

By: Senator(s) Chaney

To: Appropriations

SENATE BILL NO. 2671

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT THE MONTHLY SALES TAX DIVERSION TO THE SCHOOL AD
 3 VALOREM TAX REDUCTION FUND SHALL BE TRANSFERRED AND DEPOSITED INTO
 4 THE MISSISSIPPI ADEQUATE EDUCATION FUND FOR THE SUPPORT OF THE
 5 ADEQUATE EDUCATION PROGRAM; TO AMEND SECTION 37-61-35, MISSISSIPPI
 6 CODE OF 1972, TO REMOVE THE AUTHORITY FOR THE SCHOOL AD VALOREM
 7 TAX REDUCTION FUND AND CREATE THE MISSISSIPPI ADEQUATE EDUCATION
 8 FUND; TO AMEND SECTIONS 37-57-1, 37-57-104 AND 37-57-105,
 9 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT FUNDS FORMERLY RECEIVED
 10 BY SCHOOL DISTRICTS FROM THE SCHOOL AD VALOREM TAX REDUCTION FUND
 11 SHALL NOT BE INCLUDED AS AD VALOREM TAX RECEIPTS FOR PURPOSES OF
 12 THE LIMITATIONS ON LOCAL SCHOOL TAXES; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 27-65-75, Mississippi Code of 1972, is
 15 amended as follows:

16 27-65-75. On or before the fifteenth day of each month, the
 17 revenue collected under the provisions of this chapter during the
 18 preceding month shall be paid and distributed as follows:

19 (1) On or before August 15, 1992, and each succeeding month
 20 thereafter through July 15, 1993, eighteen percent (18%) of the
 21 total sales tax revenue collected during the preceding month under
 22 the provisions of this chapter, except that collected under the
 23 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
 24 business activities within a municipal corporation shall be
 25 allocated for distribution to such municipality and paid to such
 26 municipal corporation. On or before August 15, 1993, and each
 27 succeeding month thereafter, eighteen and one-half percent
 28 (18-1/2%) of the total sales tax revenue collected during the
 29 preceding month under the provisions of this chapter, except that
 30 collected under the provisions of Sections 27-65-15, 27-65-19(3)
 31 and 27-65-21, on business activities within a municipal

32 corporation shall be allocated for distribution to such
33 municipality and paid to such municipal corporation.

34 A municipal corporation, for the purpose of distributing the
35 tax under this subsection, shall mean and include all incorporated
36 cities, towns and villages.

37 Monies allocated for distribution and credited to a municipal
38 corporation under this subsection may be pledged as security for
39 any loan received by the municipal corporation for the purpose of
40 capital improvements as authorized under Section 57-1-303, or
41 loans as authorized under Section 57-44-7, or water systems
42 improvements as authorized under Section 41-3-16.

43 In any county having a county seat which is not an
44 incorporated municipality, the distribution provided hereunder
45 shall be made as though the county seat was an incorporated
46 municipality; however, the distribution to such municipality shall
47 be paid to the county treasury wherein the municipality is located
48 and such funds shall be used for road, bridge and street
49 construction or maintenance therein.

50 (2) On or before September 15, 1987, and each succeeding
51 month thereafter, from the revenue collected under this chapter
52 during the preceding month One Million One Hundred Twenty-five
53 Thousand Dollars (\$1,125,000.00) shall be allocated for
54 distribution to municipal corporations as defined under subsection
55 (1) of this section in the proportion that the number of gallons
56 of gasoline and diesel fuel sold by distributors to consumers and
57 retailers in each such municipality during the preceding fiscal
58 year bears to the total gallons of gasoline and diesel fuel sold
59 by distributors to consumers and retailers in municipalities
60 statewide during the preceding fiscal year. The State Tax
61 Commission shall require all distributors of gasoline and diesel
62 fuel to report to the commission monthly the total number of
63 gallons of gasoline and diesel fuel sold by them to consumers and
64 retailers in each municipality during the preceding month. The

65 State Tax Commission shall have the authority to promulgate such
66 rules and regulations as is necessary to determine the number of
67 gallons of gasoline and diesel fuel sold by distributors to
68 consumers and retailers in each municipality. In determining the
69 percentage allocation of funds under this subsection for the
70 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
71 State Tax Commission may consider gallons of gasoline and diesel
72 fuel sold for a period of less than one (1) fiscal year. For the
73 purposes of this subsection, the term "fiscal year" means the
74 fiscal year beginning July 1 of a year.

