

By: Representatives Burnett, Mickens

To: Ways and Means

HOUSE BILL NO. 1213

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. 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. In the case of a school district in
30 conservatorship, the levying authority may approve or disapprove,
31 in full or in part, the request for the ad valorem tax effort. If
32 any member of such levying authority is an employee of the school
33 district, that person shall recuse himself or herself from voting
34 on the question of the request for ad valorem tax effort.

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



46 authority receives the school board's order requesting the ad
47 valorem tax effort.

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



71 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S
72 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR
73 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)
74 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)
75 MILLS." The voter shall vote by placing a cross (X) or checkmark
76 (√) opposite his choice on the proposition.

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

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



96 where, because of a decrease in the assessed valuation of the
97 district, a millage rate of greater than fifty-five (55) mills is
98 necessary to generate funds equal to the dollar amount generated
99 by the ad valorem tax effort for the currently existing fiscal
100 year.

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

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

119 (3) (a) If the millage rate necessary to generate funds
120 equal to the dollar amount requested by the school board is equal



121 to fifty-five (55) mills or less, but the dollar amount requested
122 by the school board exceeds the next preceding fiscal year's ad
123 valorem tax effort in dollars by more than four percent (4%), but
124 not more than seven percent (7%) (as provided for under subsection
125 (4) of this section), then the school board shall publish notice
126 thereof at least five (5) days per week, unless the only newspaper
127 published in the school district is published less than five (5)
128 days per week, for at least three (3) consecutive weeks in a
129 newspaper published in the school district. The notice shall be
130 no less than one-fourth (1/4) page in size, and the type used
131 shall be no smaller than eighteen (18) point and surrounded by a
132 one-fourth-inch solid black border. The notice may not be placed
133 in that portion of the newspaper where legal notices and
134 classified advertisements appear. The first publication shall be
135 made not less than fifteen (15) days before the final adoption of
136 the budget by the school board. If no newspaper is published in
137 the school district, then the notice shall be published in a
138 newspaper having a general circulation in the school district. If
139 at any time before the adoption of the budget a petition signed by
140 not less than twenty percent (20%) or fifteen hundred (1500),
141 whichever is less, of the registered, qualified electors of the
142 school district is filed with the school board requesting that a
143 referendum be called on the question of exceeding the next
144 preceding fiscal year's ad valorem tax effort in dollars by more
145 than four percent (4%), then the school board shall adopt, not



146 later than the next regular meeting, a resolution calling a
147 referendum to be held within the school district upon the
148 question. The referendum shall be called and held, and notice
149 thereof shall be given, in the same manner provided for in
150 subsection (2) of this section. The ballot shall contain the
151 language "FOR THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)" and
152 "AGAINST THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)." If a
153 majority of the registered, qualified electors of the school
154 district who vote in the referendum vote in favor of the question,
155 then the increase requested by the school board shall be approved.
156 For the purposes of this subsection, the revenue sources excluded
157 from the increase limitation under Section 37-57-107 also shall be
158 excluded from the limitation described in this subsection in the
159 same manner as they are excluded under Section 37-57-107.
160 Provided, however, that any increases requested by the school
161 board as a result of the required local contribution to the
162 Mississippi Adequate Education Program, as certified to the local
163 school district by the State Board of Education under Section
164 37-151-7(2), Mississippi Code of 1972, shall not be subject to the
165 four percent (4%) and/or seven percent (7%) tax increase
166 limitations provided in this section.

167 (b) In addition to the provisions of paragraph (a) of
168 this subsection (3), in the case of a school district in
169 conservatorship, if the millage rate necessary to generate funds
170 equal to the dollar amount requested is equal to fifty-five (55)



171 mills or less, but the dollar amount requested exceeds the next
172 preceding fiscal year's ad valorem tax effort in dollars by not
173 more than four percent (4%), the levying authority may approve or
174 disapprove, in full or in part, the request for the ad valorem tax
175 effort. If any member of the levying authority is an employee of
176 the school district, such person shall recuse himself or herself
177 from voting on the question of the request for ad valorem tax
178 effort.

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

193 (5) The aggregate receipts from ad valorem taxes levied for
194 school district purposes pursuant to Sections 37-57-1 and
195 37-57-105, excluding collection fees, additional revenue from the



196 ad valorem tax on any newly constructed properties or any existing
197 properties added to the tax rolls or any properties previously
198 exempt which were not assessed in the next preceding year, and
199 amounts received by school districts from the School Ad Valorem
200 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject
201 to the increase limitation under this section and Section
202 37-57-107.

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

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

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

212 (b) The lease of property for school purposes, as
213 authorized under the Emergency School Leasing Authority Act of
214 1986 (Sections 37-7-351 through 37-7-359);

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

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



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

222 Any millage levied for the purposes specified in this
223 subsection shall be excluded from the millage limitations
224 established under this section.

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

227 37-57-105. (1) In addition to the taxes levied under
228 Section 37-57-1, the levying authority for the school district, as
229 defined in Section 37-57-1, upon receipt of a certified copy of an
230 order adopted by the school board of the school district
231 requesting an ad valorem tax effort in dollars for the support of
232 the school district, shall, at the same time and in the same
233 manner as other ad valorem taxes are levied, levy an annual ad
234 valorem tax in the amount fixed in such order upon all of the
235 taxable property of such school district, which shall not be less
236 than the millage rate certified by the State Board of Education as
237 the uniform minimum school district ad valorem tax levy for the
238 support of the adequate education program in such school district
239 under Section 37-57-1. Provided, however, that any school
240 district levying less than the uniform minimum school district ad
241 valorem tax levy on July 1, 1997, shall only be required to
242 increase its local district maintenance levy in four (4) mill
243 annual increments in order to attain such millage requirements.
244 In making such levy, the levying authority shall levy an



245 additional amount sufficient to cover anticipated delinquencies
246 and costs of collection so that the net amount of money to be
247 produced by such levy shall be equal to the amount which is
248 requested by said school board. The proceeds of such tax levy,
249 excluding levies for the payment of the principal of and interest
250 on school bonds or notes and excluding levies for costs of
251 collection, shall be placed in the school depository to the credit
252 of the school district and shall be expended in the manner
253 provided by law for the purpose of supplementing teachers'
254 salaries, extending school terms, purchasing furniture, supplies
255 and materials, and for all other lawful operating and incidental
256 expenses of such school district, funds for which are not provided
257 by adequate education program fund allotments.

258 The monies authorized to be received by school districts from
259 the School Ad Valorem Tax Reduction Fund pursuant to Section
260 37-61-35 shall be included as ad valorem tax receipts. The
261 levying authority for the school district, as defined in Section
262 37-57-1, shall reduce the ad valorem tax levy for such school
263 district in an amount equal to the amount distributed to such
264 school district from the School Ad Valorem Tax Reduction Fund each
265 calendar year pursuant to said Section 37-61-35. Such reduction
266 shall not be less than the millage rate necessary to generate a
267 reduction in ad valorem tax receipts equal to the funds
268 distributed to such school district from the School Ad Valorem Tax
269 Reduction Fund pursuant to Section 37-61-35. Such reduction shall



270 not be deemed to be a reduction in the aggregate amount of support
271 from ad valorem taxation for purposes of Section 37-19-11. The
272 millage levy certified by the State Board of Education as the
273 uniform minimum ad valorem tax levy or the millage levy that would
274 generate funds in an amount equal to a school district's district
275 entitlement, as defined in Section 37-22-1(2)(e), shall be subject
276 to the provisions of this paragraph.

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



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

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

312 (3) The aggregate receipts from ad valorem taxes levied for
313 school district purposes, excluding collection fees, pursuant to
314 this section and Section 37-57-1 shall be subject to the increased
315 limitation under Section 37-57-107; however, if the ad valorem tax
316 effort in dollars requested by the school district for the fiscal
317 year exceeds the next preceding fiscal year's ad valorem tax
318 effort in dollars by more than four percent (4%) but not more than
319 seven percent (7%), then the school board shall publish notice



320 thereof once each week for at least three (3) consecutive weeks in
321 a newspaper having general circulation in the school district
322 involved, with the first publication thereof to be made not less
323 than fifteen (15) days prior to the final adoption of the budget
324 by the school board. If at any time prior to said adoption a
325 petition signed by not less than twenty percent (20%) or fifteen
326 hundred (1500), whichever is less, of the qualified electors of
327 the school district involved shall be filed with the school board
328 requesting that an election be called on the question of exceeding
329 the next preceding fiscal year's ad valorem tax effort in dollars
330 by more than four percent (4%) but not more than seven percent
331 (7%), then the school board shall, not later than the next regular
332 meeting, adopt a resolution calling an election to be held within
333 such school district upon such question. The election shall be
334 called and held, and notice thereof shall be given, in the same
335 manner for elections upon the questions of the issuance of the
336 bonds of school districts, and the results thereof shall be
337 certified to the school board. The ballot shall contain the
338 language "For the School Tax Increase Over Four Percent (4%)" and
339 "Against the School Tax Increase Over Four Percent (4%)." If a
340 majority of the qualified electors of the school district who
341 voted in such election shall vote in favor of the question, then
342 the stated increase requested by the school board shall be
343 approved. For the purposes of this paragraph, the revenue sources
344 excluded from the increased limitation under Section 37-57-107



345 shall also be excluded from the limitation described herein in the
346 same manner as they are excluded under Section 37-57-107. In
347 addition, in the case of a school district in conservatorship, if
348 the ad valorem tax effort in dollars requested for the fiscal year
349 exceeds the next preceding fiscal year's ad valorem tax effort in
350 dollars by not more than four percent (4%), the levying authority
351 may approve or disapprove, in full or in part, the request for the
352 ad valorem tax effort. If any member of such levying authority is
353 an employee of the school district, that person shall recuse
354 himself or herself from voting on the question of the request for
355 ad valorem tax effort.

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

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



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



395 Section 37-151-7(2); and (c) any additional millage levied and the
396 revenue generated therefrom which shall be excluded from the
397 limitation for the first year of the levy, for the purpose of
398 support and maintenance of any agricultural high school which has
399 been transferred to the control, operation and maintenance of the
400 school board by the board of trustees of the community college
401 district under provisions of Section 37-29-272.

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

416 (3) Except as otherwise provided for excess revenues
417 generated pursuant to an election, if revenues collected as the
418 result of the taxes levied for the fiscal year pursuant to this
419 section and Section 37-57-1 exceed the increase limitation, then



420 it shall be the mandatory duty of the school board of the school
421 district to deposit such excess receipts over and above the
422 increase limitation into a special account and credit it to the
423 fund for which the levy was made. It will be the further duty of
424 such board to hold said funds and invest the same as authorized by
425 law. Such excess funds shall be calculated in the budgets for the
426 school districts for the purpose for which such levies were made,
427 for the succeeding fiscal year. Taxes imposed for the succeeding
428 year shall be reduced by the amount of excess funds available.
429 Under no circumstances shall such excess funds be expended during
430 the fiscal year in which such excess funds are collected.

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

435 (5) Beginning with the 2013-2014 school year, each school
436 district in which a charter school is located shall pay to the
437 charter school an amount for each student enrolled in the charter
438 school equal to the ad valorem taxes levied per pupil for the
439 support of the school district in which the charter school is
440 located. The pro rata ad valorem taxes to be transferred to the
441 charter school must include all levies for the support of the
442 school district under Sections 37-57-1 (local contribution to the
443 adequate education program) and 37-57-105 (school district
444 operational levy) but may not include any taxes levied for the



445 retirement of school district bonded indebtedness or short-term
446 notes or any taxes levied for the support of vocational-technical
447 education programs. Payments made pursuant to this subsection by
448 a school district to a charter school must be made before the
449 expiration of three (3) business days after the funds are
450 distributed to the school district.

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

