

By: Senator(s) Chaney

To: Education

SENATE BILL NO. 2803

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. The district's average daily
23 attendance shall be computed and currently maintained in
24 accordance with regulations promulgated by the State Board of
25 Education.

26 (b) **Determination of base student cost.** The State
27 Board of Education, on or before August 1, with adjusted estimate
28 no later than January 2, shall annually submit to the Legislative
29 Budget Office and the Governor a proposed base student cost

30 adequate to provide the following cost components of educating a
31 pupil in an average school district meeting Level III
32 accreditation standards required by the Commission on School
33 Accreditation: (i) Instructional Cost; (ii) Administrative Cost;
34 (iii) Operation and Maintenance of Plant; and (iv) Ancillary
35 Support Cost. The department shall utilize a statistical
36 methodology which considers such factors as, but not limited to,
37 (i) school size; (ii) assessed valuation per pupil; (iii) the
38 percentage of students receiving free lunch; (iv) the local
39 district maintenance tax levy; (v) other local school district
40 revenues; and (vi) the district's accreditation level, in the
41 selection of the representative Mississippi school districts for
42 which cost information shall be obtained for each of the above
43 listed cost areas.

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

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

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

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

91 (d) **Adjustment to the base student cost for at-risk**
92 **pupils.** The amount to be included for at-risk pupil programs for
93 each school district shall be computed as follows: Multiply the
94 base student cost for the appropriate fiscal year as determined
95 under paragraph (b) by five percent (5%), and multiply that

96 product by the number of pupils participating in the federal free
97 school lunch program in such school district, which yields the
98 total adjustment for at-risk pupil programs for such school
99 district.

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

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

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

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

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

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

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

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

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

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

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

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

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

152 (a) The State Board of Education shall certify to each
153 school district that twenty-eight (28) mills, less the estimated
154 amount of the yield of the School Ad Valorem Tax Reduction Fund
155 grants as determined by the State Department of Education, is the
156 millage rate required to provide the district required local
157 effort for that year, or twenty-seven percent (27%) of the basic
158 adequate education program cost for such school district as
159 determined under paragraph (c), whichever is a greater amount. In
160 the case of an agricultural high school the millage requirement

161 shall be set at a level which generates an equitable amount per
162 pupil to be determined by the State Board of Education.

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

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

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

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

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

192 (b) Provided, however, that in fiscal year 1998 and in
193 the fiscal year in which the adequate education program is fully

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

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

210 (i) Calculation of the full funding amount under
211 this chapter, with proportionate reductions as required by the
212 appropriation level.

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

227 is greater. If the pledge is no longer in effect, the district
228 shall receive the amount of funds calculated under the formula for
229 fiscal year 2002 before any pledge guarantee for fiscal year 2002.

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

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

259 because of the failure to operate said schools for one hundred
260 eighty (180) days.

261 (4) If during the year for which adequate education program
262 funds are appropriated, any school district experiences a three
263 percent (3%) or greater increase in average daily attendance
264 during the second and third month over the preceding year's second
265 and third month and the school district has requested a minimum
266 increase of four percent (4%) in local ad valorem revenues over
267 the previous year as authorized in Sections 37-57-104 and
268 37-57-105, an additional allocation of adequate education program
269 funds calculated in the following manner shall be granted to that
270 district, using any additional funds available to the Department
271 of Education that exceed the amount of funds due to the school
272 districts under the basic adequate education program distribution
273 as provided for in this chapter:

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

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

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

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

292 districts eligible for those allocations, then the department
293 shall prorate the available funds among the eligible school
294 districts, using the same percentage of the total funds that the
295 school district would have received if the allocations were fully
296 funded. The State Department of Education shall study and develop
297 a report to the Chairmen of the Senate and House Committees on
298 Education by January 1, 2005, with options for legislative
299 consideration that will insure that the Mississippi Adequate
300 Education funds are distributed to school districts based on
301 current year student attendance or enrollment.

302 This subsection (4) shall stand repealed on July 1, 2006.

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

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

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

339 (c) Paying debt service on existing capital improvement
340 debt of the district or refinancing outstanding debt of a district
341 if such refinancing will result in an interest cost savings to the
342 district.

343 (d) From and after October 1, 1997, through June 30,
344 1998, pursuant to a school district capital expenditure plan
345 approved by the State Department of Education, a school district
346 may pledge such funds until July 1, 2002, plus funds provided for
347 in paragraph (e) of this subsection (5) that are not otherwise
348 permanently pledged under such paragraph (e) to pay all or a
349 portion of the debt service on debt issued by the school district
350 under Sections 37-59-1 through 37-59-45, 37-59-101 through
351 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
352 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
353 issued by boards of supervisors for agricultural high schools
354 pursuant to Section 37-27-65, Mississippi Code of 1972, or
355 lease-purchase contracts entered into pursuant to Section 31-7-13,
356 Mississippi Code of 1972, or to retire or refinance outstanding
357 debt of a district, if such pledge is accomplished pursuant to a

358 written contract or resolution approved and spread upon the
359 minutes of an official meeting of the district's school board or
360 board of supervisors. It is the intent of this provision to allow
361 school districts to irrevocably pledge their Interim School
362 District Capital Expenditure Fund allotments as a constant stream
363 of revenue to secure a debt issued under the foregoing code
364 sections. To allow school districts to make such an irrevocable
365 pledge, the state shall take all action necessary to ensure that
366 the amount of a district's Interim School District Capital
367 Expenditure Fund allotments shall not be reduced below the amount
368 certified by the department or the district's total allotment
369 under the Interim Capital Expenditure Fund if fully funded, so
370 long as such debt remains outstanding.

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

391 State Board of Education shall not approve any capital expenditure
392 plan for a pledge of funds under this paragraph unless it
393 determines (i) that the quality of instruction in such district
394 will not be reduced as a result of this pledge, and (ii) the
395 district has other revenue available to attain and maintain at
396 least Level III accreditation.

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

424 districts to make such an irrevocable pledge, the state shall take
425 all action necessary to ensure that the amount of a district's
426 state revenues up to an amount equal to One Hundred Sixty Dollars
427 (\$160.00) per pupil as set forth above which have been pledged to
428 repay debt as set forth herein shall not be reduced so long as any
429 State Aid Capital Improvement Bonds are outstanding.

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

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

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

446 This paragraph (e) shall stand repealed from and after June
447 30, 1998.

448 (f) As an alternative to the authority granted under
449 paragraph (e), a school district, in its discretion, may authorize
450 the State Board of Education to withhold an amount of the
451 district's adequate education program allotment equal to up to One
452 Hundred Sixty Dollars (\$160.00) per student in average daily
453 attendance in the district to be allocated to the State Public
454 School Building Fund to the credit of such school district. A
455 school district may choose the option provided under this
456 paragraph (e) or paragraph (f), but not both. In addition to the

457 grants made by the state pursuant to Section 37-47-9, a school
458 district shall be entitled to grants based on the allotments to
459 the State Public School Building Fund credited to such school
460 district under this paragraph. This paragraph (f) shall stand
461 repealed from and after June 30, 1998.

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

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

485 (i) The State Department of Education or the State
486 Board of Education may require that any project commenced under
487 this section with an estimated project cost of not less than Five
488 Million Dollars (\$5,000,000.00) shall be done only pursuant to
489 program management of the process with respect to design and

490 construction. Any individuals, partnerships, companies or other
491 entities acting as a program manager on behalf of a local school
492 district and performing program management services for projects
493 covered under this subsection shall be approved by the State
494 Department of Education.

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

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

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

504 37-57-1. (1) (a) The boards of supervisors of the counties
505 shall levy and collect all taxes for and on behalf of all school
506 districts which were within the county school system or designated
507 as special municipal separate school districts prior to July 1,
508 1986. Such taxes shall be collected by the county tax collector
509 at the same time and in the same manner as county taxes are
510 collected by him, and the same penalties for delinquency shall be
511 applicable.

