

By: Representative Burnett

To: Ways and Means

HOUSE BILL NO. 850

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,
 4 CERTAIN REQUESTS FOR AN INCREASE IN THE AD VALOREM TAX EFFORT FOR
 5 THE SCHOOL DISTRICT; TO AMEND SECTION 37-57-105, MISSISSIPPI CODE
 6 OF 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.

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 is
33 greater than fifty-five (55) mills, and if this millage rate is
34 higher than the millage then being levied pursuant to the school
35 board's order requesting the ad valorem tax effort for the
36 currently existing fiscal year, then the levying authority shall
37 call a referendum on the question of exceeding, during the next
38 fiscal year, the then existing millage rate being levied for
39 school district purposes. The referendum shall be scheduled for
40 not more than six (6) weeks after the date on which the levying
41 authority receives the school board's order requesting the ad
42 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) If the millage rate necessary to generate funds
115 equal to the dollar amount requested by the school board is equal
116 to fifty-five (55) mills or less, but the dollar amount requested
117 by the school board exceeds the next preceding fiscal year's ad
118 valorem tax effort in dollars by more than four percent (4%), but
119 not more than seven percent (7%) (as provided for under subsection
120 (4) of this section), then the school board shall publish notice



121 thereof at least five (5) days per week, unless the only newspaper
122 published in the school district is published less than five (5)
123 days per week, for at least three (3) consecutive weeks in a
124 newspaper published in the school district. The notice shall be
125 no less than one-fourth (1/4) page in size, and the type used
126 shall be no smaller than eighteen (18) point and surrounded by a
127 one-fourth-inch solid black border. The notice may not be placed
128 in that portion of the newspaper where legal notices and
129 classified advertisements appear. The first publication shall be
130 made not less than fifteen (15) days before the final adoption of
131 the budget by the school board. If no newspaper is published in
132 the school district, then the notice shall be published in a
133 newspaper having a general circulation in the school district. If
134 at any time before the adoption of the budget a petition signed by
135 not less than twenty percent (20%) or fifteen hundred (1500),
136 whichever is less, of the registered, qualified electors of the
137 school district is filed with the school board requesting that a
138 referendum be called on the question of exceeding the next
139 preceding fiscal year's ad valorem tax effort in dollars by more
140 than four percent (4%), then the school board shall adopt, not
141 later than the next regular meeting, a resolution calling a
142 referendum to be held within the school district upon the
143 question. The referendum shall be called and held, and notice
144 thereof shall be given, in the same manner provided for in
145 subsection (2) of this section. The ballot shall contain the



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

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



171 member of the levying authority is an employee of the school
172 district, such person shall recuse himself or herself from voting
173 on the question of the dollar amount requested by the school
174 board.

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



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

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



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

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



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

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

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



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



345 effort. If any member of such levying authority is an employee of
346 the school district, that person shall recuse himself or herself
347 from voting on the question of the request for ad valorem tax
348 effort. For the purposes of this paragraph, the revenue sources
349 excluded from the increased limitation under Section 37-57-107
350 shall also be excluded from the limitation described herein in the
351 same manner as they are excluded under Section 37-57-107.

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

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



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



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

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

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



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

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

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



445 expiration of three (3) business days after the funds are
446 distributed to the school district.

447 **SECTION 4.** This act shall take effect and be in force from
448 and after July 1, 2023.

