

By: Senator(s) Albritton

To: Finance

SENATE BILL NO. 2583

1 AN ACT TO AMEND SECTIONS 37-57-1, 37-57-104, 37-57-105 AND
2 37-61-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COUNTY
3 BOARD OF EDUCATION SHALL BE THE AD VALOREM TAX LEVYING AUTHORITY
4 FOR ANY SCHOOL DISTRICT WHICH IS IN THE COUNTY SCHOOL SYSTEM; AND
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 37-57-1, Mississippi Code of 1972, is
8 amended as follows:

9 37-57-1. (1) (a) The county boards of education of the
10 various counties shall levy and collect all taxes for and on
11 behalf of all school districts which were within the county school
12 system or designated as special municipal separate school
13 districts prior to July 1, 1986. Such taxes shall be collected by
14 the county tax collector at the same time and in the same manner
15 as county taxes are collected by him, and the same penalties for
16 delinquency shall be applicable.

17 The governing authorities of the municipalities shall levy
18 and collect all taxes for and on behalf of all school districts
19 which were designated as municipal separate school districts prior
20 to July 1, 1986. Such taxes shall be collected by the municipal
21 tax collector at the same time and in the same manner as municipal
22 taxes are collected by him, and the same penalties for delinquency
23 shall be applicable.

24 The county or municipal tax collector, as the case may be,
25 shall pay such tax collections, except for taxes collected for the
26 payment of the principal of and interest on school bonds or notes
27 and except for taxes collected to defray collection costs, into
28 the school depository and report to the school board of the

appropriate school district at the same time and in the same manner as the tax collector makes his payments and reports of other taxes collected by him.

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

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

(2) The levying authority for the school district shall, at the same time and in the same manner as other taxes are levied by the levying authority, levy a tax of not less than twenty-eight (28) mills for the then current fiscal year, less the estimated amount of the yield of the School Ad Valorem Tax Reduction Fund grant to the school district as determined by the State Department of Education or twenty-seven percent (27%) of the basic adequate education program cost for such school district, whichever is a lesser amount, upon all of the taxable property of the school district, as required under Section 37-151-7(2)(a). However, in no case shall the minimum local ad valorem tax effort for any school district be equal to an amount that would require a millage rate exceeding fifty-five (55) mills in that school district. Provided, however, that if a levying authority is levying in excess of fifty-five (55) mills on July 1, 1997, the levying authority may levy an additional amount not exceeding three (3) mills in the aggregate for the period beginning July 1, 1997, and ending June 30, 2003, subject to the limitation on increased receipts from ad valorem taxes prescribed in Sections 37-57-105 and 37-57-107. Nothing in this subsection shall be construed to

require any school district that is levying more than fifty-five (55) mills pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage rate to fifty-five (55) mills or less. In making such levy, the levying authority shall levy an additional amount sufficient to cover anticipated delinquencies and costs of collection so that the net amount of money to be produced by such levy shall be equal to the amount which the school district is required to contribute as its said minimum local ad valorem tax effort. The tax so levied shall be collected by the tax collector at the same time and in the same manner as other ad valorem taxes are collected by him. The amount of taxes so collected as a result of such levy shall be paid into the district maintenance fund of the school district by the tax collector at the same time and in the same manner as reports and payments of other ad valorem taxes are made by said tax collector, except that the amount collected to defray costs of collection may be paid into the county general fund. The levying authority shall have the power and authority to direct and cause warrants to be issued against such fund for the purpose of refunding any amount of taxes erroneously or illegally paid into such fund where such refund has been approved in the manner provided by law.

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

37-57-104. (1) Each school board shall submit to the levying authority for the school district a certified copy of an order adopted by the school board requesting an ad valorem tax effort in dollars for the support of the school district. The copy of the order shall be submitted by the school board when the copies of the school district's budget are filed with the levying authority pursuant to Section 37-61-9. Upon receipt of the school board's order requesting the ad valorem tax effort in dollars, the levying authority shall determine the millage rate necessary to generate funds equal to the dollar amount requested by the school

board. Provided, however, that in the case of a school district
in the county school system, the county board of education for
such county shall determine the millage rate necessary to generate
funds equal to the requested budget without the necessity of
filing a certified copy with the board of supervisors of the
county. For the purpose of calculating this millage rate, any
additional amount that is levied pursuant to Section 37-57-105(1)
to cover anticipated delinquencies and costs of collection or any
amount that may be levied for the payment of the principal and
interest on school bonds or notes shall be excluded from the
limitation of fifty-five (55) mills provided for in subsection (2)
of this section.

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

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

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

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

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

161 rate to fifty-five (55) mills or less. Further, nothing in this
162 subsection shall be construed to require a referendum in a school
163 district where the requested ad valorem tax effort in dollars
164 requires a millage rate of greater than fifty-five (55) mills but
165 the requested dollar amount does not require any increase in the
166 then existing millage rate. Further, nothing in this subsection
167 shall be construed to require a referendum in a school district
168 where, because of a decrease in the assessed valuation of the
169 district, a millage rate of greater than fifty-five (55) mills is
170 necessary to generate funds equal to the dollar amount generated
171 by the ad valorem tax effort for the currently existing fiscal
172 year.

