

By: Representative Denny

To: Education; Ways and  
Means

## HOUSE BILL NO. 317

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 37-57-105. (1) In addition to the taxes levied under  
14 Section 37-57-1, the levying authority for the school district, as  
15 defined in Section 37-57-1, upon receipt of a certified copy of an  
16 order adopted by the school board of the school district  
17 requesting an ad valorem tax effort in dollars for the support of  
18 the school district, shall, at the same time and in the same  
19 manner as other ad valorem taxes are levied, levy an annual ad  
20 valorem tax in the amount fixed in such order, subject to the  
21 increased limitation prescribed in Section 37-57-107, upon all of  
22 the taxable property of such school district, which shall not be  
23 less than the millage rate certified by the State Board of  
24 Education as the uniform minimum school district ad valorem tax  
25 levy for the support of the adequate education program in such  
26 school district under Section 37-57-1. Provided, however, that  
27 any school district levying less than the uniform minimum school  
28 district ad valorem tax levy on July 1, 1997, shall only be  
29 required to increase its local district maintenance levy in four  
30 (4) mill annual increments in order to attain such millage

31 requirements. In making such levy, the levying authority shall  
32 levy an additional amount sufficient to cover anticipated  
33 delinquencies and costs of collection so that the net amount of  
34 money to be produced by such levy shall be equal to the amount  
35 which is requested by said school board. The proceeds of such tax  
36 levy, excluding levies for the payment of the principal of and  
37 interest on school bonds or notes and excluding levies for costs  
38 of collection, shall be placed in the school depository to the  
39 credit of the school district and shall be expended in the manner  
40 provided by law for the purpose of supplementing teachers'  
41 salaries, extending school terms, purchasing furniture, supplies  
42 and materials, and for all other lawful operating and incidental  
43 expenses of such school district, funds for which are not provided  
44 by adequate education program fund allotments.

45 The monies authorized to be received by school districts from  
46 the School Ad Valorem Tax Reduction Fund pursuant to Section  
47 37-61-35 shall be included as ad valorem tax receipts. The  
48 levying authority for the school district, as defined in Section  
49 37-57-1, shall reduce the ad valorem tax levy for such school  
50 district in an amount equal to the amount distributed to such  
51 school district from the School Ad Valorem Tax Reduction Fund each  
52 calendar year pursuant to said Section 37-61-35. Such reduction  
53 shall not be less than the millage rate necessary to generate a  
54 reduction in ad valorem tax receipts equal to the funds  
55 distributed to such school district from the School Ad Valorem Tax  
56 Reduction Fund pursuant to Section 37-61-35. Such reduction shall  
57 not be deemed to be a reduction in the aggregate amount of support  
58 from ad valorem taxation for purposes of Section 37-19-11. The  
59 millage levy certified by the State Board of Education as the  
60 uniform minimum ad valorem tax levy or the millage levy that would  
61 generate funds in an amount equal to a school district's district  
62 entitlement, as defined in Section 37-22-1(2)(e), shall be subject  
63 to the provisions of this paragraph.

64 In any county where there is located a nuclear generating  
65 power plant on which a tax is assessed under Section 27-35-309(3),  
66 such required levy and revenue produced thereby may be reduced by  
67 the levying authority in an amount in proportion to a reduction in  
68 the base revenue of any such county from the previous year. Such  
69 reduction shall be allowed only if the reduction in base revenue  
70 equals or exceeds five percent (5%). "Base revenue" shall mean  
71 the revenue received by the county from the ad valorem tax levy  
72 plus the revenue received by the county from the tax assessed  
73 under Section 27-35-309(3) and authorized to be used for any  
74 purposes for which a county is authorized by law to levy an ad  
75 valorem tax. For purposes of determining if the reduction equals  
76 or exceeds five percent (5%), a levy of millage equal to the prior  
77 year's millage shall be hypothetically applied to the current  
78 year's ad valorem tax base to determine the amount of revenue to  
79 be generated from the ad valorem tax levy. For the purposes of  
80 this section and Section 37-57-107, the portion of the base  
81 revenue used for the support of any school district shall be  
82 deemed to be the aggregate receipts from ad valorem taxes for the  
83 support of any school district. This paragraph shall apply to  
84 taxes levied for the 1987 fiscal year and for each fiscal year  
85 thereafter. If the Mississippi Supreme Court or another court  
86 finally adjudicates that the tax levied under Section 27-35-309(3)  
87 is unconstitutional, then this paragraph shall stand repealed.

