

By: Representatives Capps, Moore

To: Constitution; Ways and  
Means

## HOUSE CONCURRENT RESOLUTION NO. 46

1 A CONCURRENT RESOLUTION PROPOSING TO AMEND THE MISSISSIPPI  
2 CONSTITUTION OF 1890 BY CREATING A NEW SECTION 272B TO BE ENTITLED  
3 THE "TAXPAYER'S BILL OF RIGHTS"; TO LIMIT REVENUE GROWTH FOR THE  
4 STATE AND LOCAL GOVERNMENTS; TO REQUIRE ANY TAX INCREASE IN STATE  
5 OR LOCAL GOVERNMENT TO BE APPROVED BY THE VOTERS OF THE AFFECTED  
6 GOVERNMENT; TO LIMIT THE AMOUNT OF REVENUE THAT THE STATE MAY  
7 RETAIN IN A YEAR TO THE PREVIOUS YEAR'S ALLOWED COLLECTIONS PLUS  
8 AN ADJUSTMENT EQUAL TO THE PERCENTAGE GROWTH IN POPULATION  
9 INCREASED BY INFLATION; TO PROVIDE THAT ANY REVENUES IN EXCESS OF  
10 THE LIMIT MUST BE REFUNDED TO THE VOTERS; AND FOR RELATED  
11 PURPOSES.

12 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF  
13 MISSISSIPPI, That the following amendment to the Mississippi  
14 Constitution of 1890 is proposed to the qualified electors of the  
15 state:

16 Amend the Mississippi Constitution of 1890 by creating a new  
17 Section 272B to read as follows:

18 "Section 272B. (1) This section shall be known and may be  
19 cited as the "Taxpayer's Bill of Rights."

20 (2) This section shall take effect and be in force beginning  
21 on the first day of the first full fiscal year of a district  
22 following the date this section becomes a part of the  
23 Constitution. This section shall be interpreted to reasonably  
24 restrain most of the growth of government. All provisions are  
25 self-executing and severable and supersede conflicting state  
26 constitutional, state statutory, charter or other state or local  
27 provisions. Other limits on district revenue, spending and debt  
28 may be weakened only by future voter approval. Judicial  
29 enforcement actions may be filed and shall have the highest civil  
30 priority of resolution. Successful plaintiffs are allowed costs  
31 and reasonable attorney fees, but a district is not unless an

32 action against it is ruled frivolous. Revenue collected, kept or  
33 spent illegally since four (4) full fiscal years before an action  
34 is filed shall be refunded with ten percent (10%) annual simple  
35 interest from the initial conduct. Subject to judicial review,  
36 districts may use any reasonable method for refunds under this  
37 section, including temporary tax credits or rate reductions.  
38 Refunds need not be proportional when prior payments are  
39 impractical to identify or return. When annual district revenue  
40 is less than annual payments on general obligation bonds and final  
41 court judgments, the provisions of subsections (4)(a) and (7) of  
42 this section shall be suspended to provide for the deficiency.

43 (3) For the purposes of this section, the following terms  
44 shall have the meanings ascribed to them in this subsection:

45 (a) "Ballot issue" means a referred measure in an  
46 election.

47 (b) "District" means the state or any local government,  
48 excluding enterprises.

49 (c) "Emergency" excludes economic conditions, revenue  
50 shortfalls or district salary or fringe benefit increases.

51 (d) "Enterprise" means a government-owned business  
52 authorized to issue its own revenue bonds and receiving under ten  
53 percent (10%) of annual revenue in grants from all state and local  
54 governments combined.

55 (e) "Fiscal year spending" means all district  
56 expenditures and reserve increases except, as to both, those for  
57 refunds made in the current or next fiscal year or those from  
58 gifts, federal funds collections for another government,  
59 retirement contributions by employees and retirement fund  
60 earnings, reserve transfers or expenditures, damage awards or  
61 property sales.

62 (f) "Inflation" means the percentage change in the  
63 United States Bureau of Labor Statistics Consumer Price Index.

