

By: Representative Chism

To: Ways and Means

HOUSE BILL NO. 71

1 AN ACT TO AMEND SECTION 37-57-104, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE THE LEVYING AUTHORITY FOR A MUNICIPAL SEPARATE SCHOOL
 3 DISTRICT OR SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICT TO APPROVE
 4 OR DISAPPROVE, IN FULL OR IN PART, THE SCHOOL BOARD'S REQUEST FOR
 5 AN INCREASE IN THE AD VALOREM TAX DOLLARS UP TO SEVEN PERCENT; TO
 6 AMEND SECTION 37-57-105, MISSISSIPPI CODE OF 1972, IN CONFORMITY
 7 TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD SECTION 37-57-107,
 8 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; AND
 9 FOR RELATED PURPOSES.

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

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

13 37-57-104. (1) Each school board shall submit to the
 14 levying authority for the school district a certified copy of an
 15 order adopted by the school board requesting an ad valorem tax
 16 effort in dollars for the support of the school district. The
 17 copy of the order shall be submitted by the school board when the
 18 copies of the school district's budget are filed with the levying
 19 authority pursuant to Section 37-61-9. Upon receipt of the school
 20 board's order requesting the ad valorem tax effort in dollars, the
 21 levying authority shall determine the millage rate necessary to



22 generate funds equal to the dollar amount requested by the school
23 board. For the purpose of calculating this millage rate, any
24 additional amount that is levied pursuant to Section 37-57-105(1)
25 to cover anticipated delinquencies and costs of collection or any
26 amount that may be levied for the payment of the principal and
27 interest on school bonds or notes shall be excluded from the
28 limitation of fifty-five (55) mills provided for in subsection (2)
29 of this section.

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

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



47 weeks, in at least one (1) newspaper published in the school
48 district. The notice shall be no less than one-fourth (1/4) page
49 in size, and the type used shall be no smaller than eighteen (18)
50 point and surrounded by a one-fourth-inch solid black border. The
51 notice may not be placed in that portion of the newspaper where
52 legal notices and classified advertisements appear. The first
53 publication of the notice shall be made not less than twenty-one
54 (21) days before the date fixed for the referendum, and the last
55 publication shall be made not more than seven (7) days before that
56 date. If no newspaper is published in the school district, then
57 the notice shall be published in a newspaper having a general
58 circulation in the school district. The referendum shall be held,
59 as far as is practicable, in the same manner as other referendums
60 and elections are held in the county or municipality. At the
61 referendum, all registered, qualified electors of the school
62 district may vote. The ballots used at the referendum shall have
63 printed thereon a brief statement of the amount and purpose of the
64 increased tax levy and the words "FOR INCREASING THE MILLAGE
65 LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY
66 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S
67 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR
68 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)
69 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)
70 MILLS." The voter shall vote by placing a cross (X) or checkmark
71 (✓) opposite his choice on the proposition.



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

81 Nothing in this subsection shall be construed to require any
82 school district that is levying more than fifty-five (55) mills
83 pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage
84 rate to fifty-five (55) mills or less. Further, nothing in this
85 subsection shall be construed to require a referendum in a school
86 district where the requested ad valorem tax effort in dollars
87 requires a millage rate of greater than fifty-five (55) mills but
88 the requested dollar amount does not require any increase in the
89 then existing millage rate. Further, nothing in this subsection
90 shall be construed to require a referendum in a school district
91 where, because of a decrease in the assessed valuation of the
92 district, a millage rate of greater than fifty-five (55) mills is
93 necessary to generate funds equal to the dollar amount generated
94 by the ad valorem tax effort for the currently existing fiscal
95 year.



96 (b) Provided, however, that if a levying authority is
97 levying in excess of fifty-five (55) mills on July 1, 1997, the
98 levying authority may levy an additional amount not exceeding
99 three (3) mills in the aggregate for the period beginning July 1,
100 1997, and ending June 30, 2003, subject to the limitation on
101 increased receipts from ad valorem taxes prescribed in Sections
102 37-57-105 and 37-57-107.

103 (c) If the levying authority for any school district
104 lawfully has decreased the millage levied for school district
105 purposes, but subsequently determines that there is a need to
106 increase the millage rate due to a disaster in which the Governor
107 has declared a disaster emergency or the President of the United
108 States has declared an emergency or major disaster, then the
109 levying authority may increase the millage levied for school
110 district purposes up to an amount that does not exceed the millage
111 rate in any one (1) of the immediately preceding ten (10) fiscal
112 years without any referendum that otherwise would be required
113 under this subsection.

