

By: Representative Denny

To: Education; Ways and
Means

HOUSE BILL NO. 643

1 AN ACT TO AMEND SECTIONS 37-57-105 AND 37-57-107, MISSISSIPPI
2 CODE OF 1972, TO DELETE THE AUTHORITY OF SCHOOL BOARDS TO INCREASE
3 AD VALOREM TAXES LEVIED FOR SCHOOL DISTRICT PURPOSES, REGARDLESS
4 OF THE MILLAGE RATE, ABSENT APPROVAL IN A REFERENDUM ON THE
5 PROPOSED TAX INCREASE; TO AMEND SECTION 27-39-207, MISSISSIPPI
6 CODE OF 1972, IN CONFORMITY THERETO; TO REPEAL SECTION 37-57-104,
7 MISSISSIPPI CODE OF 1972, WHICH REQUIRES AN ELECTION FOR CERTAIN
8 AD VALOREM TAX INCREASES IN SCHOOL DISTRICTS LEVYING MORE THAN 55
9 MILLS; AND FOR RELATED PURPOSES.

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

11 SECTION 1. Section 37-57-105, Mississippi Code of 1972, is
12 amended as follows:

13 **[Until July 1, 2002, this section shall read as follows:]**

14 37-57-105. (1) In addition to the taxes levied under
15 Section 37-57-1, the levying authority for the school district, as
16 defined in Section 37-57-1, upon receipt of a certified copy of an
17 order adopted by the school board of the school district
18 requesting an ad valorem tax effort in dollars for the support of
19 the school district, shall, at the same time and in the same
20 manner as other ad valorem taxes are levied, levy an annual ad
21 valorem tax in the amount fixed in such order, subject to the
22 increase limitation prescribed in Section 37-57-107, upon all of
23 the taxable property of such school district, which shall not be
24 less than a millage rate necessary to generate funds equal to the
25 "district entitlement" as defined in Section 37-22-1(2)(e) or the
26 millage rate certified by the State Board of Education as the
27 uniform minimum school district ad valorem tax levy, whichever is
28 less, including the amount of millage levied for the support of
29 the minimum education program in such school district under
30 Section 37-57-1. Provided, however, that any school district

levying less than the uniform minimum school district ad valorem tax levy on July 1, 1989, or a millage rate necessary to generate funds equal to the "district entitlement" shall only be required to increase its local district maintenance levy in four (4) mill annual increments in order to attain such millage requirements. In making such levy, the levying authority shall levy an additional amount sufficient to cover anticipated delinquencies and costs of collection so that the net amount of money to be produced by such levy shall be equal to the amount which is requested by said school board. The proceeds of such tax levy, excluding levies for the payment of the principal of and interest on school bonds or notes and excluding levies for costs of collection, shall be placed in the school depository to the credit of the school district and shall be expended in the manner provided by law for the purpose of supplementing teachers' salaries, extending school terms, purchasing furniture, supplies and materials, and for all other lawful operating and incidental expenses of such school district, funds for which are not provided by minimum program fund allotments.

The monies authorized to be received by school districts from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35 shall be included as ad valorem tax receipts. The levying authority for the school district, as defined in Section 37-57-1, shall reduce the ad valorem tax levy for such school district in an amount equal to the amount distributed to such school district from the School Ad Valorem Tax Reduction Fund each calendar year pursuant to said Section 37-61-35. Such reduction shall not be less than the millage rate necessary to generate a reduction in ad valorem tax receipts equal to the funds distributed to such school district from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35. Such reduction shall not be deemed to be a reduction in the aggregate amount of support from ad valorem taxation for purposes of Section 37-19-11. The millage levy certified by the State Board of Education as the uniform minimum ad valorem tax levy or the millage levy that would generate funds in an amount equal to a school district's district entitlement, as defined in Section 37-22-1(2)(e), shall be subject to the provisions of this paragraph.

69 In any county where there is located a nuclear generating
70 power plant on which a tax is assessed under Section 27-35-309(3),
71 such required levy and revenue produced thereby may be reduced by
72 the levying authority in an amount in proportion to a reduction in
73 the base revenue of any such county from the previous year. Such
74 reduction shall be allowed only if the reduction in base revenue
75 equals or exceeds five percent (5%). "Base revenue" shall mean the
76 revenue received by the county from the ad valorem tax levy plus
77 the revenue received by the county from the tax assessed under
78 Section 27-35-309(3) and authorized to be used for any purposes
79 for which a county is authorized by law to levy an ad valorem tax.

