

By: Representatives Shirley, Horne

To: Education; Ways and Means

HOUSE BILL NO. 169

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 BY MORE THAN TWO PERCENT OVER THE AMOUNT LEVIED IN THE PRECEDING  
5 YEAR ABSENT APPROVAL BY A MAJORITY VOTE IN A REFERENDUM ON THE  
6 PROPOSED TAX INCREASE; TO AMEND SECTION 27-39-207, MISSISSIPPI  
7 CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR  
8 RELATED PURPOSES.

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

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

12 37-57-104. (1) Each school board shall submit to the  
13 levying authority for the school district a certified copy of an  
14 order adopted by the school board requesting an ad valorem tax  
15 effort in dollars for the support of the school district. The  
16 copy of the order shall be submitted by the school board when the  
17 copies of the school district's budget are filed with the levying  
18 authority pursuant to Section 37-61-9. Upon receipt of the school  
19 board's order requesting the ad valorem tax effort in dollars, the  
20 levying authority shall determine the millage rate necessary to  
21 generate funds equal to the dollar amount requested by the school



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

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

42 When a referendum has been called, notice of the referendum  
43 shall be published at least five (5) days per week, unless the  
44 only newspaper published in the school district is published less  
45 than five (5) days per week, for at least three (3) consecutive  
46 weeks, in at least one (1) newspaper published in the school



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



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

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



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

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

113 (3) \* \* \* If the millage rate necessary to generate funds  
114 equal to the dollar amount requested by the school board is equal  
115 to fifty-five (55) mills or less, but the dollar amount requested  
116 by the school board exceeds the \* \* \* two percent (2%) increase  
117 limitation provided for in Section 37-57-107, the school board may  
118 exceed the \* \* \* two percent (2%) increase limitation only after  
119 the school board has determined the need for additional revenues



120 and \* \* \* a majority of the registered, qualified electors voting  
121 in a referendum called by the levying authority have voted in  
122 favor of the increase. The notice and manner of holding the  
123 referendum shall be as prescribed in subsection (2) of this  
124 section for a referendum on the question of increasing the millage  
125 rate in school districts levying more than fifty-five (55) mills  
126 for school district purposes. The ballot shall contain the  
127 language "FOR THE SCHOOL TAX INCREASE OVER TWO PERCENT (2%)" and  
128 "AGAINST THE SCHOOL TAX INCREASE OVER TWO PERCENT (2%)." If a  
129 majority of the registered, qualified electors of the school  
130 district who vote in the referendum vote in favor of the question,  
131 then the increase requested by the school board shall be approved.  
132 For the purposes of this subsection, the revenue sources excluded  
133 from the increase limitation under Section 37-57-107 also shall be  
134 excluded from the limitation described in this subsection in the  
135 same manner as they are excluded under Section 37-57-107.

136 ( \* \* \* 4) The aggregate receipts from ad valorem taxes  
137 levied for school district purposes pursuant to Sections 37-57-1  
138 and 37-57-105, excluding collection fees, additional revenue from  
139 the ad valorem tax on any newly constructed properties or any  
140 existing properties added to the tax rolls or any properties  
141 previously exempt which were not assessed in the next preceding  
142 year, and amounts received by school districts from the School Ad  
143 Valorem Tax Reduction Fund pursuant to Section 37-61-35, shall be



144 subject to the increase limitation under this section and Section  
145 37-57-107.

146 ( \* \* \*5) The school board shall pay to the levying  
147 authority all costs that are incurred by the levying authority in  
148 the calling and holding of any election under this section.

149 ( \* \* \*6) The provisions of this section shall not be  
150 construed to affect in any manner the authority of school boards  
151 to levy millage for the following purposes:

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

155 (b) The lease of property for school purposes, as  
156 authorized under the Emergency School Leasing Authority Act of  
157 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

165 Any millage levied for the purposes specified in this  
166 subsection shall be excluded from the millage limitations  
167 established under this section.