75 (3) On or before September 15, 1987, and on or before the
76 fifteenth day of each succeeding month, until the date specified
77 in Section 65-39-35, the proceeds derived from contractors' taxes
78 levied under Section 27-65-21 on contracts for the construction or
79 reconstruction of highways designated under the highway program
80 created under Section 65-3-97 shall, except as otherwise provided
81 in Section 31-17-127, be deposited into the State Treasury to the
82 credit of the State Highway Fund to be used to fund such highway
83 program. The Mississippi Department of Transportation shall
84 provide to the State Tax Commission such information as is
85 necessary to determine the amount of proceeds to be distributed
86 under this subsection.

87 (4) On or before August 15, 1994, and on or before the
88 fifteenth day of each succeeding month through July 15, 1999, from
89 the proceeds of gasoline, diesel fuel or kerosene taxes as
90 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
91 (\$4,000,000.00) shall be deposited in the State Treasury to the
92 credit of a special fund designated as the "State Aid Road Fund,"
93 created by Section 65-9-17. On or before August 15, 1999, and on
94 or before the fifteenth day of each succeeding month, from the
95 total amount of the proceeds of gasoline, diesel fuel or kerosene
96 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
97 Dollars (\$4,000,000.00) or an amount equal to twenty-three and

98 one-fourth percent (23.25%) of such funds, whichever is the
99 greater amount, shall be deposited in the State Treasury to the
100 credit of the "State Aid Road Fund," created by Section 65-9-17.
101 Such funds shall be pledged to pay the principal of and interest
102 on state aid road bonds heretofore issued under Sections 19-9-51
103 through 19-9-77, in lieu of and in substitution for the funds
104 heretofore allocated to counties under this section. Such funds
105 may not be pledged for the payment of any state aid road bonds
106 issued after April 1, 1981; however, this prohibition against the
107 pledging of any such funds for the payment of bonds shall not
108 apply to any bonds for which intent to issue such bonds has been
109 published, for the first time, as provided by law prior to March
110 29, 1981. From the amount of taxes paid into the special fund
111 pursuant to this subsection and subsection (9) of this section,
112 there shall be first deducted and paid the amount necessary to pay
113 the expenses of the Office of State Aid Road Construction, as
114 authorized by the Legislature for all other general and special
115 fund agencies. The remainder of the fund shall be allocated
116 monthly to the several counties in accordance with the following
117 formula:

118 (a) One-third (1/3) shall be allocated to all counties
119 in equal shares;

120 (b) One-third (1/3) shall be allocated to counties
121 based on the proportion that the total number of rural road miles
122 in a county bears to the total number of rural road miles in all
123 counties of the state; and

124 (c) One-third (1/3) shall be allocated to counties
125 based on the proportion that the rural population of the county
126 bears to the total rural population in all counties of the state,
127 according to the latest federal decennial census.

128 For the purposes of this subsection, the term "gasoline,
129 diesel fuel or kerosene taxes" means such taxes as defined in
130 paragraph (f) of Section 27-5-101.

131 The amount of funds allocated to any county under this
132 subsection for any fiscal year after fiscal year 1994 shall not be
133 less than the amount allocated to such county for fiscal year
134 1994. Monies allocated to a county from the State Aid Road Fund
135 for fiscal year 1995 or any fiscal year thereafter that exceed the
136 amount of funds allocated to that county from the State Aid Road
137 Fund for fiscal year 1994, first must be expended by the county
138 for replacement or rehabilitation of bridges on the state aid road
139 system that have a sufficiency rating of less than twenty-five
140 (25), according to National Bridge Inspection standards before
141 such monies may be approved for expenditure by the State Aid Road
142 Engineer on other projects that qualify for the use of state aid
143 road funds.

144 Any reference in the general laws of this state or the
145 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
146 construed to refer and apply to subsection (4) of Section
147 27-65-75.