88 (2) When the tax is levied upon the territory of any school  
89 district located in two (2) or more counties, the order of the  
90 school board requesting the levying of such tax shall be certified  
91 to the levying authority of each of the counties involved, and  
92 each of the levying authorities shall levy the tax in the manner  
93 specified herein. The taxes so levied shall be collected by the  
94 tax collector of the levying authority involved and remitted by  
95 the tax collector to the school depository of the home county to  
96 the credit of the school district involved as provided above,

97 except that taxes for collection fees may be retained by the  
98 levying authority for deposit into its general fund.

99 \* \* \*

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

102 37-57-107. (1) Except as otherwise authorized pursuant to  
103 an election held under subsection (2) of this section, beginning  
104 with the tax levy for the 2005 fiscal year \* \* \*, the aggregate  
105 receipts from taxes levied for school district purposes, excluding  
106 collection fees, pursuant to Sections 37-57-105 and 37-57-1 shall  
107 not exceed the aggregate receipts from those sources during \* \* \*  
108 the immediately preceding \* \* \* fiscal year \* \* \*. For the  
109 purpose of this limitation, the term "aggregate receipts" when  
110 used in connection with the amount of funds generated in a  
111 preceding fiscal year shall not include excess receipts required  
112 by law to be deposited into a special account. The additional  
113 revenue from the ad valorem tax on any newly constructed  
114 properties or any existing properties added to the tax rolls or  
115 any properties previously exempt which were not assessed in the  
116 next preceding year may be excluded from the \* \* \* limitation set  
117 forth herein. Taxes levied for payment of principal of and  
118 interest on general obligation school bonds issued heretofore or  
119 hereafter shall be excluded from the \* \* \* limitation set forth  
120 herein. Any additional millage levied to fund any new program  
121 mandated by the Legislature shall be excluded from the limitation  
122 for the first year of the levy and included within such limitation  
123 in any year thereafter. For the purposes of this section, the  
124 term "new program" shall include, but shall not be limited to; (a)  
125 the Early Childhood Education Program required to commence with  
126 the 1986-1987 school year as provided by Section 37-21-7 and any  
127 additional millage levied and the revenue generated therefrom,  
128 which is excluded from the limitation for the first year of the  
129 levy, to support the mandated Early Childhood Education Program,

130 which shall be specified on the minutes of the school board and of  
131 the governing body making such tax levy; (b) any additional  
132 millage levied and the revenue generated therefrom which shall be  
133 excluded from the limitation for the first year of the levy, for  
134 the purpose of generating additional local contribution funds  
135 required for the adequate education program for the 2003 fiscal  
136 year and for each fiscal year thereafter under Section  
137 37-151-7(2); and (c) any additional millage levied and the revenue  
138 generated therefrom which shall be excluded from the limitation  
139 for the first year of the levy, for the purpose of support and  
140 maintenance of any agricultural high school which has been  
141 transferred to the control, operation and maintenance of the  
142 school board by the board of trustees of the community college  
143 district under provisions of Section 37-29-272.

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

163 purpose of determining aggregate receipts for which the \* \* \*  
164 limitation applies for subsequent fiscal years.

165       (3) Except as otherwise provided for excess revenues  
166 generated pursuant to an election, if revenues collected as the  
167 result of the taxes levied for the fiscal year pursuant to this  
168 section and Section 37-57-1 exceed the \* \* \* limitation, then it  
169 shall be the mandatory duty of the school board of the school  
170 district to deposit such excess receipts over and above the \* \* \*  
171 limitation into a special account and credit it to the fund for  
172 which the levy was made. It will be the further duty of such  
173 board to hold said funds and invest the same as authorized by law.  
174 Such excess funds shall be calculated in the budgets for the  
175 school districts for the purpose for which such levies were made,  
176 for the succeeding fiscal year. Taxes imposed for the succeeding  
177 year shall be reduced by the amount of excess funds available.  
178 Under no circumstances shall such excess funds be expended during  
179 the fiscal year in which such excess funds are collected.

