

By: Representative Moore

To: Ways and Means

HOUSE BILL NO. 895

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 2006 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.