

By: Representative Denny

To: Education; Ways and Means

HOUSE BILL NO. 321

1 AN ACT TO AMEND SECTIONS 37-57-104, 37-57-105 AND 37-57-107,  
2 MISSISSIPPI CODE OF 1972, TO DELETE THE AUTHORITY OF SCHOOL BOARDS  
3 TO INCREASE AD VALOREM TAXES LEVIED FOR SCHOOL DISTRICT PURPOSES,  
4 REGARDLESS OF THE MILLAGE RATE, ABSENT APPROVAL IN A REFERENDUM ON  
5 THE PROPOSED TAX INCREASE; TO AMEND SECTION 27-39-207, MISSISSIPPI  
6 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 37-57-104, Mississippi Code of 1972, is  
9 amended as follows:

10 37-57-104. (1) Each school board shall submit to the  
11 levying authority for the school district a certified copy of an  
12 order adopted by the school board requesting an ad valorem tax  
13 effort in dollars for the support of the school district. The  
14 copy of the order shall be submitted by the school board when the  
15 copies of the school district's budget are filed with the levying  
16 authority pursuant to Section 37-61-9. Upon receipt of the school  
17 board's order requesting the ad valorem tax effort in dollars, the  
18 levying authority shall determine the millage rate necessary to  
19 generate funds equal to the dollar amount requested by the school  
20 board. \* \* \* If the millage rate necessary to generate funds  
21 equal to the dollar amount requested by the school board is  
22 greater than \* \* \* the millage then being levied pursuant to the  
23 school board's order requesting the ad valorem tax effort for the  
24 currently existing fiscal year, then the school board shall call a  
25 referendum on the question of exceeding, during the next fiscal  
26 year, the then existing millage rate being levied for school  
27 district purposes in accordance with Section 37-57-107. \* \* \*

28 \* \* \*

29           (2) If the levying authority for any school district  
30 lawfully has decreased the millage levied for school district  
31 purposes, but subsequently determines that there is a need to  
32 increase the millage rate due to a disaster in which the Governor  
33 has declared a disaster emergency or the President of the United  
34 States has declared an emergency or major disaster, then the  
35 levying authority may increase the millage levied for school  
36 district purposes up to an amount that does not exceed the millage  
37 rate in any one (1) of the immediately preceding ten (10) fiscal  
38 years without any referendum that otherwise would be required  
39 under this section or Section 37-57-107.

40           \* \* \*

41           (3) The aggregate receipts from ad valorem taxes levied for  
42 school district purposes pursuant to Sections 37-57-1 and  
43 37-57-105, excluding collection fees, additional revenue from the  
44 ad valorem tax on any newly constructed properties or any existing  
45 properties added to the tax rolls or any properties previously  
46 exempt which were not assessed in the next preceding year, and  
47 amounts received by school districts from the School Ad Valorem  
48 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject  
49 to the increase limitation under this section and Section  
50 37-57-107.

51           \* \* \*

52           (4) This section shall not be construed to affect in any  
53 manner the authority of school boards to levy millage for the  
54 following purposes:

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

58                   (b) The lease of property for school purposes, as  
59 authorized under the Emergency School Leasing Authority Act of  
60 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

68 Any millage levied for the purposes specified in this  
69 subsection shall be excluded from the increase limitation  
70 established under this section.

71 **SECTION 2.** Section 37-57-105, Mississippi Code of 1972, is  
72 amended as follows:

73 37-57-105. (1) In addition to the taxes levied under  
74 Section 37-57-1, the levying authority for the school district, as  
75 defined in Section 37-57-1, upon receipt of a certified copy of an  
76 order adopted by the school board of the school district  
77 requesting an ad valorem tax effort in dollars for the support of  
78 the school district, shall, at the same time and in the same  
79 manner as other ad valorem taxes are levied, levy an annual ad  
80 valorem tax in the amount fixed in such order, subject to the  
81 increase limitation prescribed in Section 37-57-107, upon all of  
82 the taxable property of such school district, which shall not be  
83 less than the millage rate certified by the State Board of  
84 Education as the uniform minimum school district ad valorem tax  
85 levy for the support of the adequate education program in such  
86 school district under Section 37-57-1. \* \* \* However, \* \* \* any  
87 school district levying less than the uniform minimum school  
88 district ad valorem tax levy on July 1, 1997, shall only be  
89 required to increase its local district maintenance levy in four  
90 (4) mill annual increments in order to attain such millage  
91 requirements. In making such levy, the levying authority shall  
92 levy an additional amount sufficient to cover anticipated  
93 delinquencies and costs of collection so that the net amount of