148 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
149 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
150 the special fund known as the "State Public School Building Fund"
151 created and existing under the provisions of Sections 37-47-1
152 through 37-47-67. Such payments into said fund are to be made on
153 the last day of each succeeding month hereafter.

154 (6) An amount each month beginning August 15, 1983, through
155 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
156 of 1983, shall be paid into the special fund known as the
157 Correctional Facilities Construction Fund created in Section 6 of
158 Chapter 542, Laws of 1983.

159 (7) * * * On or before August 15, 2000, and each succeeding
160 month thereafter, two and two hundred sixty-six one-thousandths
161 percent (2.266%) of the total sales tax revenue collected during
162 the preceding month under the provisions of this chapter, except
163 that collected under the provisions of Section 27-65-17(2), shall

164 be deposited into the Mississippi Adequate Education Program Fund
165 created under Section 37-61-35 for appropriation by the
166 Legislature for the support of the Mississippi Adequate Education
167 Program until such time that the total amount deposited into the
168 fund during a fiscal year equals Forty-two Million Dollars
169 (\$42,000,000.00). Thereafter, the amounts diverted under this
170 subsection (7) during the fiscal year in excess of Forty-two
171 Million Dollars (\$42,000,000.00) shall be deposited into the
172 Education Enhancement Fund created under Section 37-61-33 for
173 appropriation by the Legislature as other education needs and
174 shall not be subject to the percentage appropriation requirements
175 set forth in Section 37-61-33.

176 (8) On or before August 15, 1992, and each succeeding month
177 thereafter, nine and seventy-three one-thousandths percent
178 (9.073%) of the total sales tax revenue collected during the
179 preceding month under the provisions of this chapter, except that
180 collected under the provisions of Section 27-65-17(2) shall be
181 deposited into the Education Enhancement Fund created pursuant to
182 Section 37-61-33.

183 (9) On or before August 15, 1994, and each succeeding month
184 thereafter, from the revenue collected under this chapter during
185 the preceding month, Two Hundred Fifty Thousand Dollars
186 (\$250,000.00) shall be paid into the State Aid Road Fund.

187 (10) On or before August 15, 1994, and each succeeding month
188 thereafter through August 15, 1995, from the revenue collected
189 under this chapter during the preceding month, Two Million Dollars
190 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
191 Valorem Tax Reduction Fund established in Section 27-51-105.

192 (11) Notwithstanding any other provision of this section to
193 the contrary, on or before February 15, 1995, and each succeeding
194 month thereafter, the sales tax revenue collected during the
195 preceding month under the provisions of Section 27-65-17(2) and
196 the corresponding levy in Section 27-65-23 on the rental or lease

197 of private carriers of passengers and light carriers of property
198 as defined in Section 27-51-101 shall be deposited, without
199 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
200 established in Section 27-51-105.

201 (12) Notwithstanding any other provision of this section to
202 the contrary, on or before August 15, 1995, and each succeeding
203 month thereafter, the sales tax revenue collected during the
204 preceding month under the provisions of Section 27-65-17(1) on
205 retail sales of private carriers of passengers and light carriers
206 of property, as defined in Section 27-51-101 and the corresponding
207 levy in Section 27-65-23 on the rental or lease of these vehicles,
208 shall be deposited, after diversion, into the Motor Vehicle Ad
209 Valorem Tax Reduction Fund established in Section 27-51-105.

210 (13) On or before July 15, 1994, and on or before the
211 fifteenth day of each succeeding month thereafter, that portion of
212 the avails of the tax imposed in Section 27-65-22, which is
213 derived from activities held on the Mississippi state fairgrounds
214 complex, shall be paid into a special fund hereby created in the
215 State Treasury and shall be expended pursuant to legislative
216 appropriations solely to defray the costs of repairs and
217 renovation at such Trade Mart and Coliseum.

218 (14) On or before August 15, 1998, and each succeeding month
219 thereafter through July 15, 2005, that portion of the avails of
220 the tax imposed in Section 27-65-23 which is derived from sales by
221 cotton compresses or cotton warehouses and which would otherwise
222 be paid into the General Fund, shall be deposited in an amount not
223 to exceed Two Million Dollars (\$2,000,000.00) into the special
224 fund created pursuant to Section 69-37-39.

