

By: Representatives Wallace, Hopkins, Morgan To: Ways and Means

HOUSE BILL NO. 1052

1 AN ACT TO AMEND SECTION 37-57-104, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE LEVYING AUTHORITY FOR A SCHOOL DISTRICT TO
3 APPROVE, IN FULL OR IN PART, A REQUEST FOR AN INCREASE IN THE AD
4 VALOREM TAX EFFORT FOR THE SCHOOL DISTRICT; TO AMEND SECTION
5 37-57-105, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
6 PROVISIONS OF THIS ACT; TO BRING FORWARD SECTION 37-57-107,
7 MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE LEVY OF AD VALOREM
8 TAXES FOR SCHOOL DISTRICTS, FOR PURPOSES OF POSSIBLE AMENDMENT;
9 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 may, in its discretion, approve, in full or in



22 part, the dollar amount requested and shall determine the millage
23 rate necessary to generate funds equal to the dollar amount
24 requested by the school board as approved by the levying
25 authority. For the purpose of calculating this millage rate, any
26 additional amount that is levied pursuant to Section 37-57-105(1)
27 to cover anticipated delinquencies and costs of collection or any
28 amount that may be levied for the payment of the principal and
29 interest on school bonds or notes shall be excluded from the
30 limitation of fifty-five (55) mills provided for in subsection (2)
31 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 and
35 approved by the levying authority is greater than fifty-five (55)
36 mills, and if this millage rate is higher than the millage then
37 being levied pursuant to the school board's order requesting the
38 ad valorem tax effort for the currently existing fiscal year, then
39 the levying authority shall call a referendum on the question of
40 exceeding, during the next fiscal year, the then existing millage
41 rate being levied for school district purposes. The referendum
42 shall be scheduled for not more than six (6) weeks after the date
43 on which the levying authority receives the school board's order
44 requesting the ad 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 and approved by the levying authority shall be
78 approved. However, if a majority of the registered, qualified
79 electors who vote in the referendum vote against the question, the
80 millage rate levied by the levying authority shall not exceed the
81 millage then being levied pursuant to the school board's order
82 requesting the ad valorem tax effort for the then currently
83 existing fiscal year.

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



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

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

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

117 (3) If the millage rate necessary to generate funds equal to
118 the dollar amount requested by the school board and approved by
119 the levying authority is equal to fifty-five (55) mills or less,
120 but the dollar amount requested by the school board and approved
121 by the levying authority exceeds the next preceding fiscal year's



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



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

167 (4) If the millage rate necessary to generate funds equal to
168 the dollar amount requested by the school board and approved by
169 the levying authority is equal to fifty-five (55) mills or less,
170 but the dollar amount requested by the school board and approved
171 by the levying authority exceeds the seven percent (7%) increase



172 limitation provided for in Section 37-57-107, the school board may
173 exceed the seven percent (7%) increase limitation only after the
174 school board * * * and the levying authority have determined the
175 need for additional revenues and three-fifths (3/5) of the
176 registered, qualified electors voting in a referendum called by
177 the levying authority have voted in favor of the increase. The
178 notice and manner of holding the referendum shall be as prescribed
179 in subsection (2) of this section for a referendum on the question
180 of increasing the millage rate in school districts levying more
181 than fifty-five (55) mills for school district purposes.

182 (5) The aggregate receipts from ad valorem taxes levied for
183 school district purposes pursuant to Sections 37-57-1 and
184 37-57-105, excluding collection fees, additional revenue from the
185 ad valorem tax on any newly constructed properties or any existing
186 properties added to the tax rolls or any properties previously
187 exempt which were not assessed in the next preceding year, and
188 amounts received by school districts from the School Ad Valorem
189 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject
190 to the increase limitation under this section and Section
191 37-57-107.

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



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

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

201 (b) The lease of property for school purposes, as
202 authorized under the Emergency School Leasing Authority Act of
203 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

211 Any millage levied for the purposes specified in this
212 subsection shall be excluded from the millage limitations
213 established under this section.