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

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

186       27-39-207. (1) Unless the increased revenue in a budget is  
187 derived solely from the expansion of a school district's ad  
188 valorem tax base, a school district shall not budget an increase  
189 in an ad valorem tax effort in dollars for support of the school  
190 district unless it first advertises its intention to request an  
191 election on the increase at the same time that it advertises its  
192 intention to fix its budget for the next fiscal year.

193       (2) A request for an election on an ad valorem tax effort in  
194 dollars for the support of the school district in excess of the  
195 certified tax rate pursuant to Sections 37-57-105 and 37-57-107

196 shall not be made until an order has been approved by the school  
197 board of the school district in accordance with the following  
198 procedure:

199 (a) The school board of the school district shall  
200 advertise its intent to request an election on exceeding the  
201 certified tax rate in a newspaper of general circulation in the  
202 county. The advertisement shall be no less than one-fourth (1/4)  
203 page in size and the type used shall be no smaller than eighteen  
204 (18) point and surrounded by a one-fourth-inch (1/4") solid black  
205 border. The advertisement shall not be placed in any portion of  
206 the newspaper where legal notices and classified advertisements  
207 appear. The advertisement shall appear in a newspaper that is  
208 published at least five (5) days a week, unless the only newspaper  
209 in the county is published less than five (5) days a week. The  
210 newspaper selected shall be one of general interest, readership  
211 and circulation in all areas of the community. The advertisement  
212 shall be published once each week for the two-week period  
213 preceding the adoption of the final budget. The advertisement  
214 shall provide that the school board of the school district will  
215 meet on a certain day, date, time and place fixed in the  
216 advertisement, which shall be no less than seven (7) days after  
217 the day the first advertisement is published. The meeting on the  
218 proposed increase may coincide with the hearing on the proposed  
219 budget of the school board of the school district.

220 (b) When the advertisement is required, it shall be in  
221 the following form:

222 **"NOTICE OF TAX INCREASE - (Name of the school district)**

223 The (name of the school district) will hold a public hearing  
224 on its proposed school district budget for fiscal year (insert the  
225 year) on (date and time) at (meeting place). At this meeting, a  
226 proposed ad valorem tax effort increase will be considered.

227 The (name of the school district) is now operating with  
228 projected total budget revenue of \$\_\_\_\_\_. (\_\_\_\_ percent) or

229 \$\_\_\_\_\_, of such revenue is obtained through ad valorem taxes.  
230 For next fiscal year, the proposed budget has total projected  
231 revenue of \$\_\_\_\_\_. Of that amount, (\_\_\_\_ percent) or  
232 \$\_\_\_\_\_, is proposed to be financed through a total ad valorem  
233 tax levy.

234 For the next fiscal year, the (name of the school district)  
235 plans to increase your ad valorem tax millage rate by \_\_\_\_\_ mills  
236 from \_\_\_\_\_ mills to \_\_\_\_\_ mills. (This portion of the notice  
237 shall not be required if the school district does not propose an  
238 increase in the ad valorem tax millage rate.)

239 This increase in ad valorem tax revenue means that you will  
240 pay more in ad valorem taxes on your home, automobile tag,  
241 utilities, business fixtures and equipment and rental real  
242 property.

243 Any citizen of (name of the school district) is invited to  
244 attend this public hearing on the proposed ad valorem tax  
245 increase, and will be allowed to speak for a reasonable amount of  
246 time and offer tangible evidence before any vote is taken."

247 (3) The school board of the school district, after the  
248 hearing has been held in accordance with the above procedures, may  
249 adopt an order requesting an election on the levying of an ad  
250 valorem tax effort in dollars in excess of the certified tax rate.  
251 If such order is not adopted on the day of the public hearing, the  
252 scheduled date, time and place for consideration and adoption of  
253 the order shall be announced at the public hearing.

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

258 (5) Each school board of a school district shall notify the  
259 taxing entity of the date, time and place of its public hearing.  
260 No school board of a school district may schedule its hearing at



261 the same time as another overlapping school district in the same  
262 county.

263         **SECTION 4.** Section 37-57-104, Mississippi Code of 1972,  
264 which requires an election for certain ad valorem tax increases in  
265 school districts levying more than fifty-five (55) mills, is  
266 repealed.

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

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

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