

By: Senator(s) Chaney

To: Education; Finance

SENATE BILL NO. 2126

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

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

10 **SECTION 1.** Section 37-57-1, Mississippi Code of 1972, is  
 11 amended as follows:

12 37-57-1. (1) (a) The boards of supervisors of the counties  
 13 shall levy and collect all taxes for and on behalf of all school  
 14 districts which were within the county school system or designated  
 15 as special municipal separate school districts prior to July 1,  
 16 1986. Such taxes shall be collected by the county tax collector  
 17 at the same time and in the same manner as county taxes are  
 18 collected by him, and the same penalties for delinquency shall be  
 19 applicable.

20 The governing authorities of the municipalities shall levy  
 21 and collect all taxes for and on behalf of all school districts  
 22 which were designated as municipal separate school districts prior  
 23 to July 1, 1986. Such taxes shall be collected by the municipal  
 24 tax collector at the same time and in the same manner as municipal  
 25 taxes are collected by him, and the same penalties for delinquency  
 26 shall be applicable.

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

31 the school depository and report to the school board of the  
32 appropriate school district at the same time and in the same  
33 manner as the tax collector makes his payments and reports of  
34 other taxes collected by him.

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

38             (b) For the purposes of this chapter and any other laws  
39 pertaining to taxes levied or bonds or notes issued for and on  
40 behalf of school districts, the term "levying authority" means the  
41 board of supervisors of the county or the governing authorities of  
42 the municipality, whichever levies taxes for and on behalf of the  
43 particular school district as provided in paragraphs (a) and (b)  
44 of this subsection.

45             (2) The levying authority for the school district shall, at  
46 the same time and in the same manner as other taxes are levied by  
47 the levying authority, levy a tax of not less than thirty (30)  
48 mills for the then current fiscal year, less the estimated amount  
49 of the yield of the School Ad Valorem Tax Reduction Fund grant to  
50 the school district as determined by the State Department of  
51 Education or twenty-seven percent (27%) of the basic adequate  
52 education program cost for such school district, whichever is a  
53 greater amount, upon all of the taxable property of the school  
54 district, as required under Section 37-151-7(2)(a). However, in  
55 no case shall the minimum local ad valorem tax effort for any  
56 school district be equal to an amount that would require a millage  
57 rate exceeding sixty (60) mills in that school district.

58         Provided, however, that if a levying authority is levying in  
59 excess of sixty (60) mills on July 1, 2006, the levying authority  
60 may levy an additional amount not exceeding three (3) mills in the  
61 aggregate for the period beginning July 1, 2006, and ending June  
62 30, 2012, subject to the limitation on increased receipts from ad  
63 valorem taxes prescribed in Sections 37-57-105 and 37-57-107.

64 Nothing in this subsection shall be construed to require any  
65 school district that is levying more than sixty (60) mills  
66 pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage  
67 rate to sixty (60) mills or less. In making such levy, the  
68 levying authority shall levy an additional amount sufficient to  
69 cover anticipated delinquencies and costs of collection so that  
70 the net amount of money to be produced by such levy shall be equal  
71 to the amount which the school district is required to contribute  
72 as its said minimum local ad valorem tax effort. The tax so  
73 levied shall be collected by the tax collector at the same time  
74 and in the same manner as other ad valorem taxes are collected by  
75 him. The amount of taxes so collected as a result of such levy  
76 shall be paid into the district maintenance fund of the school  
77 district by the tax collector at the same time and in the same  
78 manner as reports and payments of other ad valorem taxes are made  
79 by said tax collector, except that the amount collected to defray  
80 costs of collection may be paid into the county general fund. The  
81 levying authority shall have the power and authority to direct and  
82 cause warrants to be issued against such fund for the purpose of  
83 refunding any amount of taxes erroneously or illegally paid into  
84 such fund where such refund has been approved in the manner  
85 provided by law.

86 **SECTION 2.** Section 37-57-104, Mississippi Code of 1972, is  
87 amended as follows:

88 37-57-104. (1) Each school board shall submit to the  
89 levying authority for the school district a certified copy of an  
90 order adopted by the school board requesting an ad valorem tax  
91 effort in dollars for the support of the school district. The  
92 copy of the order shall be submitted by the school board when the  
93 copies of the school district's budget are filed with the levying  
94 authority pursuant to Section 37-61-9. Upon receipt of the school  
95 board's order requesting the ad valorem tax effort in dollars, the  
96 levying authority shall determine the millage rate necessary to

97 generate funds equal to the dollar amount requested by the school  
98 board. For the purpose of calculating this millage rate, any  
99 additional amount that is levied pursuant to Section 37-57-105(1)  
100 to cover anticipated delinquencies and costs of collection or any  
101 amount that may be levied for the payment of the principal and  
102 interest on school bonds or notes shall be excluded from the  
103 limitation of sixty (60) mills provided for in subsection (2) of  
104 this section.

105 (2) (a) Except as otherwise provided under paragraph (b) or  
106 (c) of this subsection, if the millage rate necessary to generate  
107 funds equal to the dollar amount requested by the school board is  
108 greater than sixty (60) mills, and if this millage rate is higher  
109 than the millage then being levied pursuant to the school board's  
110 order requesting the ad valorem tax effort for the currently  
111 existing fiscal year, then the levying authority shall call a  
112 referendum on the question of exceeding, during the next fiscal  
113 year, the then existing millage rate being levied for school  
114 district purposes. The referendum shall be scheduled for not more  
115 than six (6) weeks after the date on which the levying authority  
116 receives the school board's order requesting the ad valorem tax  
117 effort.

118 When a referendum has been called, notice of the referendum  
119 shall be published at least five (5) days per week, unless the  
120 only newspaper published in the school district is published less  
121 than five (5) days per week, for at least three (3) consecutive  
122 weeks, in at least one (1) newspaper published in the school  
123 district. The notice shall be no less than one-fourth (1/4) page  
124 in size, and the type used shall be no smaller than eighteen (18)  
125 point and surrounded by a one-fourth-inch solid black border. The  
126 notice may not be placed in that portion of the newspaper where  
127 legal notices and classified advertisements appear. The first  
128 publication of the notice shall be made not less than twenty-one  
129 (21) days before the date fixed for the referendum, and the last

130 publication shall be made not more than seven (7) days before that  
131 date. If no newspaper is published in the school district, then  
132 the notice shall be published in a newspaper having a general  
133 circulation in the school district. The referendum shall be held,  
134 as far as is practicable, in the same manner as other referendums  
135 and elections are held in the county or municipality. At the  
136 referendum, all registered, qualified electors of the school  
137 district may vote. The ballots used at the referendum shall have  
138 printed thereon a brief statement of the amount and purpose of the  
139 increased tax levy and the words "FOR INCREASING THE MILLAGE  
140 LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY  
141 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S  
142 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR  
143 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)  
144 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)  
145 MILLS." The voter shall vote by placing a cross (X) or checkmark  
146 (✓) opposite his choice on the proposition.

147 If a majority of the registered, qualified electors of the  
148 school district who vote in the referendum vote in favor of the  
149 question, then the ad valorem tax effort in dollars requested by  
150 the school board shall be approved. However, if a majority of the  
151 registered, qualified electors who vote in the referendum vote  
152 against the question, the millage rate levied by the levying  
153 authority shall not exceed the millage then being levied pursuant  
154 to the school board's order requesting the ad valorem tax effort  
155 for the then currently existing fiscal year.

156 Nothing in this subsection shall be construed to require any  
157 school district that is levying more than sixty (60) mills  
158 pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage  
159 rate to sixty (60) mills or less. Further, nothing in this  
160 subsection shall be construed to require a referendum in a school  
161 district where the requested ad valorem tax effort in dollars  
162 requires a millage rate of greater than sixty (60) mills but the

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

170 (b) Provided, however, that if a levying authority is  
171 levying in excess of sixty (60) mills on July 1, 2006, the levying  
172 authority may levy an additional amount not exceeding three (3)  
173 mills in the aggregate for the period beginning July 1, 2006, and  
174 ending June 30, 2012, subject to the limitation on increased  
175 receipts from ad valorem taxes prescribed in Sections 37-57-105  
176 and 37-57-107.

177 (c) If the levying authority for any school district  
178 lawfully has decreased the millage levied for school district  
179 purposes, but subsequently determines that there is a need to  
180 increase the millage rate due to a disaster in which the Governor  
181 has declared a disaster emergency or the President of the United  
182 States has declared an emergency or major disaster, then the  
183 levying authority may increase the millage levied for school  
184 district purposes up to an amount that does not exceed the millage  
185 rate in any one (1) of the immediately preceding ten (10) fiscal  
186 years without any referendum that otherwise would be required  
187 under this subsection.

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

196 published in the school district is published less than five (5)  
197 days per week, for at least three (3) consecutive weeks in a  
198 newspaper published in the school district. The notice shall be  
199 no less than one-fourth (1/4) page in size, and the type used  
200 shall be no smaller than eighteen (18) point and surrounded by a  
201 one-fourth-inch solid black border. The notice may not be placed  
202 in that portion of the newspaper where legal notices and  
203 classified advertisements appear. The first publication shall be  
204 made not less than fifteen (15) days before the final adoption of  
205 the budget by the school board. If no newspaper is published in  
206 the school district, then the notice shall be published in a  
207 newspaper having a general circulation in the school district. If  
208 at any time before the adoption of the budget a petition signed by  
209 not less than twenty percent (20%) or fifteen hundred (1500),  
210 whichever is less, of the registered, qualified electors of the  
211 school district is filed with the school board requesting that a  
212 referendum be called on the question of exceeding the next  
213 preceding fiscal year's ad valorem tax effort in dollars by more  
214 than four percent (4%), then the school board shall adopt, not  
215 later than the next regular meeting, a resolution calling a  
216 referendum to be held within the school district upon the  
217 question. The referendum shall be called and held, and notice  
218 thereof shall be given, in the same manner provided for in  
219 subsection (2) of this section. The ballot shall contain the  
220 language "FOR THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)" and  
221 "AGAINST THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)." If a  
222 majority of the registered, qualified electors of the school  
223 district who vote in the referendum vote in favor of the question,  
224 then the increase requested by the school board shall be approved.  
225 For the purposes of this subsection, the revenue sources excluded  
226 from the increase limitation under Section 37-57-107 also shall be  
227 excluded from the limitation described in this subsection in the  
228 same manner as they are excluded under Section 37-57-107.

229 Provided, however, that any increases requested by the school  
230 board as a result of the required local contribution to the  
231 Mississippi Adequate Education Program, as certified to the local  
232 school district by the State Board of Education under Section  
233 37-151-7(2), Mississippi Code of 1972, shall not be subject to the  
234 four percent (4%) and/or seven percent (7%) tax increase  
235 limitations provided in this section.

236 (4) If the millage rate necessary to generate funds equal to  
237 the dollar amount requested by the school board is equal to sixty  
238 (60) mills or less, but the dollar amount requested by the school  
239 board exceeds the seven percent (7%) increase limitation provided  
240 for in Section 37-57-107, the school board may exceed the seven  
241 percent (7%) increase limitation only after the school board has  
242 determined the need for additional revenues and three-fifths (3/5)  
243 of the registered, qualified electors voting in a referendum  
244 called by the levying authority have voted in favor of the  
245 increase. The notice and manner of holding the referendum shall  
246 be as prescribed in subsection (2) of this section for a  
247 referendum on the question of increasing the millage rate in  
248 school districts levying more than sixty (60) mills for school  
249 district purposes.

250 (5) The aggregate receipts from ad valorem taxes levied for  
251 school district purposes pursuant to Sections 37-57-1 and  
252 37-57-105, excluding collection fees, additional revenue from the  
253 ad valorem tax on any newly constructed properties or any existing  
254 properties added to the tax rolls or any properties previously  
255 exempt which were not assessed in the next preceding year, and  
256 amounts received by school districts from the School Ad Valorem  
257 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject  
258 to the increase limitation under this section and Section  
259 37-57-107.



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

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

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

269 (b) The lease of property for school purposes, as  
270 authorized under the Emergency School Leasing Authority Act of  
271 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

279 Any millage levied for the purposes specified in this  
280 subsection shall be excluded from the millage limitations  
281 established under this section.

282 **SECTION 3.** Section 37-151-7, Mississippi Code of 1972, is  
283 amended as follows:

284 37-151-7. The annual allocation to each school district for  
285 the operation of the adequate education program shall be  
286 determined as follows:

287 (1) **Computation of the basic amount to be included for**  
288 **current operation in the adequate education program.** The  
289 following procedure shall be followed in determining the annual  
290 allocation to each school district:

291 (a) **Determination of average daily attendance.** During  
292 months two and three of the current school year, the average daily

293 attendance of a school district shall be computed, or the average  
294 daily attendance for the prior school year shall be used,  
295 whichever is greater. The district's average daily attendance  
296 shall be computed and currently maintained in accordance with  
297 regulations promulgated by the State Board of Education.

298           (b) **Determination of base student cost.** The State  
299 Board of Education, on or before August 1, with adjusted estimate  
300 no later than January 2, shall annually submit to the Legislative  
301 Budget Office and the Governor a proposed base student cost  
302 adequate to provide the following cost components of educating a  
303 pupil in an average school district meeting Level III  
304 accreditation standards required by the Commission on School  
305 Accreditation: (i) Instructional Cost; (ii) Administrative Cost;  
306 (iii) Operation and Maintenance of Plant; and (iv) Ancillary  
307 Support Cost. The department shall utilize a statistical  
308 methodology which considers such factors as, but not limited to,  
309 (i) school size; (ii) assessed valuation per pupil; (iii) the  
310 percentage of students receiving free lunch; (iv) the local  
311 district maintenance tax levy; (v) other local school district  
312 revenues; and (vi) the district's accreditation level, in the  
313 selection of the representative Mississippi school districts for  
314 which cost information shall be obtained for each of the above  
315 listed cost areas.

316           For the instructional cost component, the department shall  
317 determine the instructional cost of each of the representative  
318 school districts selected above, excluding instructional cost of  
319 self-contained special education programs and vocational education  
320 programs, and the average daily attendance in the selected school  
321 districts. The instructional cost is then totaled and divided by  
322 the total average daily attendance for the selected school  
323 districts to yield the instructional cost component. For the  
324 administrative cost component, the department shall determine the  
325 administrative cost of each of the representative school districts

326 selected above, excluding administrative cost of self-contained  
327 special education programs and vocational education programs, and  
328 the average daily attendance in the selected school districts.  
329 The administrative cost is then totaled and divided by the total  
330 average daily attendance for the selected school districts to  
331 yield the administrative cost component. For the plant and  
332 maintenance cost component, the department shall determine the  
333 plant and maintenance cost of each of the representative school  
334 districts selected above, excluding plant and maintenance cost of  
335 self-contained special education programs and vocational education  
336 programs, and the average daily attendance in the selected school  
337 districts. The plant and maintenance cost is then totaled and  
338 divided by the total average daily attendance for the selected  
339 school districts to yield the plant and maintenance cost  
340 component. For the ancillary support cost component, the  
341 department shall determine the ancillary support cost of each of  
342 the representative school districts selected above, excluding  
343 ancillary support cost of self-contained special education  
344 programs and vocational education programs, and the average daily  
345 attendance in the selected school districts. The ancillary  
346 support cost is then totaled and divided by the total average  
347 daily attendance for the selected school districts to yield the  
348 ancillary support cost component. The total base cost for each  
349 year shall be the sum of the instructional cost component,  
350 administrative cost component, plant and maintenance cost  
351 component and ancillary support cost component, and any estimated  
352 adjustments for additional state requirements as determined by the  
353 State Board of Education. Provided, however, that the base  
354 student cost in fiscal year 1998 shall be Two Thousand Six Hundred  
355 Sixty-four Dollars (\$2,664.00).

356 (c) **Determination of the basic adequate education**  
357 **program cost.** The basic amount for current operation to be

358 included in the Mississippi Adequate Education Program for each  
359 school district shall be computed as follows:

360 Multiply the average daily attendance of the district by the  
361 base student cost as established by the Legislature, which yields  
362 the total base program cost for each school district.

363 (d) **Adjustment to the base student cost for at-risk**  
364 **pupils.** The amount to be included for at-risk pupil programs for  
365 each school district shall be computed as follows: Multiply the  
366 base student cost for the appropriate fiscal year as determined  
367 under paragraph (b) by five percent (5%), and multiply that  
368 product by the number of pupils participating in the federal free  
369 school lunch program in such school district, which yields the  
370 total adjustment for at-risk pupil programs for such school  
371 district.

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

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

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

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

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

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

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

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

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

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

406 (f) **Total projected adequate education program cost.**  
407 The total Mississippi Adequate Education Program cost shall be the  
408 sum of the total basic adequate education program cost (paragraph  
409 (c)), and the adjustment to the base student cost for at-risk  
410 pupils (paragraph (d)) for each school district.

411 (g) **Supplemental grant to school districts.** In  
412 addition to the adequate education program grant, the State  
413 Department of Education shall annually distribute an additional  
414 amount as follows: Multiply the base student cost for the  
415 appropriate fiscal year as determined under paragraph (b) by  
416 thirteen one-hundredths percent (.13%) and multiply that product  
417 by the average daily attendance of each school district. Such  
418 grant shall not be subject to the local revenue requirement  
419 provided in subsection (2).

420 (h) The State Auditor shall annually verify the State  
421 Board of Education's estimated calculations for the Mississippi  
422 Adequate Education Program that are submitted each year to the

423 Legislative Budget Office on August 1 and the final calculation  
424 that is submitted on January 2.

425       (2) **Computation of the required local revenue in support of**  
426 **the adequate education program.** The amount that each district  
427 shall provide toward the cost of the adequate education program  
428 shall be calculated as follows:

429           (a) The State Board of Education shall certify to each  
430 school district that thirty (30) mills, less the estimated amount  
431 of the yield of the School Ad Valorem Tax Reduction Fund grants as  
432 determined by the State Department of Education, is the millage  
433 rate required to provide the district required local effort for  
434 that year, or twenty-seven percent (27%) of the basic adequate  
435 education program cost for such school district as determined  
436 under paragraph (c), whichever is a greater amount. In the case  
437 of an agricultural high school the millage requirement shall be  
438 set at a level which generates an equitable amount per pupil to be  
439 determined by the State Board of Education.

440           (b) The State Board of Education shall determine (i)  
441 the total assessed valuation of nonexempt property for school  
442 purposes in each school district; (ii) assessed value of exempt  
443 property owned by homeowners aged sixty-five (65) or older or  
444 disabled as defined in Section 27-33-67(2), Mississippi Code of  
445 1972; (iii) the school district's tax loss from exemptions  
446 provided to applicants under the age of sixty-five (65) and not  
447 disabled as defined in Section 27-33-67(1), Mississippi Code of  
448 1972; and (iv) the school district's homestead reimbursement  
449 revenues.

450           (c) The amount of the total adequate education program  
451 funding which shall be contributed by each school district shall  
452 be the sum of the ad valorem receipts generated by the millage  
453 required under this subsection plus the following local revenue  
454 sources for the appropriate fiscal year which are or may be  
455 available for current expenditure by the school district:

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

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

460 (a) The required state effort in support of the  
461 adequate education program shall be determined by subtracting the  
462 sum of the required local tax effort as set forth in subsection  
463 (2)(a) of this section and the other local revenue sources as set  
464 forth in subsection (2)(c) of this section in an amount not to  
465 exceed twenty-seven percent (27%) of the total projected adequate  
466 education program cost as set forth in subsection (1)(f) of this  
467 section from the total projected adequate education program cost  
468 as set forth in subsection (1)(f) of this section.

469 (b) Provided, however, that in fiscal year 1998 and in  
470 the fiscal year in which the adequate education program is fully  
471 funded by the Legislature, any increase in the said state  
472 contribution, including the supplemental grant to school districts  
473 provided under subsection (1)(g), to any district calculated under  
474 this section shall be not less than eight percent (8%) in excess  
475 of the amount received by said district from state funds for the  
476 fiscal year immediately preceding. For purposes of this paragraph  
477 (b), state funds shall include minimum program funds less the  
478 add-on programs, State Uniform Millage Assistance Grant Funds,  
479 Education Enhancement Funds appropriated for Uniform Millage  
480 Assistance Grants and state textbook allocations, and State  
481 General Funds allocated for textbooks.

482 (c) If the appropriation is less than full funding for  
483 fiscal year 2003, allocations for state contributions to school  
484 districts in support of the adequate education program will be  
485 determined by the State Department of Education in the following  
486 manner:

487                   (i) Calculation of the full funding amount under  
488 this chapter, with proportionate reductions as required by the  
489 appropriation level.

490                   (ii) Calculation of the amount equal to the state  
491 funds allocated to school districts for fiscal year 2002 plus the  
492 estimated amount to fund the adequate education program salary  
493 schedule for fiscal year 2003. For purposes of this item (ii),  
494 state funds shall be those described in paragraph (b) and an  
495 amount equal to the allocation for the adequate education program  
496 in fiscal year 2002, plus any additional amount required to  
497 satisfy fiscal year 2003 pledges in accordance with paragraphs  
498 (d), (e) and (f) of subsection (5) of this section. If a school  
499 district's fiscal year 2003 pledge is different than the pledge  
500 amount for fiscal year 2002, the district shall receive an amount  
501 equal to the fiscal year 2003 pledge or the amount of funds  
502 calculated under the adequate education formula for fiscal year  
503 2002 before any pledge guarantee for fiscal year 2002, whichever  
504 is greater. If the pledge is no longer in effect, the district  
505 shall receive the amount of funds calculated under the formula for  
506 fiscal year 2002 before any pledge guarantee for fiscal year 2002.