173 (b) Provided, however, that if a levying authority is
174 levying in excess of fifty-five (55) mills on July 1, 1997, the
175 levying authority may levy an additional amount not exceeding
176 three (3) mills in the aggregate for the period beginning July 1,
177 1997, and ending June 30, 2003, subject to the limitation on
178 increased receipts from ad valorem taxes prescribed in Sections
179 37-57-105 and 37-57-107.

180 (c) If the levying authority for any school district
181 lawfully has decreased the millage levied for school district
182 purposes, but subsequently determines that there is a need to
183 increase the millage rate due to a disaster in which the Governor
184 has declared a disaster emergency or the President of the United
185 States has declared an emergency or major disaster, then the
186 levying authority may increase the millage levied for school
187 district purposes up to an amount that does not exceed the millage
188 rate in any one (1) of the immediately preceding ten (10) fiscal
189 years without any referendum that otherwise would be required
190 under this subsection.

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

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

227 then the increase requested by the school board shall be approved.
228 For the purposes of this subsection, the revenue sources excluded
229 from the increase limitation under Section 37-57-107 also shall be
230 excluded from the limitation described in this subsection in the
231 same manner as they are excluded under Section 37-57-107.
232 Provided, however, that any increases requested by the school
233 board as a result of the required local contribution to the
234 Mississippi Adequate Education Program, as certified to the local
235 school district by the State Board of Education under Section
236 37-151-7(2), Mississippi Code of 1972, shall not be subject to the
237 four percent (4%) and/or seven percent (7%) tax increase
238 limitations provided in this section.

239 (4) If the millage rate necessary to generate funds equal to
240 the dollar amount requested by the school board is equal to
241 fifty-five (55) mills or less, but the dollar amount requested by
242 the school board exceeds the seven percent (7%) increase
243 limitation provided for in Section 37-57-107, the school board may
244 exceed the seven percent (7%) increase limitation only after the
245 school board has determined the need for additional revenues and
246 three-fifths (3/5) of the registered, qualified electors voting in
247 a referendum called by the levying authority have voted in favor
248 of the increase. The notice and manner of holding the referendum
249 shall be as prescribed in subsection (2) of this section for a
250 referendum on the question of increasing the millage rate in
251 school districts levying more than fifty-five (55) mills for
252 school district purposes.

253 (5) The aggregate receipts from ad valorem taxes levied for
254 school district purposes pursuant to Sections 37-57-1 and
255 37-57-105, excluding collection fees, additional revenue from the
256 ad valorem tax on any newly constructed properties or any existing
257 properties added to the tax rolls or any properties previously
258 exempt which were not assessed in the next preceding year, and
259 amounts received by school districts from the School Ad Valorem

260 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject
261 to the increase limitation under this section and Section
262 37-57-107.

263 (6) The school board shall pay * * * all costs that are
264 incurred by the levying authority in the calling and holding of
265 any election under this section.

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

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

272 (b) The lease of property for school purposes, as
273 authorized under the Emergency School Leasing Authority Act of
274 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

282 Any millage levied for the purposes specified in this
283 subsection shall be excluded from the millage limitations
284 established under this section.

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

287 37-57-105. (1) In addition to the taxes levied under
288 Section 37-57-1, the levying authority for the school district, as
289 defined in Section 37-57-1, upon receipt of a certified copy of an
290 order adopted by the school board of the school district
291 requesting an ad valorem tax effort in dollars for the support of
292 the school district, shall, at the same time and in the same

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

The monies authorized to be received by school districts from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35 shall be included as ad valorem tax receipts. The levying authority for the school district, as defined in Section

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

In any county where there is located a nuclear generating power plant on which a tax is assessed under Section 27-35-309(3), such required levy and revenue produced thereby may be reduced by the levying authority in an amount in proportion to a reduction in the base revenue of any such county from the previous year. Such reduction shall be allowed only if the reduction in base revenue equals or exceeds five percent (5%). "Base revenue" shall mean the revenue received by the county from the ad valorem tax levy plus the revenue received by the county from the tax assessed under Section 27-35-309(3) and authorized to be used for any purposes for which a county is authorized by law to levy an ad valorem tax. For purposes of determining if the reduction equals or exceeds five percent (5%), a levy of millage equal to the prior year's millage shall be hypothetically applied to the current year's ad valorem tax base to determine the amount of revenue to be generated from the ad valorem tax levy. For the purposes of this section and Section 37-57-107, the portion of the base revenue used for the support of any school district shall be

deemed to be the aggregate receipts from ad valorem taxes for the support of any school district. This paragraph shall apply to taxes levied for the 1987 fiscal year and for each fiscal year thereafter. If the Mississippi Supreme Court or another court finally adjudicates that the tax levied under Section 27-35-309(3) is unconstitutional, then this paragraph shall stand repealed.