225 (15) Notwithstanding any other provision of this section to
226 the contrary, on or before September 15, 2000, and each succeeding
227 month thereafter, the sales tax revenue collected during the
228 preceding month under the provisions of Section 27-65-19(1)(f) and
229 (g)(i)2, shall be deposited, without diversion, into the

230 Telecommunications Ad Valorem Tax Reduction Fund established in
231 Section 27-38-7.

232 (16) On or before August 15, 2000, and each succeeding month
233 thereafter, the sales tax revenue collected during the preceding
234 month under the provisions of this chapter on the gross proceeds
235 of sales of a project as defined in Section 57-30-1 shall be
236 deposited, after all diversions except the diversion provided for
237 in subsection (1) of this section, into the Sales Tax Incentive
238 Fund created in Section 57-30-3.

239 (17) Notwithstanding any other provision of this section to
240 the contrary, on or before April 15, 2002, and each succeeding
241 month thereafter, the sales tax revenue collected during the
242 preceding month under Section 27-65-23 on sales of parking
243 services of parking garages and lots at airports shall be
244 deposited, without diversion, into the special fund created
245 pursuant to Section 27-5-101(d).

246 (18) On or before August 15, 2004, and each succeeding month
247 thereafter through July 15, 2005, from the sales tax revenue
248 collected during the preceding month under the provisions of this
249 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
250 shall be deposited into the Special Funds Transfer Fund created in
251 House Bill No. 1036, 2003 Regular Session.

252 (19) The remainder of the amounts collected under the
253 provisions of this chapter shall be paid into the State Treasury
254 to the credit of the General Fund.

255 (20) It shall be the duty of the municipal officials of any
256 municipality which expands its limits, or of any community which
257 incorporates as a municipality, to notify the commissioner of such
258 action thirty (30) days before the effective date. Failure to so
259 notify the commissioner shall cause such municipality to forfeit
260 the revenue which it would have been entitled to receive during
261 this period of time when the commissioner had no knowledge of the
262 action. If any funds have been erroneously disbursed to any

263 municipality or any overpayment of tax is recovered by the
264 taxpayer, the commissioner may make correction and adjust the
265 error or overpayment with such municipality by withholding the
266 necessary funds from any subsequent payment to be made to the
267 municipality.

268 **SECTION 2.** Section 37-61-35, Mississippi Code of 1972, is
269 amended as follows:

270 37-61-35. On July 1, 2004, the State Treasurer shall
271 transfer the balance of the School Ad Valorem Tax Reduction Fund
272 into the Mississippi Adequate Education Program Fund established
273 under authority of this section. There is hereby created a
274 special fund in the State Treasury to be designated the
275 Mississippi Adequate Education Program Fund into which proceeds
276 collected pursuant to Sections 27-65-75(7) and 27-67-31(a) shall
277 be deposited. Beginning with the 2005 state fiscal year, the
278 entire amount of monies in such special fund shall be appropriated
279 annually to the State Department of Education for the support of
280 the Mississippi Adequate Education Program formula as prescribed
281 under Section 37-151-1 et seq., Mississippi Code of 1972. * * *

282 **SECTION 3.** Section 37-57-1, Mississippi Code of 1972, is
283 amended as follows:

284 37-57-1. (1) (a) The boards of supervisors of the counties
285 shall levy and collect all taxes for and on behalf of all school
286 districts which were within the county school system or designated
287 as special municipal separate school districts prior to July 1,
288 1986. Such taxes shall be collected by the county tax collector
289 at the same time and in the same manner as county taxes are
290 collected by him, and the same penalties for delinquency shall be
291 applicable.

292 The governing authorities of the municipalities shall levy
293 and collect all taxes for and on behalf of all school districts
294 which were designated as municipal separate school districts prior
295 to July 1, 1986. Such taxes shall be collected by the municipal

296 tax collector at the same time and in the same manner as municipal
297 taxes are collected by him, and the same penalties for delinquency
298 shall be applicable.

299 The county or municipal tax collector, as the case may be,
300 shall pay such tax collections, except for taxes collected for the
301 payment of the principal of and interest on school bonds or notes
302 and except for taxes collected to defray collection costs, into
303 the school depository and report to the school board of the
304 appropriate school district at the same time and in the same
305 manner as the tax collector makes his payments and reports of
306 other taxes collected by him.

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

310 (b) For the purposes of this chapter and any other laws
311 pertaining to taxes levied or bonds or notes issued for and on
312 behalf of school districts, the term "levying authority" means the
313 board of supervisors of the county or the governing authorities of
314 the municipality, whichever levies taxes for and on behalf of the
315 particular school district as provided in paragraphs (a) and (b)
316 of this subsection.

317 (2) The levying authority for the school district shall, at
318 the same time and in the same manner as other taxes are levied by
319 the levying authority, levy a tax of not less than twenty-eight
320 (28) mills for the then current fiscal year, * * * or twenty-seven
321 percent (27%) of the basic adequate education program cost for
322 such school district, whichever is a lesser amount, upon all of
323 the taxable property of the school district, as required under
324 Section 37-151-7(2)(a). However, in no case shall the minimum
325 local ad valorem tax effort for any school district be equal to an
326 amount that would require a millage rate exceeding fifty-five (55)
327 mills in that school district. Provided, however, that if a
328 levying authority is levying in excess of fifty-five (55) mills on

329 July 1, 1997, the levying authority may levy an additional amount
330 not exceeding three (3) mills in the aggregate for the period
331 beginning July 1, 1997, and ending June 30, 2003, subject to the
332 limitation on increased receipts from ad valorem taxes prescribed
333 in Sections 37-57-105 and 37-57-107. Nothing in this subsection
334 shall be construed to require any school district that is levying
335 more than fifty-five (55) mills pursuant to Sections 37-57-1 and
336 37-57-105 to decrease its millage rate to fifty-five (55) mills or
337 less. In making such levy, the levying authority shall levy an
338 additional amount sufficient to cover anticipated delinquencies
339 and costs of collection so that the net amount of money to be
340 produced by such levy shall be equal to the amount which the
341 school district is required to contribute as its said minimum
342 local ad valorem tax effort. The tax so levied shall be collected
343 by the tax collector at the same time and in the same manner as
344 other ad valorem taxes are collected by him. The amount of taxes
345 so collected as a result of such levy shall be paid into the
346 district maintenance fund of the school district by the tax
347 collector at the same time and in the same manner as reports and
348 payments of other ad valorem taxes are made by said tax collector,
349 except that the amount collected to defray costs of collection may
350 be paid into the county general fund. The levying authority shall
351 have the power and authority to direct and cause warrants to be
352 issued against such fund for the purpose of refunding any amount
353 of taxes erroneously or illegally paid into such fund where such
354 refund has been approved in the manner provided by law.

355 **SECTION 4.** Section 37-57-104, Mississippi Code of 1972, is
356 amended as follows:

357 37-57-104. (1) Each school board shall submit to the
358 levying authority for the school district a certified copy of an
359 order adopted by the school board requesting an ad valorem tax
360 effort in dollars for the support of the school district. The
361 copy of the order shall be submitted by the school board when the

362 copies of the school district's budget are filed with the levying
363 authority pursuant to Section 37-61-9. Upon receipt of the school
364 board's order requesting the ad valorem tax effort in dollars, the
365 levying authority shall determine the millage rate necessary to
366 generate funds equal to the dollar amount requested by the school
367 board. For the purpose of calculating this millage rate, any
368 additional amount that is levied pursuant to Section 37-57-105(1)
369 to cover anticipated delinquencies and costs of collection or any
370 amount that may be levied for the payment of the principal and
371 interest on school bonds or notes shall be excluded from the
372 limitation of fifty-five (55) mills provided for in subsection (2)
373 of this section.

374 (2) (a) Except as otherwise provided under paragraph (b) or
375 (c) of this subsection, if the millage rate necessary to generate
376 funds equal to the dollar amount requested by the school board is
377 greater than fifty-five (55) mills, and if this millage rate is
378 higher than the millage then being levied pursuant to the school
379 board's order requesting the ad valorem tax effort for the
380 currently existing fiscal year, then the levying authority shall
381 call a referendum on the question of exceeding, during the next
382 fiscal year, the then existing millage rate being levied for
383 school district purposes. The referendum shall be scheduled for
384 not more than six (6) weeks after the date on which the levying
385 authority receives the school board's order requesting the ad
386 valorem tax effort.