114 (3) (a) Except as otherwise provided in paragraph (b) of
115 this subsection for municipal separate school districts and
116 special municipal separate school districts, if the millage rate
117 necessary to generate funds equal to the dollar amount requested
118 by the school board is equal to fifty-five (55) mills or less, but
119 the dollar amount requested by the school board exceeds the next
120 preceding fiscal year's ad valorem tax effort in dollars by more



121 than four percent (4%), but not more than seven percent (7%) (as
122 provided for under subsection (4) of this section), then the
123 school board shall publish notice thereof at least five (5) days
124 per week, unless the only newspaper published in the school
125 district is published less than five (5) days per week, for at
126 least three (3) consecutive weeks in a newspaper published in the
127 school district. The notice shall be no less than one-fourth
128 (1/4) page in size, and the type used shall be no smaller than
129 eighteen (18) point and surrounded by a one-fourth-inch solid
130 black border. The notice may not be placed in that portion of the
131 newspaper where legal notices and classified advertisements
132 appear. The first publication shall be made not less than fifteen
133 (15) days before the final adoption of the budget by the school
134 board. If no newspaper is published in the school district, then
135 the notice shall be published in a newspaper having a general
136 circulation in the school district. If at any time before the
137 adoption of the budget a petition signed by not less than twenty
138 percent (20%) or fifteen hundred (1500), whichever is less, of the
139 registered, qualified electors of the school district is filed
140 with the school board requesting that a referendum be called on
141 the question of exceeding the next preceding fiscal year's ad
142 valorem tax effort in dollars by more than four percent (4%), then
143 the school board shall adopt, not later than the next regular
144 meeting, a resolution calling a referendum to be held within the
145 school district upon the question. The referendum shall be called



146 and held, and notice thereof shall be given, in the same manner
147 provided for in subsection (2) of this section. The ballot shall
148 contain the language "FOR THE SCHOOL TAX INCREASE OVER FOUR
149 PERCENT (4%)" and "AGAINST THE SCHOOL TAX INCREASE OVER FOUR
150 PERCENT (4%)." If a majority of the registered, qualified
151 electors of the school district who vote in the referendum vote in
152 favor of the question, then the increase requested by the school
153 board shall be approved. For the purposes of this subsection, the
154 revenue sources excluded from the increase limitation under
155 Section 37-57-107 also shall be excluded from the limitation
156 described in this subsection in the same manner as they are
157 excluded under Section 37-57-107. Provided, however, that any
158 increases requested by the school board as a result of the
159 required local contribution to the Mississippi Adequate Education
160 Program, as certified to the local school district by the State
161 Board of Education under Section 37-151-7(2), Mississippi Code of
162 1972, shall not be subject to the four percent (4%) and/or seven
163 percent (7%) tax increase limitations provided in this section.

164 (b) In the case of a municipal separate school district
165 or special municipal separate school district, as the case may be,
166 if the millage rate necessary to generate funds equal to the
167 dollar amount requested by the school board is equal to fifty-five
168 (55) mills or less, but the dollar amount requested by the school
169 board exceeds the next preceding fiscal year's ad valorem tax
170 effort in dollars by not more than seven percent (7%) (as provided



171 for under subsection (4) of this section), the levying authority
172 for the school district, in its discretion, may approve or
173 disapprove, in full or in part, the school board's request for the
174 increased tax levy.

175 (4) If the millage rate necessary to generate funds equal to
176 the dollar amount requested by the school board is equal to
177 fifty-five (55) mills or less, but the dollar amount requested by
178 the school board exceeds the seven percent (7%) increase
179 limitation provided for in Section 37-57-107, the school board may
180 exceed the seven percent (7%) increase limitation only after the
181 school board has determined the need for additional revenues and
182 three-fifths (3/5) of the registered, qualified electors voting in
183 a referendum called by the levying authority have voted in favor
184 of the increase. The notice and manner of holding the referendum
185 shall be as prescribed in subsection (2) of this section for a
186 referendum on the question of increasing the millage rate in
187 school districts levying more than fifty-five (55) mills for
188 school district purposes.