64           (g) "Local growth" for a nonschool district means a net  
65 percentage change in actual value of all real property in a  
66 district from construction of taxable real property improvements,  
67 minus destruction of similar improvements, and additions to, minus  
68 deletions from, taxable real property. For a school district, it  
69 means the percentage change in its student enrollment.

70           (4) (a) Ballot issues shall be decided in a state general  
71 election, a local district general election, or on the first  
72 Tuesday after the first Monday in November of odd-numbered years.  
73 Except for petitions, bonded debt or charter or constitutional  
74 provisions, districts may consolidate ballot issues and voters may  
75 approve a delay of up to four (4) years in voting on ballot  
76 issues. District actions taken during such a delay shall not  
77 extend beyond that period.

78           (b) At least thirty (30) days before a ballot issue  
79 election, districts shall mail at the least cost, and as a package  
80 where districts with ballot issues overlap, a titled notice or set  
81 of notices addressed to "All Registered Voters" at each address of  
82 one or more active registered electors. Titles shall have this  
83 order of preference: "NOTICE OF ELECTION TO INCREASE TAXES/TO  
84 INCREASE DEBT/ON A REFERRED MEASURE." Except for district voter-  
85 approved additions, notices shall include only:

86                   (i) The election date, hours, ballot title, text  
87 and local election office address and telephone number.

88                   (ii) For proposed district tax or bonded debt  
89 increases, the estimated or actual total of district fiscal year  
90 spending for the current year and each of the past four (4) years  
91 and the overall percentage and dollar change.

92                   (iii) For the first full fiscal year of each  
93 proposed district tax increase, district estimates of the maximum  
94 dollar amount of each increase and of district fiscal year  
95 spending without the increase.

96 (iv) For proposed district bonded debt, its  
97 principal amount and maximum annual and total district repayment  
98 cost, and the principal balance of total current district bonded  
99 debt and its maximum annual and remaining total district repayment  
100 cost.

101 (v) Two (2) summaries, up to five hundred (500)  
102 words each, one (1) for and one (1) against the proposal, of  
103 written comments filed with the election officer by forty-five  
104 (45) days before the election. No summary shall mention names of  
105 persons or private groups, nor any endorsements of or resolutions  
106 against the proposal. Petition representatives following these  
107 rules shall write this summary for their petition. The election  
108 officer shall maintain and accurately summarize all other relevant  
109 written comments. The provisions of this subparagraph (v) do not  
110 apply to a statewide ballot issue, which is subject to the  
111 provisions of Section 273 of this Constitution.

112 (c) Except by later voter approval, if a tax increase  
113 or fiscal year spending exceeds any estimate in paragraph (b)(iii)  
114 of this subsection for the same fiscal year, the tax increase is  
115 thereafter reduced up to one hundred percent (100%) in proportion  
116 to the combined dollar excess, and the combined excess revenue  
117 refunded in the next fiscal year. District bonded debt shall not  
118 issue on terms that could exceed its share of its maximum  
119 repayment costs in paragraph (b)(iv) of this subsection. Ballot  
120 titles for tax or bonded debt increases shall begin, "SHALL  
121 (DISTRICT) TAXES BE INCREASED (first, or if phased in, final, full  
122 fiscal year dollar increase) ANNUALLY...?" or "SHALL (DISTRICT)  
123 DEBT BE INCREASED (principal amount), WITH A REPAYMENT COST OF  
124 (maximum total district cost),...?"

125 (5) Districts must have voter approval in advance for:

126 (a) Unless subsection (2) or (7) of this section  
127 applies, any new tax, tax rate increase, mill levy above that for  
128 the prior year, valuation for assessment ratio increase for a

129 property class, or extension of an expiring tax or a tax policy  
130 change directly causing a net tax revenue gain to any district.

131 (b) Except for refinancing district bonded debt at a  
132 lower interest rate or adding new employees to existing district  
133 retirement plans, creation of any multiple-fiscal year direct or  
134 indirect district debt or other financial obligation whatsoever  
135 without adequate present cash reserves pledged irrevocably and  
136 held for payments in all future fiscal years.