387 When a referendum has been called, notice of the referendum
388 shall be published at least five (5) days per week, unless the
389 only newspaper published in the school district is published less
390 than five (5) days per week, for at least three (3) consecutive
391 weeks, in at least one (1) newspaper published in the school
392 district. The notice shall be no less than one-fourth (1/4) page
393 in size, and the type used shall be no smaller than eighteen (18)
394 point and surrounded by a one-fourth-inch solid black border. The

395 notice may not be placed in that portion of the newspaper where
396 legal notices and classified advertisements appear. The first
397 publication of the notice shall be made not less than twenty-one
398 (21) days before the date fixed for the referendum, and the last
399 publication shall be made not more than seven (7) days before that
400 date. If no newspaper is published in the school district, then
401 the notice shall be published in a newspaper having a general
402 circulation in the school district. The referendum shall be held,
403 as far as is practicable, in the same manner as other referendums
404 and elections are held in the county or municipality. At the
405 referendum, all registered, qualified electors of the school
406 district may vote. The ballots used at the referendum shall have
407 printed thereon a brief statement of the amount and purpose of the
408 increased tax levy and the words "FOR INCREASING THE MILLAGE
409 LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY
410 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S
411 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR
412 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)
413 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)
414 MILLS." The voter shall vote by placing a cross (X) or checkmark
415 (✓) opposite his choice on the proposition.

416 If a majority of the registered, qualified electors of the
417 school district who vote in the referendum vote in favor of the
418 question, then the ad valorem tax effort in dollars requested by
419 the school board shall be approved. However, if a majority of the
420 registered, qualified electors who vote in the referendum vote
421 against the question, the millage rate levied by the levying
422 authority shall not exceed the millage then being levied pursuant
423 to the school board's order requesting the ad valorem tax effort
424 for the then currently existing fiscal year.

425 Nothing in this subsection shall be construed to require any
426 school district that is levying more than fifty-five (55) mills
427 pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage

428 rate to fifty-five (55) mills or less. Further, nothing in this
429 subsection shall be construed to require a referendum in a school
430 district where the requested ad valorem tax effort in dollars
431 requires a millage rate of greater than fifty-five (55) mills but
432 the requested dollar amount does not require any increase in the
433 then existing millage rate. Further, nothing in this subsection
434 shall be construed to require a referendum in a school district
435 where, because of a decrease in the assessed valuation of the
436 district, a millage rate of greater than fifty-five (55) mills is
437 necessary to generate funds equal to the dollar amount generated
438 by the ad valorem tax effort for the currently existing fiscal
439 year.

440 (b) Provided, however, that if a levying authority is
441 levying in excess of fifty-five (55) mills on July 1, 1997, the
442 levying authority may levy an additional amount not exceeding
443 three (3) mills in the aggregate for the period beginning July 1,
444 1997, and ending June 30, 2003, subject to the limitation on
445 increased receipts from ad valorem taxes prescribed in Sections
446 37-57-105 and 37-57-107.

447 (c) If the levying authority for any school district
448 lawfully has decreased the millage levied for school district
449 purposes, but subsequently determines that there is a need to
450 increase the millage rate due to a disaster in which the Governor
451 has declared a disaster emergency or the President of the United
452 States has declared an emergency or major disaster, then the
453 levying authority may increase the millage levied for school
454 district purposes up to an amount that does not exceed the millage
455 rate in any one (1) of the immediately preceding ten (10) fiscal
456 years without any referendum that otherwise would be required
457 under this subsection.

458 (3) If the millage rate necessary to generate funds equal to
459 the dollar amount requested by the school board is equal to
460 fifty-five (55) mills or less, but the dollar amount requested by