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

(3) The aggregate receipts from ad valorem taxes levied for school district purposes, excluding collection fees, pursuant to this section and Section 37-57-1 shall be subject to the increased limitation under Section 37-57-107; however, if the ad valorem tax effort in dollars requested by the school district for the fiscal year exceeds the next preceding fiscal year's ad valorem tax effort in dollars by more than four percent (4%) but not more than seven percent (7%), then the school board shall publish notice thereof once each week for at least three (3) consecutive weeks in a newspaper having general circulation in the school district involved, with the first publication thereof to be made not less than fifteen (15) days prior to the final adoption of the budget by the school board. If at any time prior to said adoption a petition signed by not less than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the school district involved shall be filed with the school board requesting that an election be called on the question of exceeding

the next preceding fiscal year's ad valorem tax effort in dollars by more than four percent (4%) but not more than seven percent (7%), then the school board shall, not later than the next regular meeting, adopt a resolution calling an election to be held within such school district upon such question. The election shall be called and held, and notice thereof shall be given, in the same manner for elections upon the questions of the issuance of the bonds of school districts, and the results thereof shall be certified to the school board. The ballot shall contain the language "For the School Tax Increase Over Four Percent (4%)" and "Against the School Tax Increase Over Four Percent (4%)." If a majority of the qualified electors of the school district who voted in such election shall vote in favor of the question, then the stated increase requested by the school board shall be approved. For the purposes of this paragraph, the revenue sources excluded from the increased limitation under Section 37-57-107 shall also be excluded from the limitation described herein in the same manner as they are excluded under Section 37-57-107.

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

37-61-9. (1) On or before the fifteenth day of August of each year, the local school board of each school district, with the assistance of the superintendent of schools * * *, shall prepare and file with the levying authority for the school district, as defined in Section 37-57-1, Mississippi Code of 1972, at least two (2) copies of a budget of estimated expenditures for the support, maintenance and operation of the public schools of the school district for the fiscal year commencing on July 1 of such year. Provided, however, that for school districts in the county school system, the county board of education shall not be required to file copies of its budget with the county board of supervisors, since the county board of education is the levying authority for the county school system. Such budget shall be

prepared on forms prescribed and provided by the State Auditor and shall contain such information as the State Auditor may require.

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

(3) Prior to the adoption of a budget pursuant to this section, the school board of each school district shall hold at least one (1) public hearing to provide the general public with an opportunity to comment on the taxing and spending plan incorporated in the proposed budget. The public hearing shall be held at least one (1) week prior to the adoption of the budget with advance notice. After final adoption of the budget, a synopsis of such budget in a form prescribed by the State Department of Audit shall be published in a newspaper having general circulation in the school district on a date different from the date on which the county or any municipality therein may publish its budget.

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

2300 = Support Services - General Administration

458 2310 = Board of Education Services
459 2320 = Executive Administration Services
460 2330 = Special Area Administration Services
461 2500 = Business Services
462 2510 = Fiscal Services
463 2520 = Purchasing Services
464 2530 = Warehousing and Distributing Services
465 2540 = Printing, Publishing and Duplicating Services
466 2590 = Other Support Services - Business
467 2800 = Support Services - Central
468 2810 = Planning, Research, Development and Evaluation
469 2820 = Information Services
470 2830 = Staff Services
471 2840 = Data Processing Services

472 Any costs classified as "administration costs" for purposes
473 of this subsection which can be demonstrated by the local school
474 district to be an expenditure that results in a net cost savings
475 to the district that may otherwise require budget expenditures for
476 functions not covered under the definition of administration costs
477 herein may be excluded from the limitations imposed herein. The
478 local school board shall make a specific finding of such costs and
479 spread such finding upon its minutes, which shall be subject to
480 the approval of the Office of Educational Accountability of the
481 State Department of Education. Any school district required to
482 make expenditure cuts, as a result of application of this
483 subsection, shall not be required to reduce such expenditures more
484 than twenty-five percent (25%) in any year in order to comply with
485 this mandate.

486 The State Auditor shall ensure that functions in all
487 expenditure categories to which this administrative limitation
488 applies shall be properly classified.

489 This section shall not apply to central administration with
490 five (5) or less full-time employees, or to those school districts

491 which can substantiate that comparable reductions have occurred in
492 administrative costs for the five-year period immediately prior to
493 school year 1993-1994. In the event the application of this
494 section may jeopardize the fiscal integrity or operations of the
495 school district, have an adverse impact on the ability of the
496 district to deliver educational services, or otherwise restrict
497 the district from achieving or maintaining a quality education
498 program, the State Board of Education shall be authorized to
499 exempt the application of this section to such school district
500 pursuant to rules and regulations of the State Board of Education
501 consistent with the intent of this section.

502 **SECTION 5.** This act shall take effect and be in force from
503 and after July 1, 2004.