

By: Representative Wallace

To: Ways and Means

HOUSE BILL NO. 205

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 ORDER
69 AND APPROVED BY THE LEVYING AUTHORITY) MILLS," and "AGAINST
70 INCREASING THE MILLAGE LEVIED FOR SCHOOL DISTRICT PURPOSES FROM
71 (MILLAGE RATE CURRENTLY LEVIED) MILLS TO (MILLAGE RATE REQUIRED



72 UNDER SCHOOL BOARD'S ORDER AND APPROVED BY THE LEVYING AUTHORITY)
73 MILLS." The voter shall vote by placing a cross (X) or checkmark
74 (✓) opposite his choice on the proposition.

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

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



97 necessary to generate funds equal to the dollar amount generated
98 by the ad valorem tax effort for the currently existing fiscal
99 year.

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

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

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



by the levying authority exceeds the next preceding fiscal year's ad valorem tax effort in dollars by more than four percent (4%), but not more than seven percent (7%) (as provided for under subsection (4) of this section), then the school board shall publish notice thereof at least five (5) days per week, unless the only newspaper published in the school district is published less than five (5) days per week, for at least three (3) consecutive weeks in a newspaper published in the school district. The notice shall be no less than one-fourth (1/4) page in size, and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth-inch solid black border. The notice may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The first publication shall be made not less than fifteen (15) days before the final adoption of the budget by the school board. If no newspaper is published in the school district, then the notice shall be published in a newspaper having a general circulation in the school district. If at any time before the adoption of the budget a petition signed by not less than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the registered, qualified electors of the school district is filed with the school board requesting that a referendum be called on the question of exceeding the next preceding fiscal year's ad valorem tax effort in dollars by more than four percent (4%), then the school board shall adopt, not 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 and approved by
156 the levying authority shall be approved. For the purposes of this
157 subsection, the revenue sources excluded from the increase
158 limitation under Section 37-57-107 also shall be excluded from the
159 limitation described in this subsection in the same manner as they
160 are excluded under Section 37-57-107. Provided, however, that any
161 increases requested by the school board as a result of the
162 required local contribution to the total funding formula as
163 required by Sections 37-151-200 through 37-151-215, as certified
164 to the local school district by the State Board of Education under
165 Section 37-151-211, shall not be subject to the four percent (4%)
166 and/or seven percent (7%) tax increase limitations provided in
167 this section and shall not be subject to approval by the levying
168 authority.

169 (4) If the millage rate necessary to generate funds equal to
170 the dollar amount requested by the school board and approved by
171 the levying authority is equal to fifty-five (55) mills or less,



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

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

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



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

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

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

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

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

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

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

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

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



requesting an ad valorem tax effort in dollars for the support of the school district and any charter schools located in the district, * * * may, in its discretion, at the same time and in the same manner as other ad valorem taxes are levied, levy an annual ad valorem tax in the amount fixed in such order upon all of the taxable property of such school district, which shall not be less than the millage rate certified by the State Board of Education as the uniform minimum school district ad valorem tax levy required for the support of the total funding formula as required by Sections 37-151-200 through 37-151-215 in such school district under Sections 37-57-1 and 37-151-211. However, any school district levying less than the uniform minimum school district ad valorem tax levy on July 1, 1997, shall only be required to increase its local district maintenance levy in four (4) mill annual increments in order to attain such millage requirements. In making such levy, the levying authority shall levy an additional amount sufficient to cover anticipated delinquencies and costs of collection so that the net amount of money to be produced by such levy shall be equal to the amount which is requested by the school board and approved by the levying authority. The proceeds of such tax levy, excluding levies for the payment of the principal of and interest on school bonds or notes and excluding levies for costs of collection, shall be placed in the school depository to the credit of the school district and shall be expended in the manner provided by law for



the purpose of supplementing teachers' salaries, extending school terms, purchasing furniture, supplies and materials, and for all other lawful operating and incidental expenses of such school district.

The monies authorized to be received by school districts from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35 shall be included as ad valorem tax receipts. The levying authority for the school district, as defined in Section 37-57-1, shall reduce the ad valorem tax levy for such school district in an amount equal to the amount distributed to such school district from the School Ad Valorem Tax Reduction Fund each calendar year pursuant to Section 37-61-35. Such reduction shall not be less than the millage rate necessary to generate a reduction in ad valorem tax receipts equal to the funds distributed to such school district from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35. The millage levy certified by the State Board of Education as the minimum tax levy shall be subject to the provisions of this paragraph.

In any county where there is located a nuclear generating power plant on which a tax is assessed under Section 27-35-309(3), such required levy and revenue produced thereby may be reduced by the levying authority in an amount in proportion to a reduction in the base revenue of any such county from the previous year. Such reduction shall be allowed only if the reduction in base revenue equals or exceeds five percent (5%). "Base revenue" shall mean



the revenue received by the county from the ad valorem tax levy plus the revenue received by the county from the tax assessed under Section 27-35-309(3) and authorized to be used for any purposes for which a county is authorized by law to levy an ad valorem tax. For purposes of determining if the reduction equals or exceeds five percent (5%), a levy of millage equal to the prior year's millage shall be hypothetically applied to the current year's ad valorem tax base to determine the amount of revenue to be generated from the ad valorem tax levy. For the purposes of this section and Section 37-57-107, the portion of the base revenue used for the support of any school district shall be deemed to be the aggregate receipts from ad valorem taxes for the support of any school district. This paragraph shall apply to taxes levied for the 1987 fiscal year and for each fiscal year thereafter. If the Mississippi Supreme Court or another court finally adjudicates that the tax levied under Section 27-35-309(3) is unconstitutional, then this paragraph shall stand repealed.

