

By: Representative Burnett

To: Ways and Means

HOUSE BILL NO. 189

1 AN ACT TO AMEND SECTION 37-57-104, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE THE LEVYING AUTHORITY FOR A SCHOOL DISTRICT IN
 3 CONSERVATORSHIP TO APPROVE OR DISAPPROVE, IN FULL OR IN PART, A
 4 REQUEST FOR AN INCREASE IN THE AD VALOREM TAX EFFORT FOR THE
 5 SCHOOL DISTRICT; TO AMEND SECTION 37-57-105, MISSISSIPPI CODE OF
 6 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO BRING
 7 FORWARD SECTION 37-57-107, MISSISSIPPI CODE OF 1972, WHICH RELATES
 8 TO THE LEVY OF AD VALOREM TAXES FOR SCHOOL DISTRICTS, FOR PURPOSES
 9 OF POSSIBLE AMENDMENT; AND 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. In the case of a school district in conservatorship, the
24 levying authority may approve or disapprove, in full or in part,
25 the request for the ad valorem tax effort. For the purpose of
26 calculating this millage rate, any additional amount that is
27 levied pursuant to Section 37-57-105(1) to cover anticipated
28 delinquencies and costs of collection or any amount that may be
29 levied for the payment of the principal and interest on school
30 bonds or notes shall be excluded from the limitation of fifty-five
31 (55) mills provided for in subsection (2) of this section.

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

45 When a referendum has been called, notice of the referendum
46 shall be published at least five (5) days per week, unless the



47 only newspaper published in the school district is published less
48 than five (5) days per week, for at least three (3) consecutive
49 weeks, in at least one (1) newspaper published in the school
50 district. The notice shall be no less than one-fourth (1/4) page
51 in size, and the type used shall be no smaller than eighteen (18)
52 point and surrounded by a one-fourth-inch solid black border. The
53 notice may not be placed in that portion of the newspaper where
54 legal notices and classified advertisements appear. The first
55 publication of the notice shall be made not less than twenty-one
56 (21) days before the date fixed for the referendum, and the last
57 publication shall be made not more than seven (7) days before that
58 date. If no newspaper is published in the school district, then
59 the notice shall be published in a newspaper having a general
60 circulation in the school district. The referendum shall be held,
61 as far as is practicable, in the same manner as other referendums
62 and elections are held in the county or municipality. At the
63 referendum, all registered, qualified electors of the school
64 district may vote. The ballots used at the referendum shall have
65 printed thereon a brief statement of the amount and purpose of the
66 increased tax levy and the words "FOR INCREASING THE MILLAGE
67 LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY
68 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S
69 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR
70 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)
71 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)



72 MILLS." The voter shall vote by placing a cross (X) or checkmark
73 (√) opposite his choice on the proposition.

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

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



96 by the ad valorem tax effort for the currently existing fiscal
97 year.

98 (b) Provided, however, that if a levying authority is
99 levying in excess of fifty-five (55) mills on July 1, 1997, the
100 levying authority may levy an additional amount not exceeding
101 three (3) mills in the aggregate for the period beginning July 1,
102 1997, and ending June 30, 2003, subject to the limitation on
103 increased receipts from ad valorem taxes prescribed in Sections
104 37-57-105 and 37-57-107.

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

116 (3) (a) If the millage rate necessary to generate funds
117 equal to the dollar amount requested by the school board is equal
118 to fifty-five (55) mills or less, but the dollar amount requested
119 by the school board exceeds the next preceding fiscal year's ad
120 valorem tax effort in dollars by more than four percent (4%), but



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



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

164 (b) In addition to the provisions of paragraph (a) of
165 this subsection (3), in the case of a school district in
166 conservatorship, if the millage rate necessary to generate funds
167 equal to the dollar amount requested is equal to fifty-five (55)
168 mills or less, but the dollar amount requested exceeds the next
169 preceding fiscal year's ad valorem tax effort in dollars by not
170 more than four percent (4%), the levying authority may approve or



171 disapprove, in full or in part, the request for the ad valorem tax
172 effort.

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

187 (5) The aggregate receipts from ad valorem taxes levied for
188 school district purposes pursuant to Sections 37-57-1 and
189 37-57-105, excluding collection fees, additional revenue from the
190 ad valorem tax on any newly constructed properties or any existing
191 properties added to the tax rolls or any properties previously
192 exempt which were not assessed in the next preceding year, and
193 amounts received by school districts from the School Ad Valorem
194 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject



195 to the increase limitation under this section and Section
196 37-57-107.

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

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

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

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

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

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

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

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



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

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



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

252 The monies authorized to be received by school districts from
253 the School Ad Valorem Tax Reduction Fund pursuant to Section
254 37-61-35 shall be included as ad valorem tax receipts. The
255 levying authority for the school district, as defined in Section
256 37-57-1, shall reduce the ad valorem tax levy for such school
257 district in an amount equal to the amount distributed to such
258 school district from the School Ad Valorem Tax Reduction Fund each
259 calendar year pursuant to said Section 37-61-35. Such reduction
260 shall not be less than the millage rate necessary to generate a
261 reduction in ad valorem tax receipts equal to the funds
262 distributed to such school district from the School Ad Valorem Tax
263 Reduction Fund pursuant to Section 37-61-35. Such reduction shall
264 not be deemed to be a reduction in the aggregate amount of support
265 from ad valorem taxation for purposes of Section 37-19-11. The
266 millage levy certified by the State Board of Education as the
267 uniform minimum ad valorem tax levy or the millage levy that would
268 generate funds in an amount equal to a school district's district



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

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



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

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

306 (3) The aggregate receipts from ad valorem taxes levied for
307 school district purposes, excluding collection fees, pursuant to
308 this section and Section 37-57-1 shall be subject to the increased
309 limitation under Section 37-57-107; however, if the ad valorem tax
310 effort in dollars requested by the school district for the fiscal
311 year exceeds the next preceding fiscal year's ad valorem tax
312 effort in dollars by more than four percent (4%) but not more than
313 seven percent (7%), then the school board shall publish notice
314 thereof once each week for at least three (3) consecutive weeks in
315 a newspaper having general circulation in the school district
316 involved, with the first publication thereof to be made not less
317 than fifteen (15) days prior to the final adoption of the budget



318 by the school board. If at any time prior to said adoption a
319 petition signed by not less than twenty percent (20%) or fifteen
320 hundred (1500), whichever is less, of the qualified electors of
321 the school district involved shall be filed with the school board
322 requesting that an election be called on the question of exceeding
323 the next preceding fiscal year's ad valorem tax effort in dollars
324 by more than four percent (4%) but not more than seven percent
325 (7%), then the school board shall, not later than the next regular
326 meeting, adopt a resolution calling an election to be held within
327 such school district upon such question. The election shall be
328 called and held, and notice thereof shall be given, in the same
329 manner for elections upon the questions of the issuance of the
330 bonds of school districts, and the results thereof shall be
331 certified to the school board. The ballot shall contain the
332 language "For the School Tax Increase Over Four Percent (4%)" and
333 "Against the School Tax Increase Over Four Percent (4%)." If a
334 majority of the qualified electors of the school district who
335 voted in such election shall vote in favor of the question, then
336 the stated increase requested by the school board shall be
337 approved. In addition, in the case of a school district in
338 conservatorship, if the ad valorem tax effort in dollars requested
339 for the fiscal year exceeds the next preceding fiscal year's ad
340 valorem tax effort in dollars by not more than four percent (4%),
341 the levying authority may approve or disapprove, in full or in
342 part, the request for the ad valorem tax effort. For the purposes



343 of this paragraph, the revenue sources excluded from the increased
344 limitation under Section 37-57-107 shall also be excluded from the
345 limitation described herein in the same manner as they are
346 excluded under Section 37-57-107.

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

349 37-57-107. (1) Beginning with the tax levy for the 1997
350 fiscal year and for each fiscal year thereafter, the aggregate
351 receipts from taxes levied for school district purposes pursuant
352 to Sections 37-57-105 and 37-57-1 shall not exceed the aggregate
353 receipts from those sources during any one (1) of the immediately
354 preceding three (3) fiscal years, as determined by the school
355 board, plus an increase not to exceed seven percent (7%). For the
356 purpose of this limitation, the term "aggregate receipts" when
357 used in connection with the amount of funds generated in a
358 preceding fiscal year shall not include excess receipts required
359 by law to be deposited into a special account. However, the term
360 "aggregate receipts" includes any receipts required by law to be
361 paid to a charter school. The additional revenue from the ad
362 valorem tax on any newly constructed properties or any existing
363 properties added to the tax rolls or any properties previously
364 exempt which were not assessed in the next preceding year may be
365 excluded from the seven percent (7%) increase limitation set forth
366 herein. Taxes levied for payment of principal of and interest on
367 general obligation school bonds issued heretofore or hereafter



368 shall be excluded from the seven percent (7%) increase limitation
369 set forth herein. Any additional millage levied to fund any new
370 program mandated by the Legislature shall be excluded from the
371 limitation for the first year of the levy and included within such
372 limitation in any year thereafter. For the purposes of this
373 section, the term "new program" shall include, but shall not be
374 limited to, (a) the Early Childhood Education Program required to
375 commence with the 1986-1987 school year as provided by Section
376 37-21-7 and any additional millage levied and the revenue
377 generated therefrom, which is excluded from the limitation for the
378 first year of the levy, to support the mandated Early Childhood
379 Education Program shall be specified on the minutes of the school
380 board and of the governing body making such tax levy; (b) any
381 additional millage levied and the revenue generated therefrom
382 which shall be excluded from the limitation for the first year of
383 the levy, for the purpose of generating additional local
384 contribution funds required for the adequate education program for
385 the 2003 fiscal year and for each fiscal year thereafter under
386 Section 37-151-7(2); and (c) any additional millage levied and the
387 revenue generated therefrom which shall be excluded from the
388 limitation for the first year of the levy, for the purpose of
389 support and maintenance of any agricultural high school which has
390 been transferred to the control, operation and maintenance of the
391 school board by the board of trustees of the community college
392 district under provisions of Section 37-29-272.



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

407 (3) Except as otherwise provided for excess revenues
408 generated pursuant to an election, if revenues collected as the
409 result of the taxes levied for the fiscal year pursuant to this
410 section and Section 37-57-1 exceed the increase limitation, then
411 it shall be the mandatory duty of the school board of the school
412 district to deposit such excess receipts over and above the
413 increase limitation into a special account and credit it to the
414 fund for which the levy was made. It will be the further duty of
415 such board to hold said funds and invest the same as authorized by
416 law. Such excess funds shall be calculated in the budgets for the
417 school districts for the purpose for which such levies were made,



418 for the succeeding fiscal year. Taxes imposed for the succeeding
419 year shall be reduced by the amount of excess funds available.
420 Under no circumstances shall such excess funds be expended during
421 the fiscal year in which such excess funds are collected.

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

426 (5) Beginning with the 2013-2014 school year, each school
427 district in which a charter school is located shall pay to the
428 charter school an amount for each student enrolled in the charter
429 school equal to the ad valorem taxes levied per pupil for the
430 support of the school district in which the charter school is
431 located. The pro rata ad valorem taxes to be transferred to the
432 charter school must include all levies for the support of the
433 school district under Sections 37-57-1 (local contribution to the
434 adequate education program) and 37-57-105 (school district
435 operational levy) but may not include any taxes levied for the
436 retirement of school district bonded indebtedness or short-term
437 notes or any taxes levied for the support of vocational-technical
438 education programs. Payments made pursuant to this subsection by
439 a school district to a charter school must be made before the
440 expiration of three (3) business days after the funds are
441 distributed to the school district.



442 **SECTION 4.** This act shall take effect and be in force from
443 and after July 1, 2022.