461 the school board exceeds the next preceding fiscal year's ad
462 valorem tax effort in dollars by more than four percent (4%), but
463 not more than seven percent (7%) (as provided for under subsection
464 (4) of this section), then the school board shall publish notice
465 thereof at least five (5) days per week, unless the only newspaper
466 published in the school district is published less than five (5)
467 days per week, for at least three (3) consecutive weeks in a
468 newspaper published in the school district. The notice shall be
469 no less than one-fourth (1/4) page in size, and the type used
470 shall be no smaller than eighteen (18) point and surrounded by a
471 one-fourth-inch solid black border. The notice may not be placed
472 in that portion of the newspaper where legal notices and
473 classified advertisements appear. The first publication shall be
474 made not less than fifteen (15) days before the final adoption of
475 the budget by the school board. If no newspaper is published in
476 the school district, then the notice shall be published in a
477 newspaper having a general circulation in the school district. If
478 at any time before the adoption of the budget a petition signed by
479 not less than twenty percent (20%) or fifteen hundred (1500),
480 whichever is less, of the registered, qualified electors of the
481 school district is filed with the school board requesting that a
482 referendum be called on the question of exceeding the next
483 preceding fiscal year's ad valorem tax effort in dollars by more
484 than four percent (4%), then the school board shall adopt, not
485 later than the next regular meeting, a resolution calling a
486 referendum to be held within the school district upon the
487 question. The referendum shall be called and held, and notice
488 thereof shall be given, in the same manner provided for in
489 subsection (2) of this section. The ballot shall contain the
490 language "FOR THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)" and
491 "AGAINST THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)." If a
492 majority of the registered, qualified electors of the school
493 district who vote in the referendum vote in favor of the question,

494 then the increase requested by the school board shall be approved.
495 For the purposes of this subsection, the revenue sources excluded
496 from the increase limitation under Section 37-57-107 also shall be
497 excluded from the limitation described in this subsection in the
498 same manner as they are excluded under Section 37-57-107.
499 Provided, however, that any increases requested by the school
500 board as a result of the required local contribution to the
501 Mississippi Adequate Education Program, as certified to the local
502 school district by the State Board of Education under Section
503 37-151-7(2), Mississippi Code of 1972, shall not be subject to the
504 four percent (4%) and/or seven percent (7%) tax increase
505 limitations provided in this section.

506 (4) If the millage rate necessary to generate funds equal to
507 the dollar amount requested by the school board is equal to
508 fifty-five (55) mills or less, but the dollar amount requested by
509 the school board exceeds the seven percent (7%) increase
510 limitation provided for in Section 37-57-107, the school board may
511 exceed the seven percent (7%) increase limitation only after the
512 school board has determined the need for additional revenues and
513 three-fifths (3/5) of the registered, qualified electors voting in
514 a referendum called by the levying authority have voted in favor
515 of the increase. The notice and manner of holding the referendum
516 shall be as prescribed in subsection (2) of this section for a
517 referendum on the question of increasing the millage rate in
518 school districts levying more than fifty-five (55) mills for
519 school district purposes.

520 (5) The aggregate receipts from ad valorem taxes levied for
521 school district purposes pursuant to Sections 37-57-1 and
522 37-57-105, excluding collection fees, additional revenue from the
523 ad valorem tax on any newly constructed properties or any existing
524 properties added to the tax rolls or any properties previously
525 exempt which were not assessed in the next preceding year, * * *

526 shall be subject to the increase limitation under this section and
527 Section 37-57-107.

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

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

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

537 (b) The lease of property for school purposes, as
538 authorized under the Emergency School Leasing Authority Act of
539 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

547 Any millage levied for the purposes specified in this
548 subsection shall be excluded from the millage limitations
549 established under this section.

550 **SECTION 5.** Section 37-57-105, Mississippi Code of 1972, is
551 amended as follows:

552 37-57-105. (1) In addition to the taxes levied under
553 Section 37-57-1, the levying authority for the school district, as
554 defined in Section 37-57-1, upon receipt of a certified copy of an
555 order adopted by the school board of the school district
556 requesting an ad valorem tax effort in dollars for the support of
557 the school district, shall, at the same time and in the same
558 manner as other ad valorem taxes are levied, levy an annual ad

