
448 Hundred Sixty Dollars (\$160.00) per student in average daily  
449 attendance in the district to be allocated to the State Public  
450 School Building Fund to the credit of such school district. A  
451 school district may choose the option provided under this  
452 paragraph (e) or paragraph (f), but not both. In addition to the  
453 grants made by the state pursuant to Section 37-47-9, a school  
454 district shall be entitled to grants based on the allotments to  
455 the State Public School Building Fund credited to such school

456 district under this paragraph. This paragraph (f) shall stand  
457 repealed from and after June 30, 1998.

458 (g) The State Board of Education may authorize the  
459 school district to expend not more than twenty percent (20%) of  
460 its annual allotment of such funds or Twenty Thousand Dollars  
461 (\$20,000.00), whichever is greater, for technology needs of the  
462 school district, including computers, software,  
463 telecommunications, cable television, interactive video, film  
464 low-power television, satellite communications, microwave  
465 communications, technology-based equipment installation and  
466 maintenance, and the training of staff in the use of such  
467 technology-based instruction. Any such technology expenditure  
468 shall be reflected in the local district technology plan approved  
469 by the State Board of Education under Section 37-151-17,  
470 Mississippi Code of 1972.

471 (h) To the extent a school district has not utilized  
472 twenty percent (20%) of its annual allotment for technology  
473 purposes under paragraph (g), a school district may expend not  
474 more than twenty percent (20%) of its annual allotment or Twenty  
475 Thousand Dollars (\$20,000.00), whichever is greater, for  
476 instructional purposes. The State Board of Education may  
477 authorize a school district to expend more than said twenty  
478 percent (20%) of its annual allotment for instructional purposes  
479 if it determines that such expenditures are needed for  
480 accreditation purposes.

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

489 covered under this subsection shall be approved by the State  
490 Department of Education.

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

495 The provisions of this subsection (5) shall be cumulative and  
496 supplemental to any existing funding programs or other authority  
497 conferred upon school districts or school boards.

498 **SECTION 2.** Section 37-57-1, Mississippi Code of 1972, is  
499 amended as follows:

500 37-57-1. (1) (a) The boards of supervisors of the counties  
501 shall levy and collect all taxes for and on behalf of all school  
502 districts which were within the county school system or designated  
503 as special municipal separate school districts prior to July 1,  
504 1986. Such taxes shall be collected by the county tax collector  
505 at the same time and in the same manner as county taxes are  
506 collected by him, and the same penalties for delinquency shall be  
507 applicable.

508 The governing authorities of the municipalities shall levy  
509 and collect all taxes for and on behalf of all school districts  
510 which were designated as municipal separate school districts prior  
511 to July 1, 1986. Such taxes shall be collected by the municipal  
512 tax collector at the same time and in the same manner as municipal  
513 taxes are collected by him, and the same penalties for delinquency  
514 shall be applicable.

515 The county or municipal tax collector, as the case may be,  
516 shall pay such tax collections, except for taxes collected for the  
517 payment of the principal of and interest on school bonds or notes  
518 and except for taxes collected to defray collection costs, into  
519 the school depository and report to the school board of the  
520 appropriate school district at the same time and in the same



521 manner as the tax collector makes his payments and reports of  
522 other taxes collected by him.

523         Provided, however, the State Board of Education shall  
524 determine the appropriate levying authority for any school  
525 district created or reorganized after July 1, 1987.

526             (b) For the purposes of this chapter and any other laws  
527 pertaining to taxes levied or bonds or notes issued for and on  
528 behalf of school districts, the term "levying authority" means the  
529 board of supervisors of the county or the governing authorities of  
530 the municipality, whichever levies taxes for and on behalf of the  
531 particular school district as provided in paragraphs (a) and (b)  
532 of this subsection.

533             (2) The levying authority for the school district shall, at  
534 the same time and in the same manner as other taxes are levied by  
535 the levying authority, levy a tax of not less than thirty-one (31)  
536 mills for the then current fiscal year, less the estimated amount  
537 of the yield of the School Ad Valorem Tax Reduction Fund grant to  
538 the school district as determined by the State Department of  
539 Education or thirty percent (30%) of the basic adequate education  
540 program cost for such school district, whichever is a greater  
541 amount, upon all of the taxable property of the school district,  
542 as required under Section 37-151-7(2)(a). However, in no case  
543 shall the minimum local ad valorem tax effort for any school  
544 district be equal to an amount that would require a millage rate  
545 exceeding sixty (60) mills in that school district. Provided,  
546 however, that if a levying authority is levying in excess of sixty  
547 (60) mills on July 1, 2004, the levying authority may levy an  
548 additional amount not exceeding three (3) mills in the aggregate  
549 for the period beginning July 1, 2004, and ending June 30, 2010,  
550 subject to the limitation on increased receipts from ad valorem  
551 taxes prescribed in Sections 37-57-105 and 37-57-107. Nothing in  
552 this subsection shall be construed to require any school district  
553 that is levying more than sixty (60) mills pursuant to Sections

554 37-57-1 and 37-57-105 to decrease its millage rate to sixty (60)  
555 mills or less. In making such levy, the levying authority shall  
556 levy an additional amount sufficient to cover anticipated  
557 delinquencies and costs of collection so that the net amount of  
558 money to be produced by such levy shall be equal to the amount  
559 which the school district is required to contribute as its said  
560 minimum local ad valorem tax effort. The tax so levied shall be  
561 collected by the tax collector at the same time and in the same  
562 manner as other ad valorem taxes are collected by him. The amount  
563 of taxes so collected as a result of such levy shall be paid into  
564 the district maintenance fund of the school district by the tax  
565 collector at the same time and in the same manner as reports and  
566 payments of other ad valorem taxes are made by said tax collector,  
567 except that the amount collected to defray costs of collection may  
568 be paid into the county general fund. The levying authority shall  
569 have the power and authority to direct and cause warrants to be  
570 issued against such fund for the purpose of refunding any amount  
571 of taxes erroneously or illegally paid into such fund where such  
572 refund has been approved in the manner provided by law.

573 **SECTION 3.** Section 37-57-104, Mississippi Code of 1972, is  
574 amended as follows:

575 37-57-104. (1) Each school board shall submit to the  
576 levying authority for the school district a certified copy of an  
577 order adopted by the school board requesting an ad valorem tax  
578 effort in dollars for the support of the school district. The  
579 copy of the order shall be submitted by the school board when the  
580 copies of the school district's budget are filed with the levying  
581 authority pursuant to Section 37-61-9. Upon receipt of the school  
582 board's order requesting the ad valorem tax effort in dollars, the  
583 levying authority shall determine the millage rate necessary to  
584 generate funds equal to the dollar amount requested by the school  
585 board. For the purpose of calculating this millage rate, any  
586 additional amount that is levied pursuant to Section 37-57-105(1)

587 to cover anticipated delinquencies and costs of collection or any  
588 amount that may be levied for the payment of the principal and  
589 interest on school bonds or notes shall be excluded from the  
590 limitation of sixty (60) mills provided for in subsection (2) of  
591 this section.

592 (2) (a) Except as otherwise provided under paragraph (b) or  
593 (c) of this subsection, if the millage rate necessary to generate  
594 funds equal to the dollar amount requested by the school board is  
595 greater than sixty (60) mills, and if this millage rate is higher  
596 than the millage then being levied pursuant to the school board's  
597 order requesting the ad valorem tax effort for the currently  
598 existing fiscal year, then the levying authority shall call a  
599 referendum on the question of exceeding, during the next fiscal  
600 year, the then existing millage rate being levied for school  
601 district purposes. The referendum shall be scheduled for not more  
602 than six (6) weeks after the date on which the levying authority  
603 receives the school board's order requesting the ad valorem tax  
604 effort.

605 When a referendum has been called, notice of the referendum  
606 shall be published at least five (5) days per week, unless the  
607 only newspaper published in the school district is published less  
608 than five (5) days per week, for at least three (3) consecutive  
609 weeks, in at least one (1) newspaper published in the school  
610 district. The notice shall be no less than one-fourth (1/4) page  
611 in size, and the type used shall be no smaller than eighteen (18)  
612 point and surrounded by a one-fourth-inch solid black border. The  
613 notice may not be placed in that portion of the newspaper where  
614 legal notices and classified advertisements appear. The first  
615 publication of the notice shall be made not less than twenty-one  
616 (21) days before the date fixed for the referendum, and the last  
617 publication shall be made not more than seven (7) days before that  
618 date. If no newspaper is published in the school district, then  
619 the notice shall be published in a newspaper having a general

620 circulation in the school district. The referendum shall be held,  
621 as far as is practicable, in the same manner as other referendums  
622 and elections are held in the county or municipality. At the  
623 referendum, all registered, qualified electors of the school  
624 district may vote. The ballots used at the referendum shall have  
625 printed thereon a brief statement of the amount and purpose of the  
626 increased tax levy and the words "FOR INCREASING THE MILLAGE  
627 LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY  
628 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S  
629 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR  
630 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)  
631 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)  
632 MILLS." The voter shall vote by placing a cross (X) or checkmark  
633 (✓) opposite his choice on the proposition.

634 If a majority of the registered, qualified electors of the  
635 school district who vote in the referendum vote in favor of the  
636 question, then the ad valorem tax effort in dollars requested by  
637 the school board shall be approved. However, if a majority of the  
638 registered, qualified electors who vote in the referendum vote  
639 against the question, the millage rate levied by the levying  
640 authority shall not exceed the millage then being levied pursuant  
641 to the school board's order requesting the ad valorem tax effort  
642 for the then currently existing fiscal year.

643 Nothing in this subsection shall be construed to require any  
644 school district that is levying more than sixty (60) mills  
645 pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage  
646 rate to sixty (60) mills or less. Further, nothing in this  
647 subsection shall be construed to require a referendum in a school  
648 district where the requested ad valorem tax effort in dollars  
649 requires a millage rate of greater than sixty (60) mills but the  
650 requested dollar amount does not require any increase in the then  
651 existing millage rate. Further, nothing in this subsection shall  
652 be construed to require a referendum in a school district where,

653 because of a decrease in the assessed valuation of the district, a  
654 millage rate of greater than sixty (60) mills is necessary to  
655 generate funds equal to the dollar amount generated by the ad  
656 valorem tax effort for the currently existing fiscal year.

657 (b) Provided, however, that if a levying authority is  
658 levying in excess of sixty (60) mills on July 1, 2004, the levying  
659 authority may levy an additional amount not exceeding three (3)  
660 mills in the aggregate for the period beginning July 1, 2004, and  
661 ending June 30, 2010, subject to the limitation on increased  
662 receipts from ad valorem taxes prescribed in Sections 37-57-105  
663 and 37-57-107.

664 (c) If the levying authority for any school district  
665 lawfully has decreased the millage levied for school district  
666 purposes, but subsequently determines that there is a need to  
667 increase the millage rate due to a disaster in which the Governor  
668 has declared a disaster emergency or the President of the United  
669 States has declared an emergency or major disaster, then the  
670 levying authority may increase the millage levied for school  
671 district purposes up to an amount that does not exceed the millage  
672 rate in any one (1) of the immediately preceding ten (10) fiscal  
673 years without any referendum that otherwise would be required  
674 under this subsection.