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

170           37-57-105. (1) In addition to the taxes levied under  
171 Section 37-57-1, the levying authority for the school district, as  
172 defined in Section 37-57-1, upon receipt of a certified copy of an  
173 order adopted by the school board of the school district  
174 requesting an ad valorem tax effort in dollars for the support of  
175 the school district, shall, at the same time and in the same  
176 manner as other ad valorem taxes are levied, levy an annual ad  
177 valorem tax in the amount fixed in such order upon all of the  
178 taxable property of such school district, which shall not be less  
179 than the millage rate certified by the State Board of Education as  
180 the uniform minimum school district ad valorem tax levy for the  
181 support of the adequate education program in such school district  
182 under Section 37-57-1. Provided, however, that any school  
183 district levying less than the uniform minimum school district ad  
184 valorem tax levy on July 1, 1997, shall only be required to  
185 increase its local district maintenance levy in four (4) mill  
186 annual increments in order to attain such millage requirements.  
187 In making such levy, the levying authority shall levy an  
188 additional amount sufficient to cover anticipated delinquencies  
189 and costs of collection so that the net amount of money to be  
190 produced by such levy shall be equal to the amount which is  
191 requested by said school board. The proceeds of such tax levy,  
192 excluding levies for the payment of the principal of and interest





193 on school bonds or notes and excluding levies for costs of  
194 collection, shall be placed in the school depository to the credit  
195 of the school district and shall be expended in the manner  
196 provided by law for the purpose of supplementing teachers'  
197 salaries, extending school terms, purchasing furniture, supplies  
198 and materials, and for all other lawful operating and incidental  
199 expenses of such school district, funds for which are not provided  
200 by adequate education program fund allotments.

201 The monies authorized to be received by school districts from  
202 the School Ad Valorem Tax Reduction Fund pursuant to Section  
203 37-61-35 shall be included as ad valorem tax receipts. The  
204 levying authority for the school district, as defined in Section  
205 37-57-1, shall reduce the ad valorem tax levy for such school  
206 district in an amount equal to the amount distributed to such  
207 school district from the School Ad Valorem Tax Reduction Fund each  
208 calendar year pursuant to said Section 37-61-35. Such reduction  
209 shall not be less than the millage rate necessary to generate a  
210 reduction in ad valorem tax receipts equal to the funds  
211 distributed to such school district from the School Ad Valorem Tax  
212 Reduction Fund pursuant to Section 37-61-35. Such reduction shall  
213 not be deemed to be a reduction in the aggregate amount of support  
214 from ad valorem taxation for purposes of Section 37-19-11. The  
215 millage levy certified by the State Board of Education as the  
216 uniform minimum ad valorem tax levy or the millage levy that would  
217 generate funds in an amount equal to a school district's district



218 entitlement, as defined in Section 37-22-1(2)(e), shall be subject  
219 to the provisions of this paragraph.

220 In any county where there is located a nuclear generating  
221 power plant on which a tax is assessed under Section 27-35-309(3),  
222 such required levy and revenue produced thereby may be reduced by  
223 the levying authority in an amount in proportion to a reduction in  
224 the base revenue of any such county from the previous year. Such  
225 reduction shall be allowed only if the reduction in base revenue  
226 equals or exceeds five percent (5%). "Base revenue" shall mean  
227 the revenue received by the county from the ad valorem tax levy  
228 plus the revenue received by the county from the tax assessed  
229 under Section 27-35-309(3) and authorized to be used for any  
230 purposes for which a county is authorized by law to levy an ad  
231 valorem tax. For purposes of determining if the reduction equals  
232 or exceeds five percent (5%), a levy of millage equal to the prior  
233 year's millage shall be hypothetically applied to the current  
234 year's ad valorem tax base to determine the amount of revenue to  
235 be generated from the ad valorem tax levy. For the purposes of  
236 this section and Section 37-57-107, the portion of the base  
237 revenue used for the support of any school district shall be  
238 deemed to be the aggregate receipts from ad valorem taxes for the  
239 support of any school district. This paragraph shall apply to  
240 taxes levied for the 1987 fiscal year and for each fiscal year  
241 thereafter. If the Mississippi Supreme Court or another court



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

244 (2) When the tax is levied upon the territory of any school  
245 district located in two (2) or more counties, the order of the  
246 school board requesting the levying of such tax shall be certified  
247 to the levying authority of each of the counties involved, and  
248 each of the levying authorities shall levy the tax in the manner  
249 specified herein. The taxes so levied shall be collected by the  
250 tax collector of the levying authority involved and remitted by  
251 the tax collector to the school depository of the home county to  
252 the credit of the school district involved as provided above,  
253 except that taxes for collection fees may be retained by the  
254 levying authority for deposit into its general fund.