94 money to be produced by such levy shall be equal to the amount  
95 which is requested by the school board. The proceeds of such tax  
96 levy, excluding levies for the payment of the principal of and  
97 interest on school bonds or notes and excluding levies for costs  
98 of collection, shall be placed in the school depository to the  
99 credit of the school district and shall be expended in the manner  
100 provided by law for the purpose of supplementing teachers'  
101 salaries, extending school terms, purchasing furniture, supplies  
102 and materials, and for all other lawful operating and incidental  
103 expenses of such school district, funds for which are not provided  
104 by adequate education program fund allotments.

105 The monies authorized to be received by school districts from  
106 the School Ad Valorem Tax Reduction Fund pursuant to Section  
107 37-61-35 shall be included as ad valorem tax receipts. The  
108 levying authority for the school district, as defined in Section  
109 37-57-1, shall reduce the ad valorem tax levy for such school  
110 district in an amount equal to the amount distributed to such  
111 school district from the School Ad Valorem Tax Reduction Fund each  
112 calendar year pursuant to \* \* \* Section 37-61-35. \* \* \*

113 In any county where there is located a nuclear generating  
114 power plant on which a tax is assessed under Section 27-35-309(3),  
115 such required levy and revenue produced thereby may be reduced by  
116 the levying authority in an amount in proportion to a reduction in  
117 the base revenue of any such county from the previous year. Such  
118 reduction shall be allowed only if the reduction in base revenue  
119 equals or exceeds five percent (5%). "Base revenue" shall mean  
120 the revenue received by the county from the ad valorem tax levy  
121 plus the revenue received by the county from the tax assessed  
122 under Section 27-35-309(3) and authorized to be used for any  
123 purposes for which a county is authorized by law to levy an ad  
124 valorem tax. For purposes of determining if the reduction equals  
125 or exceeds five percent (5%), a levy of millage equal to the prior  
126 year's millage shall be hypothetically applied to the current

127 year's ad valorem tax base to determine the amount of revenue to  
128 be generated from the ad valorem tax levy. For the purposes of  
129 this section and Section 37-57-107, the portion of the base  
130 revenue used for the support of any school district shall be  
131 deemed to be the aggregate receipts from ad valorem taxes for the  
132 support of any school district. This paragraph shall apply to  
133 taxes levied for the 1987 fiscal year and for each fiscal year  
134 thereafter. If the Mississippi Supreme Court or another court  
135 finally adjudicates that the tax levied under Section 27-35-309(3)  
136 is unconstitutional, then this paragraph shall stand repealed.

137 (2) When the tax is levied upon the territory of any school  
138 district located in two (2) or more counties, the order of the  
139 school board requesting the levying of such tax shall be certified  
140 to the levying authority of each of the counties involved, and  
141 each of the levying authorities shall levy the tax in the manner  
142 specified herein. The taxes so levied shall be collected by the  
143 tax collector of the levying authority involved and remitted by  
144 the tax collector to the school depository of the home county to  
145 the credit of the school district involved as provided above,  
146 except that taxes for collection fees may be retained by the  
147 levying authority for deposit into its general fund.