189 (5) The aggregate receipts from ad valorem taxes levied for
190 school district purposes pursuant to Sections 37-57-1 and
191 37-57-105, excluding collection fees, additional revenue from the
192 ad valorem tax on any newly constructed properties or any existing
193 properties added to the tax rolls or any properties previously
194 exempt which were not assessed in the next preceding year, and
195 amounts received by school districts from the School Ad Valorem



196 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject
197 to the increase limitation under this section and Section
198 37-57-107.

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

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

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

208 (b) The lease of property for school purposes, as
209 authorized under the Emergency School Leasing Authority Act of
210 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

218 Any millage levied for the purposes specified in this
219 subsection shall be excluded from the millage limitations
220 established under this section.



221 **SECTION 2.** Section 37-57-105, Mississippi Code of 1972, is
222 amended as follows:
223 37-57-105. (1) (a) Except as otherwise provided in Section
224 37-57-104(3)(b), in addition to the taxes levied under Section
225 37-57-1, the levying authority for the school district, as defined
226 in Section 37-57-1, upon receipt of a certified copy of an order
227 adopted by the school board of the school district requesting an
228 ad valorem tax effort in dollars for the support of the school
229 district, shall, at the same time and in the same manner as other
230 ad valorem taxes are levied, levy an annual ad valorem tax in the
231 amount fixed in such order upon all of the taxable property of
232 such school district, which shall not be less than the millage
233 rate certified by the State Board of Education as the uniform
234 minimum school district ad valorem tax levy for the support of the
235 adequate education program in such school district under Section
236 37-57-1. Provided, however, that any school district levying less
237 than the uniform minimum school district ad valorem tax levy on
238 July 1, 1997, shall only be required to increase its local
239 district maintenance levy in four (4) mill annual increments in
240 order to attain such millage requirements. In making such levy,
241 the levying authority shall levy an additional amount sufficient
242 to cover anticipated delinquencies and costs of collection so that
243 the net amount of money to be produced by such levy shall be equal
244 to the amount which is requested by said school board. The
245 proceeds of such tax levy, excluding levies for the payment of the



246 principal of and interest on school bonds or notes and excluding
247 levies for costs of collection, shall be placed in the school
248 depository to the credit of the school district and shall be
249 expended in the manner provided by law for the purpose of
250 supplementing teachers' salaries, extending school terms,
251 purchasing furniture, supplies and materials, and for all other
252 lawful operating and incidental expenses of such school district,
253 funds for which are not provided by adequate education program
254 fund allotments.

255 The monies authorized to be received by school districts from
256 the School Ad Valorem Tax Reduction Fund pursuant to Section
257 37-61-35 shall be included as ad valorem tax receipts. The
258 levying authority for the school district, as defined in Section
259 37-57-1, shall reduce the ad valorem tax levy for such school
260 district in an amount equal to the amount distributed to such
261 school district from the School Ad Valorem Tax Reduction Fund each
262 calendar year pursuant to said Section 37-61-35. Such reduction
263 shall not be less than the millage rate necessary to generate a
264 reduction in ad valorem tax receipts equal to the funds
265 distributed to such school district from the School Ad Valorem Tax
266 Reduction Fund pursuant to Section 37-61-35. Such reduction shall
267 not be deemed to be a reduction in the aggregate amount of support
268 from ad valorem taxation for purposes of Section 37-19-11. The
269 millage levy certified by the State Board of Education as the
270 uniform minimum ad valorem tax levy or the millage levy that would



271 generate funds in an amount equal to a school district's district
272 entitlement, as defined in Section 37-22-1(2)(e), shall be subject
273 to the provisions of this paragraph.

274 In any county where there is located a nuclear generating
275 power plant on which a tax is assessed under Section 27-35-309(3),
276 such required levy and revenue produced thereby may be reduced by
277 the levying authority in an amount in proportion to a reduction in
278 the base revenue of any such county from the previous year. Such
279 reduction shall be allowed only if the reduction in base revenue
280 equals or exceeds five percent (5%). "Base revenue" shall mean
281 the revenue received by the county from the ad valorem tax levy
282 plus the revenue received by the county from the tax assessed
283 under Section 27-35-309(3) and authorized to be used for any
284 purposes for which a county is authorized by law to levy an ad
285 valorem tax. For purposes of determining if the reduction equals
286 or exceeds five percent (5%), a levy of millage equal to the prior
287 year's millage shall be hypothetically applied to the current
288 year's ad valorem tax base to determine the amount of revenue to
289 be generated from the ad valorem tax levy. For the purposes of
290 this section and Section 37-57-107, the portion of the base
291 revenue used for the support of any school district shall be
292 deemed to be the aggregate receipts from ad valorem taxes for the
293 support of any school district. This paragraph shall apply to
294 taxes levied for the 1987 fiscal year and for each fiscal year
295 thereafter. If the Mississippi Supreme Court or another court



296 finally adjudicates that the tax levied under Section 27-35-309(3)
297 is unconstitutional, then this paragraph shall stand repealed.

298 (2) When the tax is levied upon the territory of any school
299 district located in two (2) or more counties, the order of the
300 school board requesting the levying of such tax shall be certified
301 to the levying authority of each of the counties involved, and
302 each of the levying authorities shall levy the tax in the manner
303 specified herein. The taxes so levied shall be collected by the
304 tax collector of the levying authority involved and remitted by
305 the tax collector to the school depository of the home county to
306 the credit of the school district involved as provided above,
307 except that taxes for collection fees may be retained by the
308 levying authority for deposit into its general fund.

309 (3) (a) The aggregate receipts from ad valorem taxes levied
310 for school district purposes, excluding collection fees, pursuant
311 to this section and Section 37-57-1 shall be subject to the
312 increased limitation under Section 37-57-107; however, except as
313 otherwise provided in this subsection, if the ad valorem tax
314 effort in dollars requested by the school district for the fiscal
315 year exceeds the next preceding fiscal year's ad valorem tax
316 effort in dollars by more than four percent (4%) but not more than
317 seven percent (7%), then the school board shall publish notice
318 thereof once each week for at least three (3) consecutive weeks in
319 a newspaper having general circulation in the school district
320 involved, with the first publication thereof to be made not less



321 than fifteen (15) days prior to the final adoption of the budget
322 by the school board. If at any time prior to said adoption a
323 petition signed by not less than twenty percent (20%) or fifteen
324 hundred (1500), whichever is less, of the qualified electors of
325 the school district involved shall be filed with the school board
326 requesting that an election be called on the question of exceeding
327 the next preceding fiscal year's ad valorem tax effort in dollars
328 by more than four percent (4%) but not more than seven percent
329 (7%), then the school board shall, not later than the next regular
330 meeting, adopt a resolution calling an election to be held within
331 such school district upon such question. The election shall be
332 called and held, and notice thereof shall be given, in the same
333 manner for elections upon the questions of the issuance of the
334 bonds of school districts, and the results thereof shall be
335 certified to the school board. The ballot shall contain the
336 language "For the School Tax Increase Over Four Percent (4%)" and
337 "Against the School Tax Increase Over Four Percent (4%)." If a
338 majority of the qualified electors of the school district who
339 voted in such election shall vote in favor of the question, then
340 the stated increase requested by the school board shall be
341 approved. For the purposes of this paragraph, the revenue sources
342 excluded from the increased limitation under Section 37-57-107
343 shall also be excluded from the limitation described herein in the
344 same manner as they are excluded under Section 37-57-107.



345 (b) In the case of a municipal separate school district
346 or special municipal separate school district, as the case may be,
347 if the ad valorem tax effort in dollars requested by the school
348 district for the fiscal year exceeds the next preceding fiscal
349 year's ad valorem tax effort in dollars by not more than seven
350 percent (7%), the levying authority for the school district, in
351 its discretion, may approve or disapprove, in full or in part, the
352 ad valorem tax effort requested by the school district.