255 (3) The aggregate receipts from ad valorem taxes levied for  
256 school district purposes, excluding collection fees, pursuant to  
257 this section and Section 37-57-1 shall be subject to the \* \* \*  
258 increase limitation under Section 37-57-107 \* \* \*.

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

261 37-57-107. (1) Beginning with the tax levy for the \* \* \*  
262 2019 fiscal year and for each fiscal year thereafter, the  
263 aggregate receipts from taxes levied for school district purposes  
264 pursuant to Sections 37-57-105 and 37-57-1 shall not exceed the  
265 aggregate receipts from those sources during any one (1) of the  
266 immediately preceding three (3) fiscal years, as determined by the



267 school board, plus an increase not to exceed \* \* \* two percent  
268 (2%). For the purpose of this limitation, the term "aggregate  
269 receipts" when used in connection with the amount of funds  
270 generated in a preceding fiscal year shall not include excess  
271 receipts required by law to be deposited into a special account.  
272 The additional revenue from the ad valorem tax on any newly  
273 constructed properties or any existing properties added to the tax  
274 rolls or any properties previously exempt which were not assessed  
275 in the next preceding year may be excluded from the \* \* \* two  
276 percent (2%) increase limitation set forth herein. Taxes levied  
277 for payment of principal of and interest on general obligation  
278 school bonds issued heretofore or hereafter shall be excluded from  
279 the \* \* \* two percent (2%) increase limitation set forth herein.  
280 Any additional millage levied to fund any new program mandated by  
281 the Legislature shall be excluded from the limitation for the  
282 first year of the levy and included within such limitation in any  
283 year thereafter. For the purposes of this section, the term "new  
284 program" shall include, but shall not be limited to \* \* \* :  
285 (a) \* \* \* any additional millage levied and the revenue generated  
286 therefrom, which is excluded from the limitation for the first  
287 year of the levy, to support the \* \* \* Early Childhood Education  
288 Program, which shall be specified on the minutes of the school  
289 board and of the governing body making such tax levy; (b) any  
290 additional millage levied and the revenue generated therefrom  
291 which shall be excluded from the limitation for the first year of



292 the levy, for the purpose of generating additional local  
293 contribution funds required for the adequate education program for  
294 the 2003 fiscal year and for each fiscal year thereafter under  
295 Section 37-151-7(2); and (c) any additional millage levied and the  
296 revenue generated therefrom which shall be excluded from the  
297 limitation for the first year of the levy, for the purpose of  
298 support and maintenance of any agricultural high school which has  
299 been transferred to the control, operation and maintenance of the  
300 school board by the board of trustees of the community college  
301 district under provisions of Section 37-29-272.

302 (2) The \* \* \* two percent (2%) increase limitation  
303 prescribed in this section may be increased an additional amount  
304 only when the school board has determined the need for additional  
305 revenues and has held an election on the question of raising the  
306 limitation prescribed in this section. The limitation may be  
307 increased only if \* \* \* a majority of those voting in the election  
308 shall vote for the proposed increase. The resolution, notice and  
309 manner of holding the election shall be as prescribed \* \* \* under  
310 Section 37-57-104. Revenues collected for the fiscal year in  
311 excess of the \* \* \* two percent (2%) increase limitation pursuant  
312 to an election shall be included in the tax base for the purpose  
313 of determining aggregate receipts for which the \* \* \* two percent  
314 (2%) increase limitation applies for subsequent fiscal years.

315 (3) Except as otherwise provided for excess revenues  
316 generated pursuant to an election, if revenues collected as the



317 result of the taxes levied for the fiscal year pursuant to this  
318 section and Section 37-57-1 exceed the increase limitation, then  
319 it shall be the mandatory duty of the school board of the school  
320 district to deposit such excess receipts over and above the  
321 increase limitation into a special account and credit it to the  
322 fund for which the levy was made. It will be the further duty of  
323 such board to hold said funds and invest the same as authorized by  
324 law. Such excess funds shall be calculated in the budgets for the  
325 school districts for the purpose for which such levies were made,  
326 for the succeeding fiscal year. Taxes imposed for the succeeding  
327 year shall be reduced by the amount of excess funds available.  
328 Under no circumstances shall such excess funds be expended during  
329 the fiscal year in which such excess funds are collected.