137 (6) To use for declared emergencies only, each district  
138 shall reserve for the fiscal year beginning in 2007 one percent  
139 (1%) or more, for the fiscal year beginning in 2008 two percent  
140 (2%) or more, and for all later years three percent (3%) or more  
141 of its fiscal year spending excluding bonded debt service. Unused  
142 reserves apply to the next year's reserve.

143 (7) This subsection grants no new taxing power. Emergency  
144 property taxes are prohibited. Emergency tax revenue is excluded  
145 for purposes of subsections (4)(c) and (8) of this section, even  
146 if later ratified by voters. Emergency taxes shall also meet all  
147 of the following conditions:

148 (a) A two-thirds (2/3) majority of the members of each  
149 house of the Legislature or of a local district board declares the  
150 emergency and imposes the tax by separate recorded roll call  
151 votes.

152 (b) Emergency tax revenue shall be spent only after  
153 emergency reserves are depleted, and shall be refunded within one  
154 hundred eighty (180) days after the emergency ends if not spent on  
155 the emergency.

156 (c) A tax not approved on the next election date sixty  
157 (60) days or more after the declaration shall end with that  
158 election month.

159 (8) (a) The maximum annual percentage change in state  
160 fiscal year spending equals inflation plus the percentage change  
161 in state population in the prior calendar year, adjusted for

162 revenue changes approved by voters after 2006. Population shall  
163 be determined by annual federal census estimates and such number  
164 shall be adjusted every decade to match the federal census.

165 (b) The maximum annual percentage change in each local  
166 district's fiscal year spending equals inflation in the prior  
167 calendar year plus annual local growth, adjusted for revenue  
168 changes approved by voters after 2006 and reductions under  
169 subsection (10) of this section.

170 (c) The maximum annual percentage change in each  
171 district's property tax revenue equals inflation in the prior  
172 calendar year plus annual local growth, adjusted for property tax  
173 revenue changes approved by voters after 2006 and reductions under  
174 subsection (10) of this section.

175 (d) If revenue from sources not excluded from fiscal  
176 year spending exceeds these limits in dollars for that fiscal  
177 year, the excess shall be refunded in the next fiscal year unless  
178 voters approve a revenue change as an offset. Initial district  
179 bases are current fiscal year spending and 2006 property tax  
180 collected in 2007. Qualification or disqualification as an  
181 enterprise shall change district bases and future year limits.  
182 Future creation of district bonded debt shall increase, and  
183 retiring or refinancing district bonded debt shall lower, fiscal  
184 year spending and property tax revenue by the annual debt service  
185 so funded. Debt service changes, reductions, subsections (1) and  
186 (3)(c) refunds, and voter-approved revenue changes are dollar  
187 amounts that are exceptions to, and not part of, any district  
188 base. Voter-approved revenue changes do not require a tax rate  
189 change.

190 (9) (a) New or increased transfer tax rates on real  
191 property are prohibited. No new state real property tax or local  
192 district income tax shall be imposed. Neither an income tax rate  
193 increase nor a new state definition of taxable income shall apply  
194 before the next tax year. Any income tax law change after July 1,

195 2007, shall also require all taxable net income to be taxed at one  
196 (1) rate, excluding refund tax credits or voter-approved tax  
197 credits, with no added tax or surcharge.

198 (b) Regardless of reassessment frequency, valuation  
199 notices shall be mailed annually and may be appealed annually,  
200 with no presumption in favor of any pending valuation. Past or  
201 future sales by a lender or government shall also be considered as  
202 comparable market sales and their sales prices kept as public  
203 records. Actual value shall be stated on all property tax bills  
204 and valuation notices and, for residential real property,  
205 determined solely by the market approach to appraisal.

206 (10) Except for public education through Grade 12 or as  
207 required of a local district by federal law, a local district may  
208 reduce or end its subsidy to any program delegated to it by the  
209 Legislature for administration. For current programs, the state  
210 may require ninety (90) days notice and that the adjustment occur  
211 in a maximum of three (3) equal annual installments."

212 BE IT FURTHER RESOