

By: Senator(s) Chaney

To: Education

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2803

1 AN ACT TO AMEND SECTIONS 37-57-1 AND 37-57-104, MISSISSIPPI
2 CODE OF 1972, TO INCREASE THE CAP ON THE MILLAGE RATE OF SCHOOL AD
3 VALOREM TAXES FOR THE SUPPORT OF LOCAL SCHOOL DISTRICTS; TO BRING
4 FORWARD SECTION 37-151-7, MISSISSIPPI CODE OF 1972; AND FOR
5 RELATED PURPOSES.

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

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

9 37-57-1. (1) (a) The boards of supervisors of the counties
10 shall levy and collect all taxes for and on behalf of all school
11 districts which were within the county school system or designated
12 as special municipal separate school districts prior to July 1,
13 1986. Such taxes shall be collected by the county tax collector
14 at the same time and in the same manner as county taxes are
15 collected by him, and the same penalties for delinquency shall be
16 applicable.

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

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

29 appropriate school district at the same time and in the same
30 manner as the tax collector makes his payments and reports of
31 other taxes collected by him.

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

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

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

55 Provided, however, that if a levying authority is levying in
56 excess of sixty (60) mills on July 1, 2004, the levying authority
57 may levy an additional amount not exceeding three (3) mills in the
58 aggregate for the period beginning July 1, 2004, and ending June
59 30, 2010, subject to the limitation on increased receipts from ad
60 valorem taxes prescribed in Sections 37-57-105 and 37-57-107.

61 Nothing in this subsection shall be construed to require any

62 school district that is levying more than sixty (60) mills
63 pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage
64 rate to sixty (60) mills or less. In making such levy, the
65 levying authority shall levy an additional amount sufficient to
66 cover anticipated delinquencies and costs of collection so that
67 the net amount of money to be produced by such levy shall be equal
68 to the amount which the school district is required to contribute
69 as its said minimum local ad valorem tax effort. The tax so
70 levied shall be collected by the tax collector at the same time
71 and in the same manner as other ad valorem taxes are collected by
72 him. The amount of taxes so collected as a result of such levy
73 shall be paid into the district maintenance fund of the school
74 district by the tax collector at the same time and in the same
75 manner as reports and payments of other ad valorem taxes are made
76 by said tax collector, except that the amount collected to defray
77 costs of collection may be paid into the county general fund. The
78 levying authority shall have the power and authority to direct and
79 cause warrants to be issued against such fund for the purpose of
80 refunding any amount of taxes erroneously or illegally paid into
81 such fund where such refund has been approved in the manner
82 provided by law.

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

85 37-57-104. (1) Each school board shall submit to the
86 levying authority for the school district a certified copy of an
87 order adopted by the school board requesting an ad valorem tax
88 effort in dollars for the support of the school district. The
89 copy of the order shall be submitted by the school board when the
90 copies of the school district's budget are filed with the levying
91 authority pursuant to Section 37-61-9. Upon receipt of the school
92 board's order requesting the ad valorem tax effort in dollars, the
93 levying authority shall determine the millage rate necessary to
94 generate funds equal to the dollar amount requested by the school

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

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

115 When a referendum has been called, notice of the referendum
116 shall be published at least five (5) days per week, unless the
117 only newspaper published in the school district is published less
118 than five (5) days per week, for at least three (3) consecutive
119 weeks, in at least one (1) newspaper published in the school
120 district. The notice shall be no less than one-fourth (1/4) page
121 in size, and the type used shall be no smaller than eighteen (18)
122 point and surrounded by a one-fourth-inch solid black border. The
123 notice may not be placed in that portion of the newspaper where
124 legal notices and classified advertisements appear. The first
125 publication of the notice shall be made not less than twenty-one
126 (21) days before the date fixed for the referendum, and the last
127 publication shall be made not more than seven (7) days before that

128 date. If no newspaper is published in the school district, then
129 the notice shall be published in a newspaper having a general
130 circulation in the school district. The referendum shall be held,
131 as far as is practicable, in the same manner as other referendums
132 and elections are held in the county or municipality. At the
133 referendum, all registered, qualified electors of the school
134 district may vote. The ballots used at the referendum shall have
135 printed thereon a brief statement of the amount and purpose of the
136 increased tax levy and the words "FOR INCREASING THE MILLAGE
137 LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY
138 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S
139 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR
140 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)
141 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)
142 MILLS." The voter shall vote by placing a cross (X) or checkmark
143 (✓) opposite his choice on the proposition.