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

334 (5) Beginning with the 2013-2014 school year, each school  
335 district in which a charter school is located shall pay to the  
336 charter school an amount for each student enrolled in the charter  
337 school equal to the ad valorem taxes levied per pupil for the  
338 support of the school district in which the charter school is  
339 located. The pro rata ad valorem taxes to be transferred to the  
340 charter school must include all levies for the support of the  
341 school district under Sections 37-57-1 (local contribution to the



342 adequate education program) and 37-57-105 (school district  
343 operational levy) but may not include any taxes levied for the  
344 retirement of school district bonded indebtedness or short-term  
345 notes or any taxes levied for the support of vocational-technical  
346 education programs. Payments made pursuant to this subsection by  
347 a school district to a charter school must be made before the  
348 expiration of three (3) business days after the funds are  
349 distributed to the school district.

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

352         27-39-207. (1) Unless the increased revenue in a budget is  
353 derived solely from the expansion of a school district's ad  
354 valorem tax base, a school district shall not budget an increase  
355 in an ad valorem tax effort in dollars for support of the school  
356 district unless it first advertises its intention to do so at the  
357 same time that it advertises its intention to fix its budget for  
358 the next fiscal year.

359         (2) A request for an increase in ad valorem tax effort in  
360 dollars for the support of the school district pursuant to  
361 Sections 37-57-104, 37-57-105 and 37-57-107 shall not be levied  
362 until an order has been approved by the school board of the school  
363 district in accordance with the following procedure:

364                 (a) The school board of the school district shall  
365 advertise its intent to increase its ad valorem tax effort in  
366 dollars in a newspaper of general circulation in the county. The



367 advertisement shall be no less than one-fourth (1/4) page in size  
368 and the type used shall be no smaller than eighteen (18) point and  
369 surrounded by a one-fourth-inch solid black border. The  
370 advertisement shall not be placed in any portion of the newspaper  
371 where legal notices and classified advertisements appear. The  
372 advertisement shall appear in a newspaper that is published at  
373 least five (5) days a week, unless the only newspaper in the  
374 county is published less than five (5) days a week. The newspaper  
375 selected shall be one of general interest, readership and  
376 circulation in all areas of the community. The advertisement  
377 shall be published once each week for the two-week period  
378 preceding the adoption of the final budget. The advertisement  
379 shall provide that the school board of the school district will  
380 meet on a certain day, date, time and place fixed in the  
381 advertisement, which shall be no less than seven (7) days after  
382 the day the first advertisement is published. The meeting on the  
383 proposed increase may coincide with the hearing on the proposed  
384 budget of the school board of the school district.

385 (b) Except as provided for in subsection (1) of this  
386 section, if a school district is requesting an increase in ad  
387 valorem tax effort in dollars pursuant to Sections 37-57-104,  
388 37-57-105 and 37-57-107, it shall be in the following form:

389 **"NOTICE OF PROPOSED AD VALOREM TAX EFFORT**

390 **(Name of the school district)**





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

395           The (name of the school district) is now operating with a  
396 projected total budget revenue of \$\_\_\_\_\_. Of that amount,  
397 \_\_\_\_ percent or \$\_\_\_\_\_ of such revenue is obtained through ad  
398 valorem taxes. For next fiscal year, the proposed budget has  
399 total projected revenue of \$\_\_\_\_\_. Of that amount, \_\_\_\_  
400 percent or \$\_\_\_\_\_ is proposed to be financed through a total  
401 ad valorem tax levy.

402           For the next fiscal year, the proposed increase in ad valorem  
403 tax effort by (name of the school district) may result in an  
404 increase in the ad valorem tax millage rate. Ad valorem taxes are  
405 paid on homes, automobile tags, business fixtures and equipment,  
406 and rental real property.

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

411           (3) The school board of the school district, after the  
412 hearing has been held in accordance with the above procedures, may  
413 adopt an order requesting the levying of an ad valorem tax effort  
414 in dollars in excess of the certified tax rate. If such order is  
415 not adopted on the day of the public hearing, the scheduled date,



416 time and place for consideration and adoption of the order shall  
417 be announced at the public hearing.

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

422 (5) Each school board of a school district shall notify the  
423 taxing entity of the date, time and place of its public hearing.  
424 No school board of a school district may schedule its hearing at  
425 the same time as another overlapping school district in the same  
426 county.

427 **SECTION 5.** This act shall take effect and be in force from  
428 and after July 1, 2019.