148 \* \* \*

149 **SECTION 3.** Section 37-57-107, Mississippi Code of 1972, is  
150 amended as follows:

151 37-57-107. (1) Except as otherwise authorized pursuant to  
152 an election held under subsection (2) of this section, beginning  
153 with the tax levy for the 2008 fiscal year \* \* \*, the aggregate  
154 receipts from taxes levied for school district purposes, excluding  
155 collection fees, pursuant to Sections 37-57-105 and 37-57-1 shall  
156 not exceed the aggregate receipts from those sources during \* \* \*  
157 the immediately preceding \* \* \* fiscal year \* \* \*. For the  
158 purpose of this limitation, the term "aggregate receipts," when  
159 used in connection with the amount of funds generated in a

160 preceding fiscal year, shall not include excess receipts required  
161 by law to be deposited into a special account. The additional  
162 revenue from the ad valorem tax on any newly constructed  
163 properties or any existing properties added to the tax rolls or  
164 any properties previously exempt which were not assessed in the  
165 next preceding year may be excluded from the \* \* \* limitation set  
166 forth herein. Taxes levied for payment of principal of and  
167 interest on general obligation school bonds issued heretofore or  
168 hereafter shall be excluded from the \* \* \* limitation set forth  
169 herein. Any additional millage levied to fund any new program  
170 mandated by the Legislature shall be excluded from the limitation  
171 for the first year of the levy and included within such limitation  
172 in any year thereafter. For the purposes of this section, the  
173 term "new program" shall include, but shall not be limited to:  
174 (a) \* \* \* any additional millage levied and the revenue generated  
175 therefrom, which is excluded from the limitation for the first  
176 year of the levy, to support the \* \* \* Early Childhood Education  
177 Program, which shall be specified on the minutes of the school  
178 board and of the governing body making such tax levy; (b) any  
179 additional millage levied and the revenue generated therefrom,  
180 which shall be excluded from the limitation for the first year of  
181 the levy, for the purpose of generating additional local  
182 contribution funds required for the adequate education program for  
183 the 2003 fiscal year and for each fiscal year thereafter under  
184 Section 37-151-7(2); and (c) any additional millage levied and the  
185 revenue generated therefrom, which shall be excluded from the  
186 limitation for the first year of the levy, for the purpose of  
187 support and maintenance of any agricultural high school which has  
188 been transferred to the control, operation and maintenance of the  
189 school board by the board of trustees of the community college  
190 district under \* \* \* Section 37-29-272.

191 (2) If a school board has determined the need for additional  
192 revenues or if the millage rate necessary to generate funds equal

193 to the dollar amount requested by a school board is greater than  
194 the millage then being levied for the current fiscal year, the  
195 school board may adopt an order requesting that the levying  
196 authority, as defined in Section 37-57-1, call and hold an  
197 election on the question of exceeding the limitation prescribed in  
198 this section. However, before the order requesting the election  
199 is adopted, the school board shall advertise its intention to do  
200 so and shall hold a public meeting on the proposed increase in  
201 accordance with Section 27-39-207. The order, notice and manner  
202 of holding the election shall be as prescribed by law for the  
203 holding of elections for the issuance of bonds by the \* \* \* school  
204 boards. The ballot shall contain the language "For the School Tax  
205 Increase" and "Against the School Tax Increase" and shall state  
206 the specific amount of the proposed tax increase. The results of  
207 the election shall be certified to the school board. If  
208 three-fifths (3/5) or more of the qualified electors voting in the  
209 election vote in favor of the question, then the stated increase  
210 requested by the school board shall be approved. Revenues  
211 collected for the fiscal year in excess of the \* \* \* limitation  
212 pursuant to an election shall be included in the tax base for the  
213 purpose of determining aggregate receipts for which the \* \* \*  
214 limitation applies for subsequent fiscal years.

215       (3) Except as otherwise provided for excess revenues  
216 generated pursuant to an election, if revenues collected as the  
217 result of the taxes levied for the fiscal year pursuant to this  
218 section and Section 37-57-1 exceed the \* \* \* limitation, then it  
219 shall be the mandatory duty of the school board of the school  
220 district to deposit such excess receipts over and above the \* \* \*  
221 limitation into a special account and credit it to the fund for  
222 which the levy was made. It will be the further duty of such  
223 board to hold the excess funds and invest the same as authorized  
224 by law. Such excess funds shall be calculated in the budgets for  
225 the school districts for the purpose for which such levies were

226 made, for the succeeding fiscal year. Taxes imposed for the  
227 succeeding year shall be reduced by the amount of excess funds  
228 available. Under no circumstances shall such excess funds be  
229 expended during the fiscal year in which such excess funds are  
230 collected.