507                   (iii) The portion of any district's allocation  
508 calculated in item (i) of this paragraph which exceeds amounts as  
509 calculated in item (ii) shall be reduced by an amount not to  
510 exceed twenty-one percent (21%). The amount of funds generated by  
511 this reduction of funds shall be redistributed proportionately  
512 among those districts receiving insufficient funds to meet the  
513 amount calculated in item (ii). In no case may any district  
514 receive funds in an amount greater than the amount that the  
515 district would have received under full funding of the program for  
516 fiscal year 2003.

517                   (d) If the school board of any school district shall  
518 determine that it is not economically feasible or practicable to  
519 operate any school within the district for the full one hundred



520 eighty (180) days required for a school term of a scholastic year  
521 as required in Section 37-13-63, Mississippi Code of 1972, due to  
522 an enemy attack, a man-made, technological or natural disaster in  
523 which the Governor has declared a disaster emergency under the  
524 laws of this state or the President of the United States has  
525 declared an emergency or major disaster to exist in this state,  
526 said school board may notify the State Department of Education of  
527 such disaster and submit a plan for altering the school term. If  
528 the State Board of Education finds such disaster to be the cause  
529 of the school not operating for the contemplated school term and  
530 that such school was in a school district covered by the  
531 Governor's or President's disaster declaration, it may permit said  
532 school board to operate the schools in its district for less than  
533 one hundred eighty (180) days and, in such case, the State  
534 Department of Education shall not reduce the state contributions  
535 to the adequate education program allotment for such district,  
536 because of the failure to operate said schools for one hundred  
537 eighty (180) days.

538 (4) If during the year for which adequate education program  
539 funds are appropriated, any school district experiences a three  
540 percent (3%) or greater increase in average daily attendance  
541 during the second and third month over the preceding year's second  
542 and third month and the school district has requested a minimum  
543 increase of four percent (4%) in local ad valorem revenues over  
544 the previous year as authorized in Sections 37-57-104 and  
545 37-57-105, an additional allocation of adequate education program  
546 funds calculated in the following manner shall be granted to that  
547 district, using any additional funds available to the Department  
548 of Education that exceed the amount of funds due to the school  
549 districts under the basic adequate education program distribution  
550 as provided for in this chapter:

551 (a) Determine the percentage increase in average daily  
552 attendance for the second and third months of the year for which

553 adequate education program funds are appropriated over the  
554 preceding year's second and third month average daily attendance.

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

562 (c) Subtract the percentage of the district's local  
563 contribution arrived at in subsection (2) of this section from the  
564 amount calculated in paragraph (b) of this subsection. The  
565 remainder is the additional allocation in adequate education  
566 program funds for that district.

567 If the funds available to the Department of Education are not  
568 sufficient to fully fund the additional allocations to school  
569 districts eligible for those allocations, then the department  
570 shall prorate the available funds among the eligible school  
571 districts, using the same percentage of the total funds that the  
572 school district would have received if the allocations were fully  
573 funded. The State Department of Education shall study and develop  
574 a report to the Chairmen of the Senate and House Committees on  
575 Education by January 1, 2005, with options for legislative  
576 consideration that will insure that the Mississippi Adequate  
577 Education funds are distributed to school districts based on  
578 current year student attendance or enrollment.

579 This subsection (4) shall stand repealed on July 1, 2007.

580 (5) The Interim School District Capital Expenditure Fund is  
581 hereby established in the State Treasury which shall be used to  
582 distribute any funds specifically appropriated by the Legislature  
583 to such fund to school districts entitled to increased allocations  
584 of state funds under the adequate education program funding  
585 formula prescribed in Sections 37-151-3 through 37-151-7,

586 Mississippi Code of 1972, until such time as the said adequate  
587 education program is fully funded by the Legislature. The  
588 following percentages of the total state cost of increased  
589 allocations of funds under the adequate education program funding  
590 formula shall be appropriated by the Legislature into the Interim  
591 School District Capital Expenditure Fund to be distributed to all  
592 school districts under the formula: Nine and two-tenths percent  
593 (9.2%) shall be appropriated in fiscal year 1998, twenty percent  
594 (20%) shall be appropriated in fiscal year 1999, forty percent  
595 (40%) shall be appropriated in fiscal year 2000, sixty percent  
596 (60%) shall be appropriated in fiscal year 2001, eighty percent  
597 (80%) shall be appropriated in fiscal year 2002, and one hundred  
598 percent (100%) shall be appropriated in fiscal year 2003 into the  
599 State Adequate Education Program Fund created in subsection (4).  
600 Until July 1, 2002, such money shall be used by school districts  
601 for the following purposes:

602           (a) Purchasing, erecting, repairing, equipping,  
603 remodeling and enlarging school buildings and related facilities,  
604 including gymnasiums, auditoriums, lunchrooms, vocational training  
605 buildings, libraries, school barns and garages for transportation  
606 vehicles, school athletic fields and necessary facilities  
607 connected therewith, and purchasing land therefor. Any such  
608 capital improvement project by a school district shall be approved  
609 by the State Board of Education, and based on an approved  
610 long-range plan. The State Board of Education shall promulgate  
611 minimum requirements for the approval of school district capital  
612 expenditure plans.

613           (b) Providing necessary water, light, heating, air  
614 conditioning, and sewerage facilities for school buildings, and  
615 purchasing land therefor.

616           (c) Paying debt service on existing capital improvement  
617 debt of the district or refinancing outstanding debt of a district

618 if such refinancing will result in an interest cost savings to the  
619 district.

620 (d) From and after October 1, 1997, through June 30,  
621 1998, pursuant to a school district capital expenditure plan  
622 approved by the State Department of Education, a school district  
623 may pledge such funds until July 1, 2002, plus funds provided for  
624 in paragraph (e) of this subsection (5) that are not otherwise  
625 permanently pledged under such paragraph (e) to pay all or a  
626 portion of the debt service on debt issued by the school district  
627 under Sections 37-59-1 through 37-59-45, 37-59-101 through  
628 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,  
629 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt  
630 issued by boards of supervisors for agricultural high schools  
631 pursuant to Section 37-27-65, Mississippi Code of 1972, or  
632 lease-purchase contracts entered into pursuant to Section 31-7-13,  
633 Mississippi Code of 1972, or to retire or refinance outstanding  
634 debt of a district, if such pledge is accomplished pursuant to a  
635 written contract or resolution approved and spread upon the  
636 minutes of an official meeting of the district's school board or  
637 board of supervisors. It is the intent of this provision to allow  
638 school districts to irrevocably pledge their Interim School  
639 District Capital Expenditure Fund allotments as a constant stream  
640 of revenue to secure a debt issued under the foregoing code  
641 sections. To allow school districts to make such an irrevocable  
642 pledge, the state shall take all action necessary to ensure that  
643 the amount of a district's Interim School District Capital  
644 Expenditure Fund allotments shall not be reduced below the amount  
645 certified by the department or the district's total allotment  
646 under the Interim Capital Expenditure Fund if fully funded, so  
647 long as such debt remains outstanding.

648 (e) From and after October 1, 1997, through June 30,  
649 1998, in addition to any other authority a school district may  
650 have, any school district may issue State Aid Capital Improvement

651 Bonds secured in whole by a continuing annual pledge of any  
652 Mississippi Adequate Education Program funds available to the  
653 district, in an amount not to exceed One Hundred Sixty Dollars  
654 (\$160.00) per pupil based on the latest completed average daily  
655 attendance count certified by the department prior to the issuance  
656 of the bonds. Such State Aid Capital Improvement Bonds may be  
657 issued for the purposes enumerated in paragraphs (a), (b), (c) and  
658 (g) of this section. Prior to issuing such bonds, the school  
659 board of the district shall adopt a resolution declaring the  
660 necessity for and its intention of issuing such bonds and  
661 borrowing such money, specifying the approximate amount to be so  
662 borrowed, how such money is to be used and how such indebtedness  
663 is to be evidenced. Any capital improvement project financed with  
664 State Aid Capital Improvement Bonds shall be approved by the  
665 department, and based on an approved long-range plan. The State  
666 Board of Education shall promulgate minimum requirements for the  
667 approval of such school district capital expenditure plans. The  
668 State Board of Education shall not approve any capital expenditure  
669 plan for a pledge of funds under this paragraph unless it  
670 determines (i) that the quality of instruction in such district  
671 will not be reduced as a result of this pledge, and (ii) the  
672 district has other revenue available to attain and maintain at  
673 least Level III accreditation.