559 valorem tax in the amount fixed in such order upon all of the
560 taxable property of such school district, which shall not be less
561 than the millage rate certified by the State Board of Education as
562 the uniform minimum school district ad valorem tax levy for the
563 support of the adequate education program in such school district
564 under Section 37-57-1. Provided, however, that any school
565 district levying less than the uniform minimum school district ad
566 valorem tax levy on July 1, 1997, shall only be required to
567 increase its local district maintenance levy in four (4) mill
568 annual increments in order to attain such millage requirements.
569 In making such levy, the levying authority shall levy an
570 additional amount sufficient to cover anticipated delinquencies
571 and costs of collection so that the net amount of money to be
572 produced by such levy shall be equal to the amount which is
573 requested by said school board. The proceeds of such tax levy,
574 excluding levies for the payment of the principal of and interest
575 on school bonds or notes and excluding levies for costs of
576 collection, shall be placed in the school depository to the credit
577 of the school district and shall be expended in the manner
578 provided by law for the purpose of supplementing teachers'
579 salaries, extending school terms, purchasing furniture, supplies
580 and materials, and for all other lawful operating and incidental
581 expenses of such school district, funds for which are not provided
582 by adequate education program fund allotments.

583 * * *

584 In any county where there is located a nuclear generating
585 power plant on which a tax is assessed under Section 27-35-309(3),
586 such required levy and revenue produced thereby may be reduced by
587 the levying authority in an amount in proportion to a reduction in
588 the base revenue of any such county from the previous year. Such
589 reduction shall be allowed only if the reduction in base revenue
590 equals or exceeds five percent (5%). "Base revenue" shall mean
591 the revenue received by the county from the ad valorem tax levy

592 plus the revenue received by the county from the tax assessed
593 under Section 27-35-309(3) and authorized to be used for any
594 purposes for which a county is authorized by law to levy an ad
595 valorem tax. For purposes of determining if the reduction equals
596 or exceeds five percent (5%), a levy of millage equal to the prior
597 year's millage shall be hypothetically applied to the current
598 year's ad valorem tax base to determine the amount of revenue to
599 be generated from the ad valorem tax levy. For the purposes of
600 this section and Section 37-57-107, the portion of the base
601 revenue used for the support of any school district shall be
602 deemed to be the aggregate receipts from ad valorem taxes for the
603 support of any school district. This paragraph shall apply to
604 taxes levied for the 1987 fiscal year and for each fiscal year
605 thereafter. If the Mississippi Supreme Court or another court
606 finally adjudicates that the tax levied under Section 27-35-309(3)
607 is unconstitutional, then this paragraph shall stand repealed.

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

619 (3) The aggregate receipts from ad valorem taxes levied for
620 school district purposes, excluding collection fees, pursuant to
621 this section and Section 37-57-1 shall be subject to the increased
622 limitation under Section 37-57-107; however, if the ad valorem tax
623 effort in dollars requested by the school district for the fiscal
624 year exceeds the next preceding fiscal year's ad valorem tax

625 effort in dollars by more than four percent (4%) but not more than
626 seven percent (7%), then the school board shall publish notice
627 thereof once each week for at least three (3) consecutive weeks in
628 a newspaper having general circulation in the school district
629 involved, with the first publication thereof to be made not less
630 than fifteen (15) days prior to the final adoption of the budget
631 by the school board. If at any time prior to said adoption a
632 petition signed by not less than twenty percent (20%) or fifteen
633 hundred (1500), whichever is less, of the qualified electors of
634 the school district involved shall be filed with the school board
635 requesting that an election be called on the question of exceeding
636 the next preceding fiscal year's ad valorem tax effort in dollars
637 by more than four percent (4%) but not more than seven percent
638 (7%), then the school board shall, not later than the next regular
639 meeting, adopt a resolution calling an election to be held within
640 such school district upon such question. The election shall be
641 called and held, and notice thereof shall be given, in the same
642 manner for elections upon the questions of the issuance of the
643 bonds of school districts, and the results thereof shall be
644 certified to the school board. The ballot shall contain the
645 language "For the School Tax Increase Over Four Percent (4%)" and
646 "Against the School Tax Increase Over Four Percent (4%)." If a
647 majority of the qualified electors of the school district who
648 voted in such election shall vote in favor of the question, then
649 the stated increase requested by the school board shall be
650 approved. For the purposes of this paragraph, the revenue sources
651 excluded from the increased limitation under Section 37-57-107
652 shall also be excluded from the limitation described herein in the
653 same manner as they are excluded under Section 37-57-107.

654 **SECTION 6.** This act shall take effect and be in force from
655 and after July 1, 2004.