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

235 (5) The school board shall pay to the levying authority all  
236 costs that are incurred by the levying authority in the calling  
237 and holding of any election under this section.

238 **SECTION 4.** Section 27-39-207, Mississippi Code of 1972, is  
239 amended as follows:

240 27-39-207. (1) Unless the increased revenue in a budget is  
241 derived solely from the expansion of a school district's ad  
242 valorem tax base, a school district shall not budget an increase  
243 in an ad valorem tax effort in dollars for support of the school  
244 district unless it first advertises its intention to request an  
245 election on the increase at the same time that it advertises its  
246 intention to fix its budget for the next fiscal year.

247 (2) A request for an election on an ad valorem tax effort in  
248 dollars for the support of the school district in excess of the  
249 certified tax rate pursuant to Sections 37-57-104, 37-57-105 and  
250 37-57-107 shall not be made until an order has been approved by  
251 the school board of the school district in accordance with the  
252 following procedure:

253 (a) The school board of the school district shall  
254 advertise its intent to request an election on exceeding the  
255 certified tax rate in a newspaper of general circulation in the  
256 county. The advertisement shall be no less than one-fourth (1/4)  
257 page in size and the type used shall be no smaller than eighteen  
258 (18) point and surrounded by a one-fourth-inch (1/4") solid black



259 border. The advertisement shall not be placed in any portion of  
260 the newspaper where legal notices and classified advertisements  
261 appear. The advertisement shall appear in a newspaper that is  
262 published at least five (5) days a week, unless the only newspaper  
263 in the county is published less than five (5) days a week. The  
264 newspaper selected shall be one of general interest, readership  
265 and circulation in all areas of the community. The advertisement  
266 shall be published once each week for the two-week period  
267 preceding the adoption of the final budget. The advertisement  
268 shall provide that the school board of the school district will  
269 meet on a certain day, date, time and place fixed in the  
270 advertisement, which shall be no less than seven (7) days after  
271 the day the first advertisement is published. The meeting on the  
272 proposed increase may coincide with the hearing on the proposed  
273 budget of the school board of the school district.

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

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

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

281 The (name of the school district) is now operating with  
282 projected total budget revenue of \$\_\_\_\_\_. (\_\_\_\_ percent) or  
283 \$\_\_\_\_\_, of such revenue is obtained through ad valorem taxes.  
284 For next fiscal year, the proposed budget has total projected  
285 revenue of \$\_\_\_\_\_. Of that amount, (\_\_\_\_ percent) or  
286 \$\_\_\_\_\_, is proposed to be financed through a total ad valorem  
287 tax levy.

288 For the next fiscal year, the (name of the school district)  
289 plans to increase your ad valorem tax millage rate by \_\_\_\_\_ mills  
290 from \_\_\_\_\_ mills to \_\_\_\_\_ mills. (This portion of the notice

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

293 This increase in ad valorem tax revenue means that you will  
294 pay more in ad valorem taxes on your home, automobile tag,  
295 utilities, business fixtures and equipment and rental real  
296 property.

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

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

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

312 (5) Each school board of a school district shall notify the  
313 taxing entity of the date, time and place of its public hearing.  
314 No school board of a school district may schedule its hearing at  
315 the same time as another overlapping school district in the same  
316 county.

317 **SECTION 5.** The Attorney General of the State of Mississippi  
318 shall submit this act, immediately upon approval by the Governor,  
319 or upon approval by the Legislature subsequent to a veto, to the  
320 Attorney General of the United States or to the United States  
321 District Court for the District of Columbia in accordance with the  
322 provisions of the Voting Rights Act of 1965, as amended and  
323 extended.

324           **SECTION 6.** This act shall take effect and be in force from  
325 and after the date it is effectuated under Section 5 of the Voting  
326 Rights Act of 1965, as amended and extended.