80 For purposes of determining if the reduction equals or exceeds
81 five percent (5%), a levy of millage equal to the prior year's
82 millage shall be hypothetically applied to the current year's ad
83 valorem tax base to determine the amount of revenue to be
84 generated from the ad valorem tax levy. For the purposes of this
85 section and Section 37-57-107, the portion of the base revenue
86 used for the support of any school district shall be deemed to be
87 the aggregate receipts from ad valorem taxes for the support of
88 any school district. This paragraph shall apply to taxes levied
89 for the 1987 fiscal year and for each fiscal year thereafter. If
90 the Mississippi Supreme Court or another court finally adjudicates
91 that the tax levied under Section 27-35-309(3) is
92 unconstitutional, then this paragraph shall stand repealed.

93 (2) When the tax is levied upon the territory of any school
94 district located in two (2) or more counties, the order of the
95 school board requesting the levying of such tax shall be certified
96 to the levying authority of each of the counties involved, and
97 each of the levying authorities shall levy the tax in the manner
98 specified herein. The taxes so levied shall be collected by the
99 tax collector of the levying authority involved and remitted by
100 the tax collector to the school depository of the home county to
101 the credit of the school district involved as provided above,
102 except that taxes for collection fees may be retained by the

levying authority for deposit into its general fund.

* * *

[From and after July 1, 2002, this section shall read as follows:]

37-57-105. (1) In addition to the taxes levied under Section 37-57-1, the levying authority for the school district, as defined in Section 37-57-1, upon receipt of a certified copy of an order adopted by the school board of the school district requesting an ad valorem tax effort in dollars for the support of the school district, shall, at the same time and in the same manner as other ad valorem taxes are levied, levy an annual ad valorem tax in the amount fixed in such order, subject to the increase limitation prescribed in Section 37-57-107, upon all of the taxable property of such school district, which shall not be less than the millage rate certified by the State Board of Education as the uniform minimum school district ad valorem tax levy for the support of the adequate education program in such school district under Section 37-57-1. Provided, however, that any school district levying less than the uniform minimum school district ad valorem tax levy on July 1, 1997, shall only be required to increase its local district maintenance levy in four (4) mill annual increments in order to attain such millage requirements. In making such levy, the levying authority shall levy an additional amount sufficient to cover anticipated delinquencies and costs of collection so that the net amount of money to be produced by such levy shall be equal to the amount which is requested by said school board. The proceeds of such tax levy, excluding levies for the payment of the principal of and interest on school bonds or notes and excluding levies for costs of collection, shall be placed in the school depository to the credit of the school district and shall be expended in the manner provided by law for the purpose of supplementing teachers' salaries, extending school terms, purchasing furniture, supplies and materials, and for all other lawful operating and incidental

137 expenses of such school district, funds for which are not provided
138 by adequate education program fund allotments.

139 The monies authorized to be received by school districts from
140 the School Ad Valorem Tax Reduction Fund pursuant to Section
141 37-61-35 shall be included as ad valorem tax receipts. The
142 levying authority for the school district, as defined in Section
143 37-57-1, shall reduce the ad valorem tax levy for such school
144 district in an amount equal to the amount distributed to such
145 school district from the School Ad Valorem Tax Reduction Fund each
146 calendar year pursuant to said Section 37-61-35. Such reduction
147 shall not be less than the millage rate necessary to generate a
148 reduction in ad valorem tax receipts equal to the funds
149 distributed to such school district from the School Ad Valorem Tax
150 Reduction Fund pursuant to Section 37-61-35. Such reduction shall
151 not be deemed to be a reduction in the aggregate amount of support
152 from ad valorem taxation for purposes of Section 37-19-11. The
153 millage levy certified by the State Board of Education as the
154 uniform minimum ad valorem tax levy or the millage levy that would
155 generate funds in an amount equal to a school district's district
156 entitlement, as defined in Section 37-22-1(2)(e), shall be subject
157 to the provisions of this paragraph.