353 **SECTION 3.** Section 37-57-107, Mississippi Code of 1972, is
354 brought forward as follows:

355 37-57-107. (1) Beginning with the tax levy for the 1997
356 fiscal year and for each fiscal year thereafter, the aggregate
357 receipts from taxes levied for school district purposes pursuant
358 to Sections 37-57-105 and 37-57-1 shall not exceed the aggregate
359 receipts from those sources during any one (1) of the immediately
360 preceding three (3) fiscal years, as determined by the school
361 board, plus an increase not to exceed seven percent (7%). For the
362 purpose of this limitation, the term "aggregate receipts" when
363 used in connection with the amount of funds generated in a
364 preceding fiscal year shall not include excess receipts required
365 by law to be deposited into a special account. However, the term
366 "aggregate receipts" includes any receipts required by law to be
367 paid to a charter school. The additional revenue from the ad
368 valorem tax on any newly constructed properties or any existing
369 properties added to the tax rolls or any properties previously



370 exempt which were not assessed in the next preceding year may be
371 excluded from the seven percent (7%) increase limitation set forth
372 herein. Taxes levied for payment of principal of and interest on
373 general obligation school bonds issued heretofore or hereafter
374 shall be excluded from the seven percent (7%) increase limitation
375 set forth herein. Any additional millage levied to fund any new
376 program mandated by the Legislature shall be excluded from the
377 limitation for the first year of the levy and included within such
378 limitation in any year thereafter. For the purposes of this
379 section, the term "new program" shall include, but shall not be
380 limited to, (a) the Early Childhood Education Program required to
381 commence with the 1986-1987 school year as provided by Section
382 37-21-7 and any additional millage levied and the revenue
383 generated therefrom, which is excluded from the limitation for the
384 first year of the levy, to support the mandated Early Childhood
385 Education Program shall be specified on the minutes of the school
386 board and of the governing body making such tax levy; (b) any
387 additional millage levied and the revenue generated therefrom
388 which shall be excluded from the limitation for the first year of
389 the levy, for the purpose of generating additional local
390 contribution funds required for the adequate education program for
391 the 2003 fiscal year and for each fiscal year thereafter under
392 Section 37-151-7(2); and (c) any additional millage levied and the
393 revenue generated therefrom which shall be excluded from the
394 limitation for the first year of the levy, for the purpose of



395 support and maintenance of any agricultural high school which has
396 been transferred to the control, operation and maintenance of the
397 school board by the board of trustees of the community college
398 district under provisions of Section 37-29-272.

399 (2) The seven percent (7%) increase limitation prescribed in
400 this section may be increased an additional amount only when the
401 school board has determined the need for additional revenues and
402 has held an election on the question of raising the limitation
403 prescribed in this section. The limitation may be increased only
404 if three-fifths (3/5) of those voting in the election shall vote
405 for the proposed increase. The resolution, notice and manner of
406 holding the election shall be as prescribed by law for the holding
407 of elections for the issuance of bonds by the respective school
408 boards. Revenues collected for the fiscal year in excess of the
409 seven percent (7%) increase limitation pursuant to an election
410 shall be included in the tax base for the purpose of determining
411 aggregate receipts for which the seven percent (7%) increase
412 limitation applies for subsequent fiscal years.

413 (3) Except as otherwise provided for excess revenues
414 generated pursuant to an election, if revenues collected as the
415 result of the taxes levied for the fiscal year pursuant to this
416 section and Section 37-57-1 exceed the increase limitation, then
417 it shall be the mandatory duty of the school board of the school
418 district to deposit such excess receipts over and above the
419 increase limitation into a special account and credit it to the



420 fund for which the levy was made. It will be the further duty of
421 such board to hold said funds and invest the same as authorized by
422 law. Such excess funds shall be calculated in the budgets for the
423 school districts for the purpose for which such levies were made,
424 for the succeeding fiscal year. Taxes imposed for the succeeding
425 year shall be reduced by the amount of excess funds available.
426 Under no circumstances shall such excess funds be expended during
427 the fiscal year in which such excess funds are collected.

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

432 (5) Beginning with the 2013-2014 school year, each school
433 district in which a charter school is located shall pay to the
434 charter school an amount for each student enrolled in the charter
435 school equal to the ad valorem taxes levied per pupil for the
436 support of the school district in which the charter school is
437 located. The pro rata ad valorem taxes to be transferred to the
438 charter school must include all levies for the support of the
439 school district under Sections 37-57-1 (local contribution to the
440 adequate education program) and 37-57-105 (school district
441 operational levy) but may not include any taxes levied for the
442 retirement of school district bonded indebtedness or short-term
443 notes or any taxes levied for the support of vocational-technical
444 education programs. Payments made pursuant to this subsection by



445 a school district to a charter school must be made before the
446 expiration of three (3) business days after the funds are
447 distributed to the school district.

448 **SECTION 4.** This act shall take effect and be in force from
449 and after July 1, 2018.