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

519 The county or municipal tax collector, as the case may be,
520 shall pay such tax collections, except for taxes collected for the
521 payment of the principal of and interest on school bonds or notes
522 and except for taxes collected to defray collection costs, into

523 the school depository and report to the school board of the
524 appropriate school district at the same time and in the same
525 manner as the tax collector makes his payments and reports of
526 other taxes collected by him.

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

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

537 (2) The levying authority for the school district shall, at
538 the same time and in the same manner as other taxes are levied by
539 the levying authority, levy a tax of not less than twenty-eight
540 (28) mills for the then current fiscal year, less the estimated
541 amount of the yield of the School Ad Valorem Tax Reduction Fund
542 grant to the school district as determined by the State Department
543 of Education or twenty-seven percent (27%) of the basic adequate
544 education program cost for such school district, whichever is a
545 greater amount, upon all of the taxable property of the school
546 district, as required under Section 37-151-7(2)(a). However, in
547 no case shall the minimum local ad valorem tax effort for any
548 school district be equal to an amount that would require a millage
549 rate exceeding sixty (60) mills in that school district.

550 Provided, however, that if a levying authority is levying in
551 excess of sixty (60) mills on July 1, 2004, the levying authority
552 may levy an additional amount not exceeding three (3) mills in the
553 aggregate for the period beginning July 1, 2004, and ending June
554 30, 2010, subject to the limitation on increased receipts from ad
555 valorem taxes prescribed in Sections 37-57-105 and 37-57-107.

556 Nothing in this subsection shall be construed to require any
557 school district that is levying more than sixty (60) mills
558 pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage
559 rate to sixty (60) mills or less. In making such levy, the
560 levying authority shall levy an additional amount sufficient to
561 cover anticipated delinquencies and costs of collection so that
562 the net amount of money to be produced by such levy shall be equal
563 to the amount which the school district is required to contribute
564 as its said minimum local ad valorem tax effort. The tax so
565 levied shall be collected by the tax collector at the same time
566 and in the same manner as other ad valorem taxes are collected by
567 him. The amount of taxes so collected as a result of such levy
568 shall be paid into the district maintenance fund of the school
569 district by the tax collector at the same time and in the same
570 manner as reports and payments of other ad valorem taxes are made
571 by said tax collector, except that the amount collected to defray
572 costs of collection may be paid into the county general fund. The
573 levying authority shall have the power and authority to direct and
574 cause warrants to be issued against such fund for the purpose of
575 refunding any amount of taxes erroneously or illegally paid into
576 such fund where such refund has been approved in the manner
577 provided by law.

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

580 37-57-104. (1) Each school board shall submit to the
581 levying authority for the school district a certified copy of an
582 order adopted by the school board requesting an ad valorem tax
583 effort in dollars for the support of the school district. The
584 copy of the order shall be submitted by the school board when the
585 copies of the school district's budget are filed with the levying
586 authority pursuant to Section 37-61-9. Upon receipt of the school
587 board's order requesting the ad valorem tax effort in dollars, the
588 levying authority shall determine the millage rate necessary to

589 generate funds equal to the dollar amount requested by the school
590 board. For the purpose of calculating this millage rate, any
591 additional amount that is levied pursuant to Section 37-57-105(1)
592 to cover anticipated delinquencies and costs of collection or any
593 amount that may be levied for the payment of the principal and
594 interest on school bonds or notes shall be excluded from the
595 limitation of sixty (60) mills provided for in subsection (2) of
596 this section.

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

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

622 publication shall be made not more than seven (7) days before that
623 date. If no newspaper is published in the school district, then
624 the notice shall be published in a newspaper having a general
625 circulation in the school district. The referendum shall be held,
626 as far as is practicable, in the same manner as other referendums
627 and elections are held in the county or municipality. At the
628 referendum, all registered, qualified electors of the school
629 district may vote. The ballots used at the referendum shall have
630 printed thereon a brief statement of the amount and purpose of the
631 increased tax levy and the words "FOR INCREASING THE MILLAGE
632 LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY
633 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S
634 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR
635 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)
636 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)
637 MILLS." The voter shall vote by placing a cross (X) or checkmark
638 (✓) opposite his choice on the proposition.

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

648 Nothing in this subsection shall be construed to require any
649 school district that is levying more than sixty (60) mills
650 pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage
651 rate to sixty (60) mills or less. Further, nothing in this
652 subsection shall be construed to require a referendum in a school
653 district where the requested ad valorem tax effort in dollars
654 requires a millage rate of greater than sixty (60) mills but the

655 requested dollar amount does not require any increase in the then
656 existing millage rate. Further, nothing in this subsection shall
657 be construed to require a referendum in a school district where,
658 because of a decrease in the assessed valuation of the district, a
659 millage rate of greater than sixty (60) mills is necessary to
660 generate funds equal to the dollar amount generated by the ad
661 valorem tax effort for the currently existing fiscal year.

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

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

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

688 published in the school district is published less than five (5)
689 days per week, for at least three (3) consecutive weeks in a
690 newspaper published in the school district. The notice shall be
691 no less than one-fourth (1/4) page in size, and the type used
692 shall be no smaller than eighteen (18) point and surrounded by a
693 one-fourth-inch solid black border. The notice may not be placed
694 in that portion of the newspaper where legal notices and
695 classified advertisements appear. The first publication shall be
696 made not less than fifteen (15) days before the final adoption of
697 the budget by the school board. If no newspaper is published in
698 the school district, then the notice shall be published in a
699 newspaper having a general circulation in the school district. If
700 at any time before the adoption of the budget a petition signed by
701 not less than twenty percent (20%) or fifteen hundred (1500),
702 whichever is less, of the registered, qualified electors of the
703 school district is filed with the school board requesting that a
704 referendum be called on the question of exceeding the next
705 preceding fiscal year's ad valorem tax effort in dollars by more
706 than four percent (4%), then the school board shall adopt, not
707 later than the next regular meeting, a resolution calling a
708 referendum to be held within the school district upon the
709 question. The referendum shall be called and held, and notice
710 thereof shall be given, in the same manner provided for in
711 subsection (2) of this section. The ballot shall contain the
712 language "FOR THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)" and
713 "AGAINST THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)." If a
714 majority of the registered, qualified electors of the school
715 district who vote in the referendum vote in favor of the question,
716 then the increase requested by the school board shall be approved.
717 For the purposes of this subsection, the revenue sources excluded
718 from the increase limitation under Section 37-57-107 also shall be
719 excluded from the limitation described in this subsection in the
720 same manner as they are excluded under Section 37-57-107.

721 Provided, however, that any increases requested by the school
722 board as a result of the required local contribution to the
723 Mississippi Adequate Education Program, as certified to the local
724 school district by the State Board of Education under Section
725 37-151-7(2), Mississippi Code of 1972, shall not be subject to the
726 four percent (4%) and/or seven percent (7%) tax increase
727 limitations provided in this section.

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

742 (5) The aggregate receipts from ad valorem taxes levied for
743 school district purposes pursuant to Sections 37-57-1 and
744 37-57-105, excluding collection fees, additional revenue from the
745 ad valorem tax on any newly constructed properties or any existing
746 properties added to the tax rolls or any properties previously
747 exempt which were not assessed in the next preceding year, and
748 amounts received by school districts from the School Ad Valorem
749 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject
750 to the increase limitation under this section and Section
751 37-57-107.

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

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

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

761 (b) The lease of property for school purposes, as
762 authorized under the Emergency School Leasing Authority Act of
763 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

771 Any millage levied for the purposes specified in this
772 subsection shall be excluded from the millage limitations
773 established under this section.

774 **SECTION 4.** This act shall take effect and be in force from
775 and after July 1, 2005.