158 In any county where there is located a nuclear generating
159 power plant on which a tax is assessed under Section 27-35-309(3),
160 such required levy and revenue produced thereby may be reduced by
161 the levying authority in an amount in proportion to a reduction in
162 the base revenue of any such county from the previous year. Such
163 reduction shall be allowed only if the reduction in base revenue
164 equals or exceeds five percent (5%). "Base revenue" shall mean
165 the revenue received by the county from the ad valorem tax levy
166 plus the revenue received by the county from the tax assessed
167 under Section 27-35-309(3) and authorized to be used for any
168 purposes for which a county is authorized by law to levy an ad
169 valorem tax. For purposes of determining if the reduction equals
170 or exceeds five percent (5%), a levy of millage equal to the prior

year's millage shall be hypothetically applied to the current year's ad valorem tax base to determine the amount of revenue to be generated from the ad valorem tax levy. For the purposes of this section and Section 37-57-107, the portion of the base revenue used for the support of any school district shall be deemed to be the aggregate receipts from ad valorem taxes for the support of any school district. This paragraph shall apply to taxes levied for the 1987 fiscal year and for each fiscal year thereafter. If the Mississippi Supreme Court or another court finally adjudicates that the tax levied under Section 27-35-309(3) is unconstitutional, then this paragraph shall stand repealed.

(2) When the tax is levied upon the territory of any school district located in two (2) or more counties, the order of the school board requesting the levying of such tax shall be certified to the levying authority of each of the counties involved, and each of the levying authorities shall levy the tax in the manner specified herein. The taxes so levied shall be collected by the tax collector of the levying authority involved and remitted by the tax collector to the school depository of the home county to the credit of the school district involved as provided above, except that taxes for collection fees may be retained by the levying authority for deposit into its general fund.

* * *

SECTION 2. Section 37-57-107, Mississippi Code of 1972, is amended as follows:

[Until July 1, 2002, this section shall read as follows:]

37-57-107. (1) Except as otherwise authorized pursuant to an election held under subsection (2) of this section, beginning with the tax levy for the 2000 fiscal year * * *, the aggregate receipts from taxes levied for school district purposes, excluding collection fees, pursuant to Sections 37-57-105 and 37-57-1 shall not exceed the aggregate receipts from those sources during * * * the immediately preceding * * * fiscal year * * *. For the purpose of this limitation, the term "aggregate receipts" when

205 used in connection with the amount of funds generated in a
206 preceding fiscal year shall not include excess receipts required
207 by law to be deposited into a special account, and shall not
208 include amounts received by school districts from the School Ad
209 Valorem Tax Reduction Fund pursuant to Section 37-61-35. The
210 additional revenue from the ad valorem tax on any newly
211 constructed properties or any existing properties added to the tax
212 rolls or any properties previously exempt which were not assessed
213 in the next preceding year may be excluded from the * * *
214 limitation set forth herein. Taxes levied for payment of
215 principal of and interest on general obligation school bonds
216 issued heretofore or hereafter shall be excluded from the * * *
217 limitation set forth herein. Any additional millage levied to
218 fund any new program mandated by the Legislature shall be excluded
219 from the limitation for the first year of the levy and included
220 within such limitation in any year thereafter. For the purposes
221 of this section, the term "new program" shall include, but shall
222 not be limited to: (a) the Early Childhood Education Program
223 required to commence with the 1986-1987 school year as provided by
224 Section 37-21-7 and any additional millage levied and the revenue
225 generated therefrom, which is excluded from the limitation for the
226 first year of the levy, to support the mandated Early Childhood
227 Education Program, which shall be specified on the minutes of the
228 school board and of the governing body making such tax levy; (b)
229 any additional millage levied and the revenue generated therefrom
230 which shall be excluded from the limitation for the first year of
231 the levy, for the purpose of generating additional local
232 contribution funds required for the minimum education program for
233 the 1987 fiscal year and for each fiscal year thereafter through
234 the 1996 fiscal year under Section 37-19-35; (c) any additional
235 millage levied and the revenue generated therefrom which shall be
236 excluded from the limitation for the first and each subsequent
237 year of the levy, for the purpose of generating additional local
238 contributions mandated under Section 37-57-105 requiring the board

of trustees of a school district to reach the millage levy certified by the State Board of Education as the uniform minimum school district ad valorem tax levy or the millage levy which would generate funds in an amount equal to a school district's "district entitlement" as defined in Section 37-22-1(2)(e); and (d) any additional millage levied and the revenue generated therefrom which shall be excluded from the limitation for the first year of the levy, for the purpose of support and maintenance of any agricultural high school which has been transferred to the control, operation and maintenance of the school board by the board of trustees of the community college district under provisions of Section 37-29-272.