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

153 Nothing in this subsection shall be construed to require any
154 school district that is levying more than sixty (60) mills
155 pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage
156 rate to sixty (60) mills or less. Further, nothing in this
157 subsection shall be construed to require a referendum in a school
158 district where the requested ad valorem tax effort in dollars
159 requires a millage rate of greater than sixty (60) mills but the
160 requested dollar amount does not require any increase in the then

161 existing millage rate. Further, nothing in this subsection shall
162 be construed to require a referendum in a school district where,
163 because of a decrease in the assessed valuation of the district, a
164 millage rate of greater than sixty (60) mills is necessary to
165 generate funds equal to the dollar amount generated by the ad
166 valorem tax effort for the currently existing fiscal year.

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

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

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

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

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

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

247 (5) The aggregate receipts from ad valorem taxes levied for
248 school district purposes pursuant to Sections 37-57-1 and
249 37-57-105, excluding collection fees, additional revenue from the
250 ad valorem tax on any newly constructed properties or any existing
251 properties added to the tax rolls or any properties previously
252 exempt which were not assessed in the next preceding year, and
253 amounts received by school districts from the School Ad Valorem
254 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject
255 to the increase limitation under this section and Section
256 37-57-107.

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

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

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

266 (b) The lease of property for school purposes, as
267 authorized under the Emergency School Leasing Authority Act of
268 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

276 Any millage levied for the purposes specified in this
277 subsection shall be excluded from the millage limitations
278 established under this section.

279 **SECTION 3.** Section 37-151-7, Mississippi Code of 1972, is
280 brought forward as follows:

281 37-151-7. The annual allocation to each school district for
282 the operation of the adequate education program shall be
283 determined as follows:

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

288 (a) **Determination of average daily attendance.** During
289 months two (2) and three (3) of the current school year, the
290 average daily attendance of a school district shall be computed,
291 or the average daily attendance for the prior school year shall be
292 used, whichever is greater. The district's average daily

293 attendance shall be computed and currently maintained in
294 accordance with regulations promulgated by the State Board of
295 Education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

404 (f) **Total projected adequate education program cost.**

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

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

418 (2) **Computation of the required local revenue in support of**
419 **the adequate education program.** The amount that each district
420 shall provide toward the cost of the adequate education program
421 shall be calculated as follows:

422 (a) The State Board of Education shall certify to each
423 school district that twenty-eight (28) mills, less the estimated
424 amount of the yield of the School Ad Valorem Tax Reduction Fund
425 grants as determined by the State Department of Education, is the
426 millage rate required to provide the district required local
427 effort for that year, or twenty-seven percent (27%) of the basic
428 adequate education program cost for such school district as
429 determined under subsection (c), whichever is a lesser amount. In
430 the case of an agricultural high school the millage requirement
431 shall be set at a level which generates an equitable amount per
432 pupil to be determined by the State Board of Education.

433 (b) The State Board of Education shall determine (i)
434 the total assessed valuation of nonexempt property for school
435 purposes in each school district; (ii) assessed value of exempt
436 property owned by homeowners aged sixty-five (65) or older or
437 disabled as defined in Section 27-33-67(2), Mississippi Code of
438 1972; (iii) the school district's tax loss from exemptions
439 provided to applicants under the age of sixty-five (65) and not
440 disabled as defined in Section 27-33-67(1), Mississippi Code of
441 1972; and (iv) the school district's homestead reimbursement
442 revenues.

443 (c) The amount of the total adequate education program
444 funding which shall be contributed by each school district shall
445 be the sum of the ad valorem receipts generated by the millage
446 required under this subsection plus the following local revenue
447 sources for the appropriate fiscal year which are or may be
448 available for current expenditure by the school district:

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

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

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

455 sum of the required local tax effort as set forth in subsection
456 (2)(a) of this section and the other local revenue sources as set
457 forth in subsection (2)(c) of this section in an amount not to
458 exceed twenty-seven percent (27%) of the total projected adequate
459 education program cost as set forth in subsection (1)(f) of this
460 section from the total projected adequate education program cost
461 as set forth in subsection (1)(f) of this section.

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

475 (c) If the appropriation is less than full funding for
476 fiscal year 2003, allocations for state contributions to school
477 districts in support of the adequate education program will be
478 determined by the State Department of Education in the following
479 manner:

480 (i) Calculation of the full funding amount under
481 this chapter, with proportionate reductions as required by the
482 appropriation level.