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

216 37-57-105. (1) In addition to the taxes levied under
217 Section 37-57-1, the levying authority for the school district, as
218 defined in Section 37-57-1, upon receipt of a certified copy of an
219 order adopted by the school board of the school district



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



245 other lawful operating and incidental expenses of such school
246 district, funds for which are not provided by adequate education
247 program fund allotments.

248 The monies authorized to be received by school districts from
249 the School Ad Valorem Tax Reduction Fund pursuant to Section
250 37-61-35 shall be included as ad valorem tax receipts. The
251 levying authority for the school district, as defined in Section
252 37-57-1, shall reduce the ad valorem tax levy for such school
253 district in an amount equal to the amount distributed to such
254 school district from the School Ad Valorem Tax Reduction Fund each
255 calendar year pursuant to said Section 37-61-35. Such reduction
256 shall not be less than the millage rate necessary to generate a
257 reduction in ad valorem tax receipts equal to the funds
258 distributed to such school district from the School Ad Valorem Tax
259 Reduction Fund pursuant to Section 37-61-35. Such reduction shall
260 not be deemed to be a reduction in the aggregate amount of support
261 from ad valorem taxation for purposes of Section 37-19-11. The
262 millage levy certified by the State Board of Education as the
263 uniform minimum ad valorem tax levy or the millage levy that would
264 generate funds in an amount equal to a school district's district
265 entitlement, as defined in Section 37-22-1(2)(e), shall be subject
266 to the provisions of this paragraph.

267 In any county where there is located a nuclear generating
268 power plant on which a tax is assessed under Section 27-35-309(3),
269 such required levy and revenue produced thereby may be reduced by



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

291 (2) When the tax is levied upon the territory of any school
292 district located in two (2) or more counties, the order of the
293 school board, as approved by the levying authority of each of the
294 counties involved, requesting the levying of such tax shall be



295 certified to the levying authority of each of the counties
296 involved, and each of the levying authorities shall levy the tax
297 in the manner specified herein. The taxes so levied shall be
298 collected by the tax collector of the levying authority involved
299 and remitted by the tax collector to the school depository of the
300 home county to the credit of the school district involved as
301 provided above, except that taxes for collection fees may be
302 retained by the levying authority for deposit into its general
303 fund.

304 (3) The aggregate receipts from ad valorem taxes levied for
305 school district purposes, excluding collection fees, pursuant to
306 this section and Section 37-57-1 shall be subject to the increased
307 limitation under Section 37-57-107; however, if the ad valorem tax
308 effort in dollars requested by the school district for the fiscal
309 year exceeds the next preceding fiscal year's ad valorem tax
310 effort in dollars by more than four percent (4%) but not more than
311 seven percent (7%), then the school board shall publish notice
312 thereof once each week for at least three (3) consecutive weeks in
313 a newspaper having general circulation in the school district
314 involved, with the first publication thereof to be made not less
315 than fifteen (15) days prior to the final adoption of the budget
316 by the school board. If at any time prior to said adoption a
317 petition signed by not less than twenty percent (20%) or fifteen
318 hundred (1500), whichever is less, of the qualified electors of
319 the school district involved shall be filed with the school board



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

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

341 37-57-107. (1) Beginning with the tax levy for the 1997
342 fiscal year and for each fiscal year thereafter, the aggregate
343 receipts from taxes levied for school district purposes pursuant
344 to Sections 37-57-105 and 37-57-1 shall not exceed the aggregate



345 receipts from those sources during any one (1) of the immediately
346 preceding three (3) fiscal years, as determined by the school
347 board, plus an increase not to exceed seven percent (7%). For the
348 purpose of this limitation, the term "aggregate receipts" when
349 used in connection with the amount of funds generated in a
350 preceding fiscal year shall not include excess receipts required
351 by law to be deposited into a special account. However, the term
352 "aggregate receipts" includes any receipts required by law to be
353 paid to a charter school. The additional revenue from the ad
354 valorem tax on any newly constructed properties or any existing
355 properties added to the tax rolls or any properties previously
356 exempt which were not assessed in the next preceding year may be
357 excluded from the seven percent (7%) increase limitation set forth
358 herein. Taxes levied for payment of principal of and interest on
359 general obligation school bonds issued heretofore or hereafter
360 shall be excluded from the seven percent (7%) increase limitation
361 set forth herein. Any additional millage levied to fund any new
362 program mandated by the Legislature shall be excluded from the
363 limitation for the first year of the levy and included within such
364 limitation in any year thereafter. For the purposes of this
365 section, the term "new program" shall include, but shall not be
366 limited to, (a) the Early Childhood Education Program required to
367 commence with the 1986-1987 school year as provided by Section
368 37-21-7 and any additional millage levied and the revenue
369 generated therefrom, which is excluded from the limitation for the



370 first year of the levy, to support the mandated Early Childhood
371 Education Program shall be specified on the minutes of the school
372 board and of the governing body making such tax levy; (b) any
373 additional millage levied and the revenue generated therefrom
374 which shall be excluded from the limitation for the first year of
375 the levy, for the purpose of generating additional local
376 contribution funds required for the adequate education program for
377 the 2003 fiscal year and for each fiscal year thereafter under
378 Section 37-151-7(2); and (c) any additional millage levied and the
379 revenue generated therefrom which shall be excluded from the
380 limitation for the first year of the levy, for the purpose of
381 support and maintenance of any agricultural high school which has
382 been transferred to the control, operation and maintenance of the
383 school board by the board of trustees of the community college
384 district under provisions of Section 37-29-272.

385 (2) The seven percent (7%) increase limitation prescribed in
386 this section may be increased an additional amount only when the
387 school board has determined the need for additional revenues and
388 has held an election on the question of raising the limitation
389 prescribed in this section. The limitation may be increased only
390 if three-fifths (3/5) of those voting in the election shall vote
391 for the proposed increase. The resolution, notice and manner of
392 holding the election shall be as prescribed by law for the holding
393 of elections for the issuance of bonds by the respective school
394 boards. Revenues collected for the fiscal year in excess of the



395 seven percent (7%) increase limitation pursuant to an election
396 shall be included in the tax base for the purpose of determining
397 aggregate receipts for which the seven percent (7%) increase
398 limitation applies for subsequent fiscal years.

399 (3) Except as otherwise provided for excess revenues
400 generated pursuant to an election, if revenues collected as the
401 result of the taxes levied for the fiscal year pursuant to this
402 section and Section 37-57-1 exceed the increase limitation, then
403 it shall be the mandatory duty of the school board of the school
404 district to deposit such excess receipts over and above the
405 increase limitation into a special account and credit it to the
406 fund for which the levy was made. It will be the further duty of
407 such board to hold said funds and invest the same as authorized by
408 law. Such excess funds shall be calculated in the budgets for the
409 school districts for the purpose for which such levies were made,
410 for the succeeding fiscal year. Taxes imposed for the succeeding
411 year shall be reduced by the amount of excess funds available.
412 Under no circumstances shall such excess funds be expended during
413 the fiscal year in which such excess funds are collected.

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

418 (5) Beginning with the 2013-2014 school year, each school
419 district in which a charter school is located shall pay to the



420 charter school an amount for each student enrolled in the charter
421 school equal to the ad valorem taxes levied per pupil for the
422 support of the school district in which the charter school is
423 located. The pro rata ad valorem taxes to be transferred to the
424 charter school must include all levies for the support of the
425 school district under Sections 37-57-1 (local contribution to the
426 adequate education program) and 37-57-105 (school district
427 operational levy) but may not include any taxes levied for the
428 retirement of school district bonded indebtedness or short-term
429 notes or any taxes levied for the support of vocational-technical
430 education programs. Payments made pursuant to this subsection by
431 a school district to a charter school must be made before the
432 expiration of three (3) business days after the funds are
433 distributed to the school district.

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