674 A district issuing State Aid Capital Improvement Bonds may  
675 pledge for the repayment of such bonds all funds received by the  
676 district from the state, in an amount not to exceed One Hundred  
677 Sixty Dollars (\$160.00) per pupil in average daily attendance in  
678 the school district as set forth above, and not otherwise  
679 permanently pledged under paragraph (d) of this subsection or  
680 under Section 37-61-33(2)(d), Mississippi Code of 1972. The  
681 district's school board shall specify by resolution the amount of  
682 state funds, which are being pledged by the district for the  
683 repayment of the State Aid Capital Improvement Bonds. Once such a

684 pledge is made to secure the bonds, the district shall notify the  
685 department of such pledge. Upon making such a pledge, the school  
686 district may request the department which may agree to irrevocably  
687 transfer a specified amount or percentage of the district's state  
688 revenue pledged to repay the district's State Aid Capital  
689 Improvement Bonds directly to a state or federally chartered bank  
690 serving as a trustee or paying agent on such bonds for the payment  
691 of all or portion of such State Aid Capital Improvement Bonds.  
692 Such instructions shall be incorporated into a resolution by the  
693 school board for the benefit of holders of the bonds and may  
694 provide that such withholding and transfer of such other available  
695 funds shall be made only upon notification by a trustee or paying  
696 agent on such bonds that the amounts available to pay such bonds  
697 on any payment date will not be sufficient. It is the intent of  
698 this provision to allow school districts to irrevocably pledge a  
699 certain, constant stream of revenue as security for State Aid  
700 Capital Improvement Bonds issued hereunder. To allow school  
701 districts to make such an irrevocable pledge, the state shall take  
702 all action necessary to ensure that the amount of a district's  
703 state revenues up to an amount equal to One Hundred Sixty Dollars  
704 (\$160.00) per pupil as set forth above which have been pledged to  
705 repay debt as set forth herein shall not be reduced so long as any  
706 State Aid Capital Improvement Bonds are outstanding.

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

714 The provisions of this subsection shall be cumulative and  
715 supplemental to any existing funding programs or other authority  
716 conferred upon school districts or school boards. Debt of a

717 school district secured in whole by a pledge of revenue pursuant  
718 to this section shall not be subject to any debt limitation.

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

723 This paragraph (e) shall stand repealed from and after June  
724 30, 1998.

725 (f) As an alternative to the authority granted under  
726 paragraph (e), a school district, in its discretion, may authorize  
727 the State Board of Education to withhold an amount of the  
728 district's adequate education program allotment equal to up to One  
729 Hundred Sixty Dollars (\$160.00) per student in average daily  
730 attendance in the district to be allocated to the State Public  
731 School Building Fund to the credit of such school district. A  
732 school district may choose the option provided under this  
733 paragraph (e) or paragraph (f), but not both. In addition to the  
734 grants made by the state pursuant to Section 37-47-9, a school  
735 district shall be entitled to grants based on the allotments to  
736 the State Public School Building Fund credited to such school  
737 district under this paragraph. This paragraph (f) shall stand  
738 repealed from and after June 30, 1998.

739 (g) The State Board of Education may authorize the  
740 school district to expend not more than twenty percent (20%) of  
741 its annual allotment of such funds or Twenty Thousand Dollars  
742 (\$20,000.00), whichever is greater, for technology needs of the  
743 school district, including computers, software,  
744 telecommunications, cable television, interactive video, film,  
745 low-power television, satellite communications, microwave  
746 communications, technology-based equipment installation and  
747 maintenance, and the training of staff in the use of such  
748 technology-based instruction. Any such technology expenditure  
749 shall be reflected in the local district technology plan approved

750 by the State Board of Education under Section 37-151-17,  
751 Mississippi Code of 1972.

752 (h) To the extent a school district has not utilized  
753 twenty percent (20%) of its annual allotment for technology  
754 purposes under paragraph (g), a school district may expend not  
755 more than twenty percent (20%) of its annual allotment or Twenty  
756 Thousand Dollars (\$20,000.00), whichever is greater, for  
757 instructional purposes. The State Board of Education may  
758 authorize a school district to expend more than said twenty  
759 percent (20%) of its annual allotment for instructional purposes  
760 if it determines that such expenditures are needed for  
761 accreditation purposes.

762 (i) The State Department of Education or the State  
763 Board of Education may require that any project commenced under  
764 this section with an estimated project cost of not less than Five  
765 Million Dollars (\$5,000,000.00) shall be done only pursuant to  
766 program management of the process with respect to design and  
767 construction. Any individuals, partnerships, companies or other  
768 entities acting as a program manager on behalf of a local school  
769 district and performing program management services for projects  
770 covered under this subsection shall be approved by the State  
771 Department of Education.

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

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

779 **SECTION 4.** This act shall take effect and be in force from  
780 and after July 1, 2006.