

By: Representative Carlton

To: Education

HOUSE BILL NO. 980

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT BEGINNING WITH THE 2006-2007 SCHOOL YEAR AND EVERY
3 FOUR YEARS THEREAFTER, SCHOOL BOARDS SHALL CONDUCT A PERFORMANCE
4 EFFICIENCY AUDIT; TO AMEND SECTIONS 37-57-104 AND 37-57-105,
5 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT BEGINNING WITH THE
6 2006-2007 SCHOOL YEAR AND EVERY FOUR YEARS THEREAFTER, THE SCHOOL
7 BOARD SHALL SUBMIT TO THE LEVYING AUTHORITY FOR THE DISTRICT A
8 CERTIFIED COPY OF A PERFORMANCE EFFICIENCY AUDIT; TO REQUIRE A
9 SCHOOL DISTRICT TO PROVIDE A CERTIFIED COPY OF THE PERFORMANCE
10 EFFICIENCY AUDIT OF THE DISTRICT TO THE LEVYING AUTHORITY BEFORE A
11 TAX INCREASE MAY BE LEVIED; TO AMEND SECTION 37-61-9, MISSISSIPPI
12 CODE OF 1972, TO REQUIRE THAT AT THE SCHOOL DISTRICT PUBLIC
13 HEARINGS ON THE TAXING AND SPENDING PLAN OF THE BUDGET THAT THE
14 SCHOOL DISTRICTS ALSO ALLOW COMMENTS AT THE HEARING ON THE
15 PERFORMANCE EFFICIENCY AUDIT; TO AMEND SECTION 27-39-207,
16 MISSISSIPPI CODE OF 1972, TO REQUIRE THAT THE PERFORMANCE
17 EFFICIENCY AUDIT BE ADVERTISED IN THE DISTRICT AT THE SAME TIME
18 THE PROPOSED TAX INCREASE AND ANNUAL BUDGET IS ADVERTISED; AND FOR
19 RELATED PURPOSES.

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

21 **SECTION 1.** Section 37-7-301, Mississippi Code of 1972,
22 is amended as follows:

23 37-7-301. The school boards of all school districts shall
24 have the following powers, authority and duties in addition to all
25 others imposed or granted by law, to wit:

26 (a) To organize and operate the schools of the district
27 and to make such division between the high school grades and
28 elementary grades as, in their judgment, will serve the best
29 interests of the school;

30 (b) To introduce public school music, art, manual
31 training and other special subjects into either the elementary or
32 high school grades, as the board shall deem proper;

33 (c) To be the custodians of real and personal school
34 property and to manage, control and care for same, both during the
35 school term and during vacation;

36 (d) To have responsibility for the erection, repairing
37 and equipping of school facilities and the making of necessary
38 school improvements;

39 (e) To suspend or to expel a pupil or to change the
40 placement of a pupil to the school district's alternative school
41 or home-bound program for misconduct in the school or on school
42 property, as defined in Section 37-11-29, on the road to and from
43 school, or at any school-related activity or event, or for conduct
44 occurring on property other than school property or other than at
45 a school-related activity or event when such conduct by a pupil,
46 in the determination of the school superintendent or principal,
47 renders that pupil's presence in the classroom a disruption to the
48 educational environment of the school or a detriment to the best
49 interest and welfare of the pupils and teacher of such class as a
50 whole, and to delegate such authority to the appropriate officials
51 of the school district;

52 (f) To visit schools in the district, in their
53 discretion, in a body for the purpose of determining what can be
54 done for the improvement of the school in a general way;

55 (g) To support, within reasonable limits, the
56 superintendent, principal and teachers where necessary for the
57 proper discipline of the school;

58 (h) To exclude from the schools students with what
59 appears to be infectious or contagious diseases; provided,
60 however, such student may be allowed to return to school upon
61 presenting a certificate from a public health officer, duly
62 licensed physician or nurse practitioner that the student is free
63 from such disease;

64 (i) To require those vaccinations specified by the
65 State Health Officer as provided in Section 41-23-37, Mississippi
66 Code of 1972;

67 (j) To see that all necessary utilities and services
68 are provided in the schools at all times when same are needed;

69 (k) To authorize the use of the school buildings and
70 grounds for the holding of public meetings and gatherings of the
71 people under such regulations as may be prescribed by said board;

72 (l) To prescribe and enforce rules and regulations not
73 inconsistent with law or with the regulations of the State Board
74 of Education for their own government and for the government of
75 the schools, and to transact their business at regular and special
76 meetings called and held in the manner provided by law;

77 (m) To maintain and operate all of the schools under
78 their control for such length of time during the year as may be
79 required;

80 (n) To enforce in the schools the courses of study and
81 the use of the textbooks prescribed by the proper authorities;

82 (o) To make orders directed to the superintendent of
83 schools for the issuance of pay certificates for lawful purposes
84 on any available funds of the district and to have full control of
85 the receipt, distribution, allotment and disbursement of all funds
86 provided for the support and operation of the schools of such
87 school district whether such funds be derived from state
88 appropriations, local ad valorem tax collections, or otherwise;

89 (p) To select all school district personnel in the
90 manner provided by law, and to provide for such employee fringe
91 benefit programs, including accident reimbursement plans, as may
92 be deemed necessary and appropriate by the board;

93 (q) To provide athletic programs and other school
94 activities and to regulate the establishment and operation of such
95 programs and activities;

96 (r) To join, in their discretion, any association of
97 school boards and other public school-related organizations, and
98 to pay from local funds other than minimum foundation funds, any
99 membership dues;

100 (s) To expend local school activity funds, or other
101 available school district funds, other than minimum education

102 program funds, for the purposes prescribed under this paragraph.
103 "Activity funds" shall mean all funds received by school officials
104 in all school districts paid or collected to participate in any
105 school activity, such activity being part of the school program
106 and partially financed with public funds or supplemented by public
107 funds. The term "activity funds" shall not include any funds
108 raised and/or expended by any organization unless commingled in a
109 bank account with existing activity funds, regardless of whether
110 the funds were raised by school employees or received by school
111 employees during school hours or using school facilities, and
112 regardless of whether a school employee exercises influence over
113 the expenditure or disposition of such funds. Organizations shall
114 not be required to make any payment to any school for the use of
115 any school facility if, in the discretion of the local school
116 governing board, the organization's function shall be deemed to be
117 beneficial to the official or extracurricular programs of the
118 school. For the purposes of this provision, the term
119 "organization" shall not include any organization subject to the
120 control of the local school governing board. Activity funds may
121 only be expended for any necessary expenses or travel costs,
122 including advances, incurred by students and their chaperons in
123 attending any in-state or out-of-state school-related programs,
124 conventions or seminars and/or any commodities, equipment, travel
125 expenses, purchased services or school supplies which the local
126 school governing board, in its discretion, shall deem beneficial
127 to the official or extracurricular programs of the district,
128 including items which may subsequently become the personal
129 property of individuals, including yearbooks, athletic apparel,
130 book covers and trophies. Activity funds may be used to pay
131 travel expenses of school district personnel. The local school
132 governing board shall be authorized and empowered to promulgate
133 rules and regulations specifically designating for what purposes
134 school activity funds may be expended. The local school governing

135 board shall provide (i) that such school activity funds shall be
136 maintained and expended by the principal of the school generating
137 the funds in individual bank accounts, or (ii) that such school
138 activity funds shall be maintained and expended by the
139 superintendent of schools in a central depository approved by the
140 board. The local school governing board shall provide that such
141 school activity funds be audited as part of the annual audit
142 required in Section 37-9-18. The State Auditor shall prescribe a
143 uniform system of accounting and financial reporting for all
144 school activity fund transactions;

145 (t) To contract, on a shared savings, lease or
146 lease-purchase basis, for energy efficiency services and/or
147 equipment as provided for in Section 31-7-14, not to exceed ten
148 (10) years;

149 (u) To maintain accounts and issue pay certificates on
150 school food service bank accounts;

151 (v) (i) To lease a school building from an individual,
152 partnership, nonprofit corporation or a private for-profit
153 corporation for the use of such school district, and to expend
154 funds therefor as may be available from any nonminimum program
155 sources. The school board of the school district desiring to
156 lease a school building shall declare by resolution that a need
157 exists for a school building and that the school district cannot
158 provide the necessary funds to pay the cost or its proportionate
159 share of the cost of a school building required to meet the
160 present needs. The resolution so adopted by the school board
161 shall be published once each week for three (3) consecutive weeks
162 in a newspaper having a general circulation in the school district
163 involved, with the first publication thereof to be made not less
164 than thirty (30) days prior to the date upon which the school
165 board is to act on the question of leasing a school building. If
166 no petition requesting an election is filed prior to such meeting
167 as hereinafter provided, then the school board may, by resolution

168 spread upon its minutes, proceed to lease a school building. If
169 at any time prior to said meeting a petition signed by not less
170 than twenty percent (20%) or fifteen hundred (1500), whichever is
171 less, of the qualified electors of the school district involved
172 shall be filed with the school board requesting that an election
173 be called on the question, then the school board shall, not later
174 than the next regular meeting, adopt a resolution calling an
175 election to be held within such school district upon the question
176 of authorizing the school board to lease a school building. Such
177 election shall be called and held, and notice thereof shall be
178 given, in the same manner for elections upon the questions of the
179 issuance of the bonds of school districts, and the results thereof
180 shall be certified to the school board. If at least three-fifths
181 (3/5) of the qualified electors of the school district who voted
182 in such election shall vote in favor of the leasing of a school
183 building, then the school board shall proceed to lease a school
184 building. The term of the lease contract shall not exceed twenty
185 (20) years, and the total cost of such lease shall be either the
186 amount of the lowest and best bid accepted by the school board
187 after advertisement for bids or an amount not to exceed the
188 current fair market value of the lease as determined by the
189 averaging of at least two (2) appraisals by certified general
190 appraisers licensed by the State of Mississippi. The term "school
191 building" as used in this item (v) shall be construed to mean any
192 building or buildings used for classroom purposes in connection
193 with the operation of schools and shall include the site therefor,
194 necessary support facilities, and the equipment thereof and
195 appurtenances thereto such as heating facilities, water supply,
196 sewage disposal, landscaping, walks, drives and playgrounds. The
197 term "lease" as used in this item (v)(i) may include a
198 lease/purchase contract;

199 (ii) If two (2) or more school districts propose
200 to enter into a lease contract jointly, then joint meetings of the

201 school boards having control may be held but no action taken shall
202 be binding on any such school district unless the question of
203 leasing a school building is approved in each participating school
204 district under the procedure hereinabove set forth in item (v)(i).
205 All of the provisions of item (v)(i) regarding the term and amount
206 of the lease contract shall apply to the school boards of school
207 districts acting jointly. Any lease contract executed by two (2)
208 or more school districts as joint lessees shall set out the amount
209 of the aggregate lease rental to be paid by each, which may be
210 agreed upon, but there shall be no right of occupancy by any
211 lessee unless the aggregate rental is paid as stipulated in the
212 lease contract. All rights of joint lessees under the lease
213 contract shall be in proportion to the amount of lease rental paid
214 by each;

215 (w) To employ all noninstructional and noncertificated
216 employees and fix the duties and compensation of such personnel
217 deemed necessary pursuant to the recommendation of the
218 superintendent of schools;

219 (x) To employ and fix the duties and compensation of
220 such legal counsel as deemed necessary;

221 (y) Subject to rules and regulations of the State Board
222 of Education, to purchase, own and operate trucks, vans and other
223 motor vehicles, which shall bear the proper identification
224 required by law;

225 (z) To expend funds for the payment of substitute
226 teachers and to adopt reasonable regulations for the employment
227 and compensation of such substitute teachers;

228 (aa) To acquire in its own name by purchase all real
229 property which shall be necessary and desirable in connection with
230 the construction, renovation or improvement of any public school
231 building or structure. Whenever the purchase price for such real
232 property is greater than Fifty Thousand Dollars (\$50,000.00), the
233 school board shall not purchase the property for an amount

234 exceeding the fair market value of such property as determined by
235 the average of at least two (2) independent appraisals by
236 certified general appraisers licensed by the State of Mississippi.
237 If the board shall be unable to agree with the owner of any such
238 real property in connection with any such project, the board shall
239 have the power and authority to acquire any such real property by
240 condemnation proceedings pursuant to Section 11-27-1 et seq.,
241 Mississippi Code of 1972, and for such purpose, the right of
242 eminent domain is hereby conferred upon and vested in said board.
243 Provided further, that the local school board is authorized to
244 grant an easement for ingress and egress over sixteenth section
245 land or lieu land in exchange for a similar easement upon
246 adjoining land where the exchange of easements affords substantial
247 benefit to the sixteenth section land; provided, however, the
248 exchange must be based upon values as determined by a competent
249 appraiser, with any differential in value to be adjusted by cash
250 payment. Any easement rights granted over sixteenth section land
251 under such authority shall terminate when the easement ceases to
252 be used for its stated purpose. No sixteenth section or lieu land
253 which is subject to an existing lease shall be burdened by any
254 such easement except by consent of the lessee or unless the school
255 district shall acquire the unexpired leasehold interest affected
256 by the easement;

257 (bb) To charge reasonable fees related to the
258 educational programs of the district, in the manner prescribed in
259 Section 37-7-335;

260 (cc) Subject to rules and regulations of the State
261 Board of Education, to purchase relocatable classrooms for the use
262 of such school district, in the manner prescribed in Section
263 37-1-13;

264 (dd) Enter into contracts or agreements with other
265 school districts, political subdivisions or governmental entities
266 to carry out one or more of the powers or duties of the school

267 board, or to allow more efficient utilization of limited resources
268 for providing services to the public;

269 (ee) To provide for in-service training for employees
270 of the district. Until June 30, 1994, the school boards may
271 designate two (2) days of the minimum school term, as defined in
272 Section 37-19-1, for employee in-service training for
273 implementation of the new statewide testing system as developed by
274 the State Board of Education. Such designation shall be subject
275 to approval by the State Board of Education pursuant to uniform
276 rules and regulations;

277 (ff) As part of their duties to prescribe the use of
278 textbooks, to provide that parents and legal guardians shall be
279 responsible for the textbooks and for the compensation to the
280 school district for any books which are not returned to the proper
281 schools upon the withdrawal of their dependent child. If a
282 textbook is lost or not returned by any student who drops out of
283 the public school district, the parent or legal guardian shall
284 also compensate the school district for the fair market value of
285 the textbooks;

286 (gg) To conduct fund-raising activities on behalf of
287 the school district that the local school board, in its
288 discretion, deems appropriate or beneficial to the official or
289 extracurricular programs of the district; provided that:

290 (i) Any proceeds of the fund-raising activities
291 shall be treated as "activity funds" and shall be accounted for as
292 are other activity funds under this section; and

293 (ii) Fund-raising activities conducted or
294 authorized by the board for the sale of school pictures, the
295 rental of caps and gowns or the sale of graduation invitations for
296 which the school board receives a commission, rebate or fee shall
297 contain a disclosure statement advising that a portion of the
298 proceeds of the sales or rentals shall be contributed to the
299 student activity fund;

300 (hh) To allow individual lessons for music, art and
301 other curriculum-related activities for academic credit or
302 nonacademic credit during school hours and using school equipment
303 and facilities, subject to uniform rules and regulations adopted
304 by the school board;

305 (ii) To charge reasonable fees for participating in an
306 extracurricular activity for academic or nonacademic credit for
307 necessary and required equipment such as safety equipment, band
308 instruments and uniforms;

309 (jj) To conduct or participate in any fund-raising
310 activities on behalf of or in connection with a tax-exempt
311 charitable organization;

312 (kk) To exercise such powers as may be reasonably
313 necessary to carry out the provisions of this section;

314 (ll) To expend funds for the services of nonprofit arts
315 organizations or other such nonprofit organizations who provide
316 performances or other services for the students of the school
317 district;

318 (mm) To expend federal No Child Left Behind Act funds,
319 or any other available funds that are expressly designated and
320 authorized for that use, to pay training, educational expenses,
321 salary incentives and salary supplements to employees of local
322 school districts; except that incentives shall not be considered
323 part of the local supplement as defined in Section 37-151-5(o),
324 nor shall incentives be considered part of the local supplement
325 paid to an individual teacher for the purposes of Section
326 37-19-7(1). Mississippi Adequate Education Program funds or any
327 other state funds may not be used for salary incentives or salary
328 supplements as provided in this paragraph (mm);

329 (nn) To use any available funds, not appropriated or
330 designated for any other purpose, for reimbursement to the
331 state-licensed employees from both in-state and out-of-state, who
332 enter into a contract for employment in a school district, for the

333 expense of moving when the employment necessitates the relocation
334 of the licensed employee to a different geographical area than
335 that in which the licensed employee resides before entering into
336 the contract. The reimbursement shall not exceed One Thousand
337 Dollars (\$1,000.00) for the documented actual expenses incurred in
338 the course of relocating, including the expense of any
339 professional moving company or persons employed to assist with the
340 move, rented moving vehicles or equipment, mileage in the amount
341 authorized for county and municipal employees under Section
342 25-3-41 if the licensed employee used his personal vehicle or
343 vehicles for the move, meals and such other expenses associated
344 with the relocation. No licensed employee may be reimbursed for
345 moving expenses under this section on more than one (1) occasion
346 by the same school district. Nothing in this section shall be
347 construed to require the actual residence to which the licensed
348 employee relocates to be within the boundaries of the school
349 district that has executed a contract for employment in order for
350 the licensed employee to be eligible for reimbursement for the
351 moving expenses. However, the licensed employee must relocate
352 within the boundaries of the State of Mississippi. Any individual
353 receiving relocation assistance through the Critical Teacher
354 Shortage Act as provided in Section 37-159-5 shall not be eligible
355 to receive additional relocation funds as authorized in this
356 paragraph;

357 (oo) To use any available funds, not appropriated or
358 designated for any other purpose, to reimburse persons who
359 interview for employment as a licensed employee with the district
360 for the mileage and other actual expenses incurred in the course
361 of travel to and from the interview at the rate authorized for
362 county and municipal employees under Section 25-3-41;

363 (pp) Consistent with the report of the Task Force to
364 Conduct a Best Financial Management Practices Review, to improve
365 school district management and use of resources and identify cost

366 savings as established in Section 8 of Chapter 610, Laws of 2002,
367 local school boards are encouraged to conduct independent reviews
368 of the management and efficiency of schools and school districts.
369 Such management and efficiency reviews shall provide state and
370 local officials and the public with the following:

371 (i) An assessment of a school district's
372 governance and organizational structure;

373 (ii) An assessment of the school district's
374 financial and personnel management;

375 (iii) An assessment of revenue levels and sources;

376 (iv) An assessment of facilities utilization,
377 planning and maintenance;

378 (v) An assessment of food services, transportation
379 and safety/security systems;

380 (vi) An assessment of instructional and
381 administrative technology;

382 (vii) A review of the instructional management and
383 the efficiency and effectiveness of existing instructional
384 programs; and

385 (viii) Recommended methods for increasing
386 efficiency and effectiveness in providing educational services to
387 the public;

388 (qq) To enter into agreements with other local school
389 boards for the establishment of an educational service agency
390 (ESA) to provide for the cooperative needs of the region in which
391 the school district is located, as provided in Section 37-7-345.
392 This paragraph shall repeal on July 1, 2007;

393 (rr) To implement a financial literacy program for
394 students in Grades 10 and 11. The board may review the national
395 programs and obtain free literature from various nationally
396 recognized programs. After review of the different programs, the
397 board may certify a program that is most appropriate for the
398 school districts' needs. If a district implements a financial

399 literacy program, then any student in Grade 10 or 11 may
400 participate in the program. The financial literacy program shall
401 include, but is not limited to, instruction in the same areas of
402 personal business and finance as required under Section
403 37-1-3(2)(b). The school board may coordinate with volunteer
404 teachers from local community organizations, including, but not
405 limited to, the following: United States Department of
406 Agriculture Rural Development, United States Department of Housing
407 and Urban Development, Junior Achievement, bankers and other
408 nonprofit organizations. Nothing in this paragraph shall be
409 construed as to require school boards to implement a financial
410 literacy program;

411 (ss) To collaborate with the State Board of Education,
412 Community Action Agencies or the Department of Human Services to
413 develop and implement a voluntary program to provide services for
414 a full day prekindergarten program that addresses the cognitive,
415 social, and emotional needs of four-year-old and three-year-old
416 children. The school board may utilize nonstate source special
417 funds, grants, donations or gifts to fund the voluntary program;

418 (tt) Beginning with the 2006-2007 school year and every
419 fourth school year thereafter, the school boards shall conduct a
420 performance efficiency audit. The board may use any state
421 resources available for such purposes or contract with a private
422 consultant to perform the audit, or both.

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

425 37-57-104. (1) Each school board shall submit to the
426 levying authority for the school district a certified copy of an
427 order adopted by the school board requesting an ad valorem tax
428 effort in dollars for the support of the school district.

429 However, beginning with the 2006-2007 school year and every fourth
430 year thereafter, before the adoption of such an order, the school
431 board shall conduct a performance efficiency audit as required

432 under Section 37-7-301, and shall submit to the levying authority
433 for the district a certified copy of the performance efficiency
434 audit. The copy of the order and the performance efficiency audit
435 shall be submitted by the school board when the copies of the
436 school district's budget are filed with the levying authority
437 pursuant to Section 37-61-9. Upon receipt of the school board's
438 order requesting the ad valorem tax effort in dollars, the levying
439 authority shall determine the millage rate necessary to generate
440 funds equal to the dollar amount requested by the school board.
441 For the purpose of calculating this millage rate, any additional
442 amount that is levied pursuant to Section 37-57-105(1) to cover
443 anticipated delinquencies and costs of collection or any amount
444 that may be levied for the payment of the principal and interest
445 on school bonds or notes shall be excluded from the limitation of
446 fifty-five (55) mills provided for in subsection (2) of this
447 section.

448 (2) (a) Except as otherwise provided under paragraph (b) or
449 (c) of this subsection, if the millage rate necessary to generate
450 funds equal to the dollar amount requested by the school board is
451 greater than fifty-five (55) mills, and if this millage rate is
452 higher than the millage then being levied pursuant to the school
453 board's order requesting the ad valorem tax effort for the
454 currently existing fiscal year, then the levying authority shall
455 call a referendum on the question of exceeding, during the next
456 fiscal year, the then existing millage rate being levied for
457 school district purposes. The referendum shall be scheduled for
458 not more than six (6) weeks after the date on which the levying
459 authority receives the school board's order requesting the ad
460 valorem tax effort.

461 When a referendum has been called, notice of the referendum
462 shall be published at least five (5) days per week, unless the
463 only newspaper published in the school district is published less
464 than five (5) days per week, for at least three (3) consecutive

465 weeks, in at least one (1) newspaper published in the school
466 district. The notice shall be no less than one-fourth (1/4) page
467 in size, and the type used shall be no smaller than eighteen (18)
468 point and surrounded by a one-fourth-inch solid black border. The
469 notice may not be placed in that portion of the newspaper where
470 legal notices and classified advertisements appear. The first
471 publication of the notice shall be made not less than twenty-one
472 (21) days before the date fixed for the referendum, and the last
473 publication shall be made not more than seven (7) days before that
474 date. If no newspaper is published in the school district, then
475 the notice shall be published in a newspaper having a general
476 circulation in the school district. The referendum shall be held,
477 as far as is practicable, in the same manner as other referendums
478 and elections are held in the county or municipality. At the
479 referendum, all registered, qualified electors of the school
480 district may vote. The ballots used at the referendum shall have
481 printed thereon a brief statement of the amount and purpose of the
482 increased tax levy and the words "FOR INCREASING THE MILLAGE
483 LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY
484 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S
485 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR
486 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)
487 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)
488 MILLS." The voter shall vote by placing a cross (X) or checkmark
489 (✓) opposite his choice on the proposition.

490 If a majority of the registered, qualified electors of the
491 school district who vote in the referendum vote in favor of the
492 question, then the ad valorem tax effort in dollars requested by
493 the school board shall be approved. However, if a majority of the
494 registered, qualified electors who vote in the referendum vote
495 against the question, the millage rate levied by the levying
496 authority shall not exceed the millage then being levied pursuant

497 to the school board's order requesting the ad valorem tax effort
498 for the then currently existing fiscal year.

499 Nothing in this subsection shall be construed to require any
500 school district that is levying more than fifty-five (55) mills
501 pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage
502 rate to fifty-five (55) mills or less. Further, nothing in this
503 subsection shall be construed to require a referendum in a school
504 district where the requested ad valorem tax effort in dollars
505 requires a millage rate of greater than fifty-five (55) mills but
506 the requested dollar amount does not require any increase in the
507 then existing millage rate. Further, nothing in this subsection
508 shall be construed to require a referendum in a school district
509 where, because of a decrease in the assessed valuation of the
510 district, a millage rate of greater than fifty-five (55) mills is
511 necessary to generate funds equal to the dollar amount generated
512 by the ad valorem tax effort for the currently existing fiscal
513 year.

514 (b) Provided, however, that if a levying authority is
515 levying in excess of fifty-five (55) mills on July 1, 1997, the
516 levying authority may levy an additional amount not exceeding
517 three (3) mills in the aggregate for the period beginning July 1,
518 1997, and ending June 30, 2003, subject to the limitation on
519 increased receipts from ad valorem taxes prescribed in Sections
520 37-57-105 and 37-57-107.

521 (c) If the levying authority for any school district
522 lawfully has decreased the millage levied for school district
523 purposes, but subsequently determines that there is a need to
524 increase the millage rate due to a disaster in which the Governor
525 has declared a disaster emergency or the President of the United
526 States has declared an emergency or major disaster, then the
527 levying authority may increase the millage levied for school
528 district purposes up to an amount that does not exceed the millage
529 rate in any one (1) of the immediately preceding ten (10) fiscal

530 years without any referendum that otherwise would be required
531 under this subsection.

532 (3) If the millage rate necessary to generate funds equal to
533 the dollar amount requested by the school board is equal to
534 fifty-five (55) mills or less, but the dollar amount requested by
535 the school board exceeds the next preceding fiscal year's ad
536 valorem tax effort in dollars by more than four percent (4%), but
537 not more than seven percent (7%) (as provided for under subsection
538 (4) of this section), then the school board shall publish notice
539 thereof at least five (5) days per week, unless the only newspaper
540 published in the school district is published less than five (5)
541 days per week, for at least three (3) consecutive weeks in a
542 newspaper published in the school district. The notice shall be
543 no less than one-fourth (1/4) page in size, and the type used
544 shall be no smaller than eighteen (18) point and surrounded by a
545 one-fourth-inch solid black border. The notice may not be placed
546 in that portion of the newspaper where legal notices and
547 classified advertisements appear. The first publication shall be
548 made not less than fifteen (15) days before the final adoption of
549 the budget by the school board. If no newspaper is published in
550 the school district, then the notice shall be published in a
551 newspaper having a general circulation in the school district. If
552 at any time before the adoption of the budget a petition signed by
553 not less than twenty percent (20%) or fifteen hundred (1500),
554 whichever is less, of the registered, qualified electors of the
555 school district is filed with the school board requesting that a
556 referendum be called on the question of exceeding the next
557 preceding fiscal year's ad valorem tax effort in dollars by more
558 than four percent (4%), then the school board shall adopt, not
559 later than the next regular meeting, a resolution calling a
560 referendum to be held within the school district upon the
561 question. The referendum shall be called and held, and notice
562 thereof shall be given, in the same manner provided for in

563 subsection (2) of this section. The ballot shall contain the
564 language "FOR THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)" and
565 "AGAINST THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)." If a
566 majority of the registered, qualified electors of the school
567 district who vote in the referendum vote in favor of the question,
568 then the increase requested by the school board shall be approved.
569 For the purposes of this subsection, the revenue sources excluded
570 from the increase limitation under Section 37-57-107 also shall be
571 excluded from the limitation described in this subsection in the
572 same manner as they are excluded under Section 37-57-107.
573 Provided, however, that any increases requested by the school
574 board as a result of the required local contribution to the
575 Mississippi Adequate Education Program, as certified to the local
576 school district by the State Board of Education under Section
577 37-151-7(2), Mississippi Code of 1972, shall not be subject to the
578 four percent (4%) and/or seven percent (7%) tax increase
579 limitations provided in this section.

580 (4) If the millage rate necessary to generate funds equal to
581 the dollar amount requested by the school board is equal to
582 fifty-five (55) mills or less, but the dollar amount requested by
583 the school board exceeds the seven percent (7%) increase
584 limitation provided for in Section 37-57-107, the school board may
585 exceed the seven percent (7%) increase limitation only after the
586 school board has determined the need for additional revenues and
587 three-fifths (3/5) of the registered, qualified electors voting in
588 a referendum called by the levying authority have voted in favor
589 of the increase. The notice and manner of holding the referendum
590 shall be as prescribed in subsection (2) of this section for a
591 referendum on the question of increasing the millage rate in
592 school districts levying more than fifty-five (55) mills for
593 school district purposes.

594 (5) The aggregate receipts from ad valorem taxes levied for
595 school district purposes pursuant to Sections 37-57-1 and

596 37-57-105, excluding collection fees, additional revenue from the
597 ad valorem tax on any newly constructed properties or any existing
598 properties added to the tax rolls or any properties previously
599 exempt which were not assessed in the next preceding year, and
600 amounts received by school districts from the School Ad Valorem
601 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject
602 to the increase limitation under this section and Section
603 37-57-107.

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

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

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

613 (b) The lease of property for school purposes, as
614 authorized under the Emergency School Leasing Authority Act of
615 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

623 Any millage levied for the purposes specified in this
624 subsection shall be excluded from the millage limitations
625 established under this section.

626 **SECTION 3.** Section 37-57-105, Mississippi Code of 1972, is
627 amended as follows:

628 37-57-105. (1) In addition to the taxes levied under
629 Section 37-57-1, the levying authority for the school district, as
630 defined in Section 37-57-1, upon receipt of a certified copy of an
631 order adopted by the school board of the school district
632 requesting an ad valorem tax effort in dollars for the support of
633 the school district and upon receipt of a certified copy of the
634 performance efficiency audit as required under Section 37-57-104,
635 shall, at the same time and in the same manner as other ad valorem
636 taxes are levied, levy an annual ad valorem tax in the amount
637 fixed in such order upon all of the taxable property of such
638 school district, which shall not be less than the millage rate
639 certified by the State Board of Education as the uniform minimum
640 school district ad valorem tax levy for the support of the
641 adequate education program in such school district under Section
642 37-57-1. Provided, however, that any school district levying less
643 than the uniform minimum school district ad valorem tax levy on
644 July 1, 1997, shall only be required to increase its local
645 district maintenance levy in four (4) mill annual increments in
646 order to attain such millage requirements. In making such levy,
647 the levying authority shall levy an additional amount sufficient
648 to cover anticipated delinquencies and costs of collection so that
649 the net amount of money to be produced by such levy shall be equal
650 to the amount which is requested by said school board. The
651 proceeds of such tax levy, excluding levies for the payment of the
652 principal of and interest on school bonds or notes and excluding
653 levies for costs of collection, shall be placed in the school
654 depository to the credit of the school district and shall be
655 expended in the manner provided by law for the purpose of
656 supplementing teachers' salaries, extending school terms,
657 purchasing furniture, supplies and materials, and for all other
658 lawful operating and incidental expenses of such school district,
659 funds for which are not provided by adequate education program
660 fund allotments.

661 The monies authorized to be received by school districts from
662 the School Ad Valorem Tax Reduction Fund pursuant to Section
663 37-61-35 shall be included as ad valorem tax receipts. The
664 levying authority for the school district, as defined in Section
665 37-57-1, shall reduce the ad valorem tax levy for such school
666 district in an amount equal to the amount distributed to such
667 school district from the School Ad Valorem Tax Reduction Fund each
668 calendar year pursuant to said Section 37-61-35. Such reduction
669 shall not be less than the millage rate necessary to generate a
670 reduction in ad valorem tax receipts equal to the funds
671 distributed to such school district from the School Ad Valorem Tax
672 Reduction Fund pursuant to Section 37-61-35. Such reduction shall
673 not be deemed to be a reduction in the aggregate amount of support
674 from ad valorem taxation for purposes of Section 37-19-11. The
675 millage levy certified by the State Board of Education as the
676 uniform minimum ad valorem tax levy or the millage levy that would
677 generate funds in an amount equal to a school district's district
678 entitlement, as defined in Section 37-22-1(2)(e), shall be subject
679 to the provisions of this paragraph.

680 In any county where there is located a nuclear generating
681 power plant on which a tax is assessed under Section 27-35-309(3),
682 such required levy and revenue produced thereby may be reduced by
683 the levying authority in an amount in proportion to a reduction in
684 the base revenue of any such county from the previous year. Such
685 reduction shall be allowed only if the reduction in base revenue
686 equals or exceeds five percent (5%). "Base revenue" shall mean
687 the revenue received by the county from the ad valorem tax levy
688 plus the revenue received by the county from the tax assessed
689 under Section 27-35-309(3) and authorized to be used for any
690 purposes for which a county is authorized by law to levy an ad
691 valorem tax. For purposes of determining if the reduction equals
692 or exceeds five percent (5%), a levy of millage equal to the prior
693 year's millage shall be hypothetically applied to the current

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

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

715 (3) The aggregate receipts from ad valorem taxes levied for
716 school district purposes, excluding collection fees, pursuant to
717 this section and Section 37-57-1 shall be subject to the increased
718 limitation under Section 37-57-107; however, if the ad valorem tax
719 effort in dollars requested by the school district for the fiscal
720 year exceeds the next preceding fiscal year's ad valorem tax
721 effort in dollars by more than four percent (4%) but not more than
722 seven percent (7%), then the school board shall publish notice
723 thereof once each week for at least three (3) consecutive weeks in
724 a newspaper having general circulation in the school district
725 involved, with the first publication thereof to be made not less
726 than fifteen (15) days prior to the final adoption of the budget

727 by the school board. If at any time prior to said adoption a
728 petition signed by not less than twenty percent (20%) or fifteen
729 hundred (1500), whichever is less, of the qualified electors of
730 the school district involved shall be filed with the school board
731 requesting that an election be called on the question of exceeding
732 the next preceding fiscal year's ad valorem tax effort in dollars
733 by more than four percent (4%) but not more than seven percent
734 (7%), then the school board shall, not later than the next regular
735 meeting, adopt a resolution calling an election to be held within
736 such school district upon such question. The election shall be
737 called and held, and notice thereof shall be given, in the same
738 manner for elections upon the questions of the issuance of the
739 bonds of school districts, and the results thereof shall be
740 certified to the school board. The ballot shall contain the
741 language "For the School Tax Increase Over Four Percent (4%)" and
742 "Against the School Tax Increase Over Four Percent (4%)." If a
743 majority of the qualified electors of the school district who
744 voted in such election shall vote in favor of the question, then
745 the stated increase requested by the school board shall be
746 approved. For the purposes of this paragraph, the revenue sources
747 excluded from the increased limitation under Section 37-57-107
748 shall also be excluded from the limitation described herein in the
749 same manner as they are excluded under Section 37-57-107.

750 **SECTION 4.** Section 37-61-9, Mississippi Code of 1972, is
751 amended as follows:

752 37-61-9. (1) On or before the fifteenth day of August of
753 each year, the local school board of each school district, with
754 the assistance of the superintendent of schools, shall prepare and
755 file with the levying authority for the school district, as
756 defined in Section 37-57-1, Mississippi Code of 1972, at least two
757 (2) copies of a budget of estimated expenditures for the support,
758 maintenance and operation of the public schools of the school
759 district for the fiscal year commencing on July 1 of such year.

760 Such budget shall be prepared on forms prescribed and provided by
761 the State Auditor and shall contain such information as the State
762 Auditor may require.

763 (2) In addition, on or before the fifteenth day of August of
764 each year, the local school board of each school district, with
765 the assistance of the superintendent of schools, shall prepare and
766 file with the State Department of Education such budgetary
767 information as the State Board of Education may require. The
768 State Board of Education shall prescribe and provide forms to each
769 school district for this purpose.

770 (3) Prior to the adoption of a budget pursuant to this
771 section, the school board of each school district shall hold at
772 least one (1) public hearing to provide the general public with an
773 opportunity to comment on the taxing and spending plan
774 incorporated in the proposed budget and on the performance
775 efficiency audit required under Section 37-7-301. The public
776 hearing shall be held at least one (1) week prior to the adoption
777 of the budget with advance notice. After final adoption of the
778 budget, a synopsis of such budget in a form prescribed by the
779 State Department of Audit shall be published in a newspaper having
780 general circulation in the school district on a date different
781 from the date on which the county or any municipality therein may
782 publish its budget.