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

488 amount equal to the allocation for the adequate education program
489 in fiscal year 2002, plus any additional amount required to
490 satisfy fiscal year 2003 pledges in accordance with paragraphs
491 (d), (e) and (f) of subsection (5) of this section. If a school
492 district's fiscal year 2003 pledge is different than the pledge
493 amount for fiscal year 2002, the district shall receive an amount
494 equal to the fiscal year 2003 pledge or the amount of funds
495 calculated under the adequate education formula for fiscal year
496 2002 before any pledge guarantee for fiscal year 2002, whichever
497 is greater. If the pledge is no longer in effect, the district
498 shall receive the amount of funds calculated under the formula for
499 fiscal year 2002 before any pledge guarantee for fiscal year 2002.

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

510 (d) If the school board of any school district shall
511 determine that it is not economically feasible or practicable to
512 operate any school within the district for the full one hundred
513 eighty (180) days required for a school term of a scholastic year
514 as required in Section 37-13-63, Mississippi Code of 1972, due to
515 an enemy attack, a man-made, technological or natural disaster in
516 which the Governor has declared a disaster emergency under the
517 laws of this state or the President of the United States has
518 declared an emergency or major disaster to exist in this state,
519 said school board may notify the State Department of Education of
520 such disaster and submit a plan for altering the school term. If

521 the State Board of Education finds such disaster to be the cause
522 of the school not operating for the contemplated school term and
523 that such school was in a school district covered by the
524 Governor's or President's disaster declaration, it may permit said
525 school board to operate the schools in its district for less than
526 one hundred eighty (180) days and, in such case, the State
527 Department of Education shall not reduce the state contributions
528 to the adequate education program allotment for such district,
529 because of the failure to operate said schools for one hundred
530 eighty (180) days.

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

544 (a) Determine the percentage increase in average daily
545 attendance for the second and third months of the year for which
546 adequate education program funds are appropriated over the
547 preceding year's second and third month average daily attendance.

548 (b) For those districts that have a three percent (3%)
549 or greater increase as calculated in paragraph (a) of this
550 subsection, multiply the total increase in students in average
551 daily attendance for the second and third months of the year for
552 which adequate education program funds are appropriated over the

553 preceding year's second and third month average daily attendance
554 times the base student cost used in the appropriation.

555 (c) Subtract the percentage of the district's local
556 contribution arrived at in subsection (2) of this section from the
557 amount calculated in paragraph (b) of this subsection. The
558 remainder is the additional allocation in adequate education
559 program funds for that district.

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

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

573 (5) The Interim School District Capital Expenditure Fund is
574 hereby established in the State Treasury which shall be used to
575 distribute any funds specifically appropriated by the Legislature
576 to such fund to school districts entitled to increased allocations
577 of state funds under the adequate education program funding
578 formula prescribed in Sections 37-151-3 through 37-151-7,
579 Mississippi Code of 1972, until such time as the said adequate
580 education program is fully funded by the Legislature. The
581 following percentages of the total state cost of increased
582 allocations of funds under the adequate education program funding
583 formula shall be appropriated by the Legislature into the Interim
584 School District Capital Expenditure Fund to be distributed to all
585 school districts under the formula: Nine and two-tenths percent

586 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
587 (20%) shall be appropriated in fiscal year 1999, forty percent
588 (40%) shall be appropriated in fiscal year 2000, sixty percent
589 (60%) shall be appropriated in fiscal year 2001, eighty percent
590 (80%) shall be appropriated in fiscal year 2002, and one hundred
591 percent (100%) shall be appropriated in fiscal year 2003 into the
592 State Adequate Education Program Fund created in subsection (4).
593 Until July 1, 2002, such money shall be used by school districts
594 for the following purposes:

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

606 (b) Providing necessary water, light, heating, air
607 conditioning, and sewerage facilities for school buildings, and
608 purchasing land therefor.

609 (c) Paying debt service on existing capital improvement
610 debt of the district or refinancing outstanding debt of a district
611 if such refinancing will result in an interest cost savings to the
612 district.

613 (d) From and after October 1, 1997, through June 30,
614 1998, pursuant to a school district capital expenditure plan
615 approved by the State Department of Education, a school district
616 may pledge such funds until July 1, 2002, plus funds provided for
617 in paragraph (e) of this subsection (5) that are not otherwise
618 permanently pledged under such paragraph (e) to pay all or a

619 portion of the debt service on debt issued by the school district
620 under Sections 37-59-1 through 37-59-45, 37-59-101 through
621 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
622 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
623 issued by boards of supervisors for agricultural high schools
624 pursuant to Section 37-27-65, Mississippi Code of 1972, or
625 lease-purchase contracts entered into pursuant to Section 31-7-13,
626 Mississippi Code of 1972, or to retire or refinance outstanding
627 debt of a district, if such pledge is accomplished pursuant to a
628 written contract or resolution approved and spread upon the
629 minutes of an official meeting of the district's school board or
630 board of supervisors. It is the intent of this provision to allow
631 school districts to irrevocably pledge their Interim School
632 District Capital Expenditure Fund allotments as a constant stream
633 of revenue to secure a debt issued under the foregoing code
634 sections. To allow school districts to make such an irrevocable
635 pledge, the state shall take all action necessary to ensure that
636 the amount of a district's Interim School District Capital
637 Expenditure Fund allotments shall not be reduced below the amount
638 certified by the department or the district's total allotment
639 under the Interim Capital Expenditure Fund if fully funded, so
640 long as such debt remains outstanding.