675 (3) If the millage rate necessary to generate funds equal to  
676 the dollar amount requested by the school board is equal to sixty  
677 (60) mills or less, but the dollar amount requested by the school  
678 board exceeds the next preceding fiscal year's ad valorem tax  
679 effort in dollars by more than four percent (4%), but not more  
680 than seven percent (7%) (as provided for under subsection (4) of  
681 this section), then the school board shall publish notice thereof  
682 at least five (5) days per week, unless the only newspaper  
683 published in the school district is published less than five (5)  
684 days per week, for at least three (3) consecutive weeks in a  
685 newspaper published in the school district. The notice shall be

686 no less than one-fourth (1/4) page in size, and the type used  
687 shall be no smaller than eighteen (18) point and surrounded by a  
688 one-fourth-inch solid black border. The notice may not be placed  
689 in that portion of the newspaper where legal notices and  
690 classified advertisements appear. The first publication shall be  
691 made not less than fifteen (15) days before the final adoption of  
692 the budget by the school board. If no newspaper is published in  
693 the school district, then the notice shall be published in a  
694 newspaper having a general circulation in the school district. If  
695 at any time before the adoption of the budget a petition signed by  
696 not less than twenty percent (20%) or fifteen hundred (1500),  
697 whichever is less, of the registered, qualified electors of the  
698 school district is filed with the school board requesting that a  
699 referendum be called on the question of exceeding the next  
700 preceding fiscal year's ad valorem tax effort in dollars by more  
701 than four percent (4%), then the school board shall adopt, not  
702 later than the next regular meeting, a resolution calling a  
703 referendum to be held within the school district upon the  
704 question. The referendum shall be called and held, and notice  
705 thereof shall be given, in the same manner provided for in  
706 subsection (2) of this section. The ballot shall contain the  
707 language "FOR THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)" and  
708 "AGAINST THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)." If a  
709 majority of the registered, qualified electors of the school  
710 district who vote in the referendum vote in favor of the question,  
711 then the increase requested by the school board shall be approved.  
712 For the purposes of this subsection, the revenue sources excluded  
713 from the increase limitation under Section 37-57-107 also shall be  
714 excluded from the limitation described in this subsection in the  
715 same manner as they are excluded under Section 37-57-107.  
716 Provided, however, that any increases requested by the school  
717 board as a result of the required local contribution to the  
718 Mississippi Adequate Education Program, as certified to the local

719 school district by the State Board of Education under Section  
720 37-151-7(2), Mississippi Code of 1972, shall not be subject to the  
721 four percent (4%) and/or seven percent (7%) tax increase  
722 limitations provided in this section.

723 (4) If the millage rate necessary to generate funds equal to  
724 the dollar amount requested by the school board is equal to sixty  
725 (60) mills or less, but the dollar amount requested by the school  
726 board exceeds the seven percent (7%) increase limitation provided  
727 for in Section 37-57-107, the school board may exceed the seven  
728 percent (7%) increase limitation only after the school board has  
729 determined the need for additional revenues and three-fifths (3/5)  
730 of the registered, qualified electors voting in a referendum  
731 called by the levying authority have voted in favor of the  
732 increase. The notice and manner of holding the referendum shall  
733 be as prescribed in subsection (2) of this section for a  
734 referendum on the question of increasing the millage rate in  
735 school districts levying more than sixty (60) mills for school  
736 district purposes.

737 (5) The aggregate receipts from ad valorem taxes levied for  
738 school district purposes pursuant to Sections 37-57-1 and  
739 37-57-105, excluding collection fees, additional revenue from the  
740 ad valorem tax on any newly constructed properties or any existing  
741 properties added to the tax rolls or any properties previously  
742 exempt which were not assessed in the next preceding year, and  
743 amounts received by school districts from the School Ad Valorem  
744 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject  
745 to the increase limitation under this section and Section  
746 37-57-107.

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

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

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

756           (b) The lease of property for school purposes, as  
757 authorized under the Emergency School Leasing Authority Act of  
758 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

766           Any millage levied for the purposes specified in this  
767 subsection shall be excluded from the millage limitations  
768 established under this section.

769           **SECTION 4.** This act shall take effect and be in force from  
770 and after July 1, 2004.