783 (4) Beginning with the fiscal year 1995-1996, there shall be
784 imposed limitations on budgeted expenditures for certain
785 administration costs, as defined hereinafter, in an amount not
786 greater than One Hundred Fifty Thousand Dollars (\$150,000.00) plus
787 four percent (4%) of the expenditures of all school districts each
788 year. For purposes of this subsection, "administration costs"
789 shall be defined as expenditures for salaries and fringe benefits
790 paid for central administration costs from all sources of revenue
791 in the following expenditure functions as defined in the
792 MISSISSIPPI PUBLIC SCHOOL DISTRICT FINANCIAL ACCOUNTING MANUAL:

- 793 2300 = Support Services - General Administration
- 794 2310 = Board of Education Services
- 795 2320 = Executive Administration Services
- 796 2330 = Special Area Administration Services
- 797 2500 = Business Services
- 798 2510 = Fiscal Services
- 799 2520 = Purchasing Services
- 800 2530 = Warehousing and Distributing Services
- 801 2540 = Printing, Publishing and Duplicating Services
- 802 2590 = Other Support Services - Business
- 803 2800 = Support Services - Central
- 804 2810 = Planning, Research, Development and Evaluation
- 805 2820 = Information Services
- 806 2830 = Staff Services
- 807 2840 = Data Processing Services

808 Any costs classified as "administration costs" for purposes
809 of this subsection which can be demonstrated by the local school
810 district to be an expenditure that results in a net cost savings
811 to the district that may otherwise require budget expenditures for
812 functions not covered under the definition of administration costs
813 herein may be excluded from the limitations imposed herein. The
814 local school board shall make a specific finding of such costs and
815 spread such finding upon its minutes, which shall be subject to
816 the approval of the Office of Educational Accountability of the
817 State Department of Education. Any school district required to
818 make expenditure cuts, as a result of application of this
819 subsection, shall not be required to reduce such expenditures more
820 than twenty-five percent (25%) in any year in order to comply with
821 this mandate.

822 The State Auditor shall ensure that functions in all
823 expenditure categories to which this administrative limitation
824 applies shall be properly classified.

825 This section shall not apply to central administration with
826 five (5) or less full-time employees, or to those school districts
827 which can substantiate that comparable reductions have occurred in
828 administrative costs for the five-year period immediately prior to
829 school year 1993-1994. In the event the application of this
830 section may jeopardize the fiscal integrity or operations of the
831 school district, have an adverse impact on the ability of the
832 district to deliver educational services, or otherwise restrict
833 the district from achieving or maintaining a quality education
834 program, the State Board of Education shall be authorized to
835 exempt the application of this section to such school district
836 pursuant to rules and regulations of the State Board of Education
837 consistent with the intent of this section.

838 **SECTION 5.** Section 27-39-207, Mississippi Code of 1972, is
839 amended as follows:

840 27-39-207. (1) Unless the increased revenue in a budget is
841 derived solely from the expansion of a school district's ad
842 valorem tax base, a school district shall not budget an increase
843 in an ad valorem tax effort in dollars for support of the school
844 district unless it first advertises its intention to do so at the
845 same time that it advertises its intention to fix its budget for
846 the next fiscal year and advertises the results of the performance
847 efficiency audit required under Section 37-7-301.

848 (2) A request for an ad valorem tax effort in dollars for
849 the support of the school district in excess of the certified tax
850 rate pursuant to Sections 37-57-105 and 37-57-107 shall not be
851 levied until an order has been approved by the school board of the
852 school district in accordance with the following procedure:

853 (a) The school board of the school district shall
854 advertise its intent to exceed the certified tax rate in a
855 newspaper of general circulation in the county. The advertisement
856 shall be no less than one-fourth (1/4) page in size and the type
857 used shall be no smaller than eighteen (18) point and surrounded

858 by a one-fourth-inch (1/4") solid black border. The advertisement
859 shall not be placed in any portion of the newspaper where legal
860 notices and classified advertisements appear. The advertisement
861 shall appear in a newspaper that is published at least five (5)
862 days a week, unless the only newspaper in the county is published
863 less than five (5) days a week. The newspaper selected shall be
864 one of general interest, readership and circulation in all areas
865 of the community. The advertisement shall be published once each
866 week for the two-week period preceding the adoption of the final
867 budget. The advertisement shall provide that the school board of
868 the school district will meet on a certain day, date, time and
869 place fixed in the advertisement, which shall be no less than
870 seven (7) days after the day the first advertisement is published.
871 The meeting on the proposed increase may coincide with the hearing
872 on the proposed budget of the school board of the school district.

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

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

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

880 The (name of the school district) is now operating with
881 projected total budget revenue of \$_____. (____ percent) or
882 \$_____, of such revenue is obtained through ad valorem taxes.
883 For next fiscal year, the proposed budget has total projected
884 revenue of \$_____. Of that amount, (____ percent) or
885 \$_____, is proposed to be financed through a total ad valorem
886 tax levy.

887 For the next fiscal year, the (name of the school district)
888 plans to increase your ad valorem tax millage rate by _____ mills
889 from _____ mills to _____ mills. (This portion of the notice

890 shall not be required if the school district does not propose an
891 increase in the ad valorem tax millage rate.)

892 This increase in ad valorem tax revenue means that you will
893 pay more in ad valorem taxes on your home, automobile tag,
894 utilities, business fixtures and equipment and rental real
895 property.

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

900 (3) The school board of the school district, after the
901 hearing has been held in accordance with the above procedures, may
902 adopt an order requesting the levying of an ad valorem tax effort
903 in dollars in excess of the certified tax rate. If such order is
904 not adopted on the day of the public hearing, the scheduled date,
905 time and place for consideration and adoption of the order shall
906 be announced at the public hearing.

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

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

916 **SECTION 6.** This act shall take effect and be in force from
917 and after July 1, 2005.