(2) If a * * * school board has determined the need for additional revenues, the school board may adopt an order requesting that the levying authority, as defined in Section 37-57-1, call and hold an election on the question of exceeding the limitation prescribed in this section. However, before the order requesting the election is adopted, the school board shall advertise its intention to do so and shall hold a public meeting on the proposed increase in accordance with Section 27-39-207. The order, notice and manner of holding the election shall be as prescribed by law for the holding of elections for the issuance of bonds by the * * * school boards. The ballot shall contain the language "For the School Tax Increase" and "Against the School Tax Increase" and shall state the specific amount of the proposed tax increase. The results of the election shall be certified to the school board. If three-fifths (3/5) or more of the qualified electors voting in the election vote in favor of the question, then the stated increase requested by the school board shall be approved. Revenues collected for the fiscal year in excess of the * * * limitation pursuant to an election shall be included in the tax base for the purpose of determining aggregate receipts for which the * * * limitation applies for subsequent fiscal years.

(3) Except as otherwise provided for excess revenues

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

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

[From and after July 1, 2002, this section shall read as follows:]

37-57-107. (1) Except as otherwise authorized pursuant to an election held under subsection(2) of this section, beginning with the tax levy for the 2000 fiscal year * * *, the aggregate receipts from taxes levied for school district purposes, excluding collection fees, pursuant to Sections 37-57-105 and 37-57-1 shall not exceed the aggregate receipts from those sources during * * * the immediately preceding * * * fiscal year * * *. For the purpose of this limitation, the term "aggregate receipts" when used in connection with the amount of funds generated in a preceding fiscal year shall not include excess receipts required by law to be deposited into a special account, and shall not include any amounts received by school districts from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35. The additional revenue from the ad valorem tax on any newly

constructed properties or any existing properties added to the tax rolls or any properties previously exempt which were not assessed in the next preceding year may be excluded from the * * * limitation set forth herein. Taxes levied for payment of principal of and interest on general obligation school bonds issued heretofore or hereafter shall be excluded from the * * * limitation set forth herein. Any additional millage levied to fund any new program mandated by the Legislature shall be excluded from the limitation for the first year of the levy and included within such limitation in any year thereafter. For the purposes of this section, the term "new program" shall include, but shall not be limited to: (a) the Early Childhood Education Program required to commence with the 1986-1987 school year as provided by Section 37-21-7 and any additional millage levied and the revenue generated therefrom, which is excluded from the limitation for the first year of the levy, to support the mandated Early Childhood Education Program, which shall be specified on the minutes of the school board and of the governing body making such tax levy; (b) any additional millage levied and the revenue generated therefrom which shall be excluded from the limitation for the first year of the levy, for the purpose of generating additional local contribution funds required for the adequate education program for the 2003 fiscal year and for each fiscal year thereafter under Section 37-151-7(2); and (c) any additional millage levied and the revenue generated therefrom which shall be excluded from the limitation for the first year of the levy, for the purpose of support and maintenance of any agricultural high school which has been transferred to the control, operation and maintenance of the school board by the board of trustees of the community college district under provisions of Section 37-29-272.

(2) If a * * * school board has determined the need for additional revenues, the school board may adopt an order requesting that the levying authority, as defined in Section 37-57-1, call and hold an election on the question of exceeding

the limitation prescribed in this section. However, before the order requesting the election is adopted, the school board shall advertise its intention to do so and shall hold a public meeting on the proposed increase in accordance with Section 27-39-207. The order, notice and manner of holding the election shall be as prescribed by law for the holding of elections for the issuance of bonds by the * * * school boards. The ballot shall contain the language "For the School Tax Increase" and "Against the School Tax Increase" and shall state the specific amount of the proposed tax increase. The results of the election shall be certified to the school board. If three-fifths (3/5) or more of the qualified electors voting in the election vote in favor of the question, then the stated increase requested by the school board shall be approved. Revenues collected for the fiscal year in excess of the * * * limitation pursuant to an election shall be included in the tax base for the purpose of determining aggregate receipts for which the * * * limitation applies for subsequent fiscal years.

(3) Except as otherwise provided for excess revenues generated pursuant to an election, if revenues collected as the result of the taxes levied for the fiscal year pursuant to this section and Section 37-57-1 exceed the * * * limitation, then it shall be the mandatory duty of the school board of the school district to deposit such excess receipts over and above the * * * limitation into a special account and credit it to the fund for which the levy was made. It will be the further duty of such board to hold said funds and invest the same as authorized by law.

Such excess funds shall be calculated in the budgets for the school districts for the purpose for which such levies were made, for the succeeding fiscal year. Taxes imposed for the succeeding year shall be reduced by the amount of excess funds available. Under no circumstances shall such excess funds be expended during the fiscal year in which such excess funds are collected.

(4) For the purposes of determining ad valorem tax receipts for a preceding fiscal year under this section, the term "fiscal

year" means the fiscal year beginning October 1 and ending September 30.

SECTION 3. Section 27-39-207, Mississippi Code of 1972, is amended as follows:

27-39-207. (1) No school district may budget an increase in an ad valorem tax effort in dollars for support of the school district unless it advertises its intention to request an election on the increase at the same time that it advertises its intention to fix its budget for the forthcoming fiscal year.

(2) No request for an election on an ad valorem tax effort in dollars for the support of the school district in excess of the certified tax rate pursuant to Sections 37-57-105 and 37-57-107 may be made until an order has been approved by the school board of the school district in accordance with the following procedure:

(a) The school board of the school district shall advertise its intent to request an election on exceeding the certified tax rate in a newspaper of general circulation in the county. The advertisement shall be no less than one-fourth (1/4) page in size and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth-inch solid black border.

The advertisement may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. It is the intent of the Legislature that the advertisement appear in a newspaper that is published at least five (5) days a week, unless the only newspaper in the county is published less than five (5) days a week. It is further the intent of the Legislature that the newspaper selected be one of general interest and readership in the community, and not one of limited subject matter. The advertisement shall be run once each week for the two (2) weeks preceding the adoption of the final budget. The advertisement shall state that the school board of the school district will meet on a certain day, time and place fixed in the advertisement, which shall be not less than seven (7) days after the day the first advertisement is published, for the

purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase. The meeting on the proposed increase may coincide with the hearing on the proposed budget of the school board of the school district.

(b) The form and content of the notice shall be as follows:

"NOTICE OF TAX INCREASE

The (name of the school district) has proposed to increase the part of its total budget that is attributed to an increase in ad valorem tax by (percentage of increase) percent and/or its total budget by (percentage of increase) percent by certified copy of an order to be adopted by the school board of the school district and certified to the taxing entity which is the levying authority for the school district as defined in Section 37-57-1 requesting an election on an increase of the ad valorem tax effort in dollars for the support of the school district. The proposal of the school district is to increase its ad valorem tax effort by (estimate of dollars) and/or by (estimate increase of millage rate) and to increase its budget by (estimate of dollars) and by (estimate increase of millage rate).

All concerned citizens are invited to attend a public hearing on the tax increase to be held on (date and time) at (meeting place).

A final decision on requesting an election on the proposed tax increase will be made on (date and time) in a public hearing to be held at (meeting place)."

(3) The school board of the school district, after the hearing has been held in accordance with the above procedures, may adopt an order requesting an election on the levying of an ad valorem tax effort in dollars in excess of the certified tax rate.

(4) All hearings shall be open to the public. The school board of the school district shall permit all interested parties desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(5) Each school board of a school district shall notify the taxing entity of the date, time and place of its public hearing. No school board of a school district may schedule its hearing at the same time as another overlapping school district in the same county.

SECTION 4. Section 37-57-104, Mississippi Code of 1972, which requires an election for certain ad valorem tax increases in school districts levying more than fifty-five mills, is repealed.

SECTION 5. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the ad valorem tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the ad valorem tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 7. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.