641 (e) From and after October 1, 1997, through June 30,
642 1998, in addition to any other authority a school district may
643 have, any school district may issue State Aid Capital Improvement
644 Bonds secured in whole by a continuing annual pledge of any
645 Mississippi Adequate Education Program funds available to the
646 district, in an amount not to exceed One Hundred Sixty Dollars
647 (\$160.00) per pupil based on the latest completed average daily
648 attendance count certified by the department prior to the issuance
649 of the bonds. Such State Aid Capital Improvement Bonds may be
650 issued for the purposes enumerated in subsections (a), (b), (c)
651 and (g) of this section. Prior to issuing such bonds, the school

652 board of the district shall adopt a resolution declaring the
653 necessity for and its intention of issuing such bonds and
654 borrowing such money, specifying the approximate amount to be so
655 borrowed, how such money is to be used and how such indebtedness
656 is to be evidenced. Any capital improvement project financed with
657 State Aid Capital Improvement Bonds shall be approved by the
658 department, and based on an approved long-range plan. The State
659 Board of Education shall promulgate minimum requirements for the
660 approval of such school district capital expenditure plans. The
661 State Board of Education shall not approve any capital expenditure
662 plan for a pledge of funds under this paragraph unless it
663 determines (i) that the quality of instruction in such district
664 will not be reduced as a result of this pledge, and (ii) the
665 district has other revenue available to attain and maintain at
666 least Level III accreditation.

667 A district issuing State Aid Capital Improvement Bonds may
668 pledge for the repayment of such bonds all funds received by the
669 district from the state, in an amount not to exceed One Hundred
670 Sixty Dollars (\$160.00) per pupil in average daily attendance in
671 the school district as set forth above, and not otherwise
672 permanently pledged under paragraph (d) of this subsection or
673 under Section 37-61-33(2)(d), Mississippi Code of 1972. The
674 district's school board shall specify by resolution the amount of
675 state funds, which are being pledged by the district for the
676 repayment of the State Aid Capital Improvement Bonds. Once such a
677 pledge is made to secure the bonds, the district shall notify the
678 department of such pledge. Upon making such a pledge, the school
679 district may request the department which may agree to irrevocably
680 transfer a specified amount or percentage of the district's state
681 revenue pledged to repay the district's State Aid Capital
682 Improvement Bonds directly to a state or federally chartered bank
683 serving as a trustee or paying agent on such bonds for the payment
684 of all or portion of such State Aid Capital Improvement Bonds.

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

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

707 The provisions of this subsection shall be cumulative and
708 supplemental to any existing funding programs or other authority
709 conferred upon school districts or school boards. Debt of a
710 school district secured in whole by a pledge of revenue pursuant
711 to this section shall not be subject to any debt limitation.

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

716 This paragraph (e) shall stand repealed from and after June
717 30, 1998.

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

732 (g) The State Board of Education may authorize the
733 school district to expend not more than twenty percent (20%) of
734 its annual allotment of such funds or Twenty Thousand Dollars
735 (\$20,000.00), whichever is greater, for technology needs of the
736 school district, including computers, software,
737 telecommunications, cable television, interactive video, film
738 low-power television, satellite communications, microwave
739 communications, technology-based equipment installation and
740 maintenance, and the training of staff in the use of such
741 technology-based instruction. Any such technology expenditure
742 shall be reflected in the local district technology plan approved
743 by the State Board of Education under Section 37-151-17,
744 Mississippi Code of 1972.

745 (h) To the extent a school district has not utilized
746 twenty percent (20%) of its annual allotment for technology
747 purposes under paragraph (g), a school district may expend not
748 more than twenty percent (20%) of its annual allotment or Twenty
749 Thousand Dollars (\$20,000.00), whichever is greater, for
750 instructional purposes. The State Board of Education may

751 authorize a school district to expend more than said twenty
752 percent (20%) of its annual allotment for instructional purposes
753 if it determines that such expenditures are needed for
754 accreditation purposes.

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

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

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

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