The State Department of Education shall calculate a local pro rata amount for the aggregate receipts of the tax levied in this section by dividing the aggregate receipts by the sum of the school district's net enrollment, as determined under Section 37-151-211, and the net enrollment of any charter school students who reside in the district.

(2) When the tax is levied upon the territory of any school district located in two (2) or more counties, the order of the



297 school board, as approved by the levying authority of each of the
298 counties involved, requesting the levying of such tax shall be
299 certified to the levying authority of each of the counties
300 involved, and each of the levying authorities shall levy the tax
301 in the manner specified herein. The taxes so levied shall be
302 collected by the tax collector of the levying authority involved
303 and remitted by the tax collector to the school depository of the
304 home county to the credit of the school district involved as
305 provided above, except that taxes for collection fees may be
306 retained by the levying authority for deposit into its general
307 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 the adoption a
321 petition signed by not less than twenty percent (20%) or fifteen



hundred (1500), whichever is less, of the qualified electors of the school district involved shall be filed with the school board requesting that an election be called on the question of exceeding the next preceding fiscal year's ad valorem tax effort in dollars by more than four percent (4%) but not more than seven percent (7%), then the school board shall, not later than the next regular meeting, adopt a resolution calling an election to be held within such school district upon such question. The election shall be called and held, and notice thereof shall be given, in the same manner for elections upon the questions of the issuance of the bonds of school districts, and the results thereof shall be certified to the school board. The ballot shall contain the language "For the School Tax Increase Over Four Percent (4%)" and "Against the School Tax Increase Over Four Percent (4%)." If a majority of the qualified electors of the school district who voted in such election shall vote in favor of the question, then the stated increase requested by the school board shall be approved. For the purposes of this paragraph, the revenue sources excluded from the increased limitation under Section 37-57-107 shall also be excluded from the limitation described herein in the same manner as they are excluded under Section 37-57-107.

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

37-57-107. (1) Beginning with the tax levy for the 1997 fiscal year and for each fiscal year thereafter, the aggregate



347 receipts from taxes levied for school district purposes pursuant
348 to Sections 37-57-105 and 37-57-1 shall not exceed the aggregate
349 receipts from those sources during any one (1) of the immediately
350 preceding three (3) fiscal years, as determined by the school
351 board, plus an increase not to exceed seven percent (7%). For the
352 purpose of this limitation, the term "aggregate receipts" when
353 used in connection with the amount of funds generated in a
354 preceding fiscal year shall not include excess receipts required
355 by law to be deposited into a special account. However, the term
356 "aggregate receipts" includes any receipts required by law to be
357 paid to a charter school. The additional revenue from the ad
358 valorem tax on any newly constructed properties or any existing
359 properties added to the tax rolls or any properties previously
360 exempt which were not assessed in the next preceding year may be
361 excluded from the seven percent (7%) increase limitation set forth
362 herein. Taxes levied for payment of principal of and interest on
363 general obligation school bonds issued heretofore or hereafter
364 shall be excluded from the seven percent (7%) increase limitation
365 set forth herein. Any additional millage levied to fund any new
366 program mandated by the Legislature shall be excluded from the
367 limitation for the first year of the levy and included within such
368 limitation in any year thereafter. For the purposes of this
369 section, the term "new program" shall include, but shall not be
370 limited to, (a) the Early Childhood Education Program, as provided
371 by Section 37-21-7, and any additional millage levied and the



revenue generated therefrom, which is excluded from the limitation for the first year of the levy, to support the mandated Early Childhood Education Program shall be specified on the minutes of the school board and of the governing body making such tax levy; (b) any additional millage levied and the revenue generated therefrom, which shall be excluded from the limitation for the first year of the levy, for the purpose of generating additional local contribution funds required for the total funding formula as required by Sections 37-151-200 through 37-151-215; and (c) any additional millage levied and the revenue generated therefrom which shall be excluded from the limitation for the first year of the levy, for the purpose of support and maintenance of any agricultural high school which has been transferred to the control, operation and maintenance of the school board by the board of trustees of the community college district under provisions of Section 37-29-272.

(2) The seven percent (7%) increase limitation prescribed in this section may be increased an additional amount only when the school board has determined the need for additional revenues and has held an election on the question of raising the limitation prescribed in this section. The limitation may be increased only if three-fifths (3/5) of those voting in the election shall vote for the proposed increase. The resolution, notice and manner of holding the election shall be as prescribed by law for the holding of elections for the issuance of bonds by the respective school



boards. Revenues collected for the fiscal year in excess of the seven percent (7%) increase limitation pursuant to an election shall be included in the tax base for the purpose of determining aggregate receipts for which the seven percent (7%) increase limitation applies for subsequent fiscal years.

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

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



(5) Beginning with the 2013-2014 school year, each school district in which a charter school is located shall pay to the charter school an amount for each student enrolled in the charter school equal to the ad valorem taxes levied per pupil for the support of the school district in which the charter school is located. The pro rata ad valorem taxes to be transferred to the charter school must include all levies for the support of the school district under Sections 37-57-1 (local contribution to the total funding formula as required by Sections 37-151-200 through 37-151-215) and 37-57-105 (school district operational levy) but may not include any taxes levied for the retirement of school district bonded indebtedness or short-term notes or any taxes levied for the support of vocational-technical education programs. Payments made pursuant to this subsection by a school district to a charter school must be made before the expiration of three (3) business days after the funds are distributed to the school district.

SECTION 4. This act shall take effect and be in force from and after July 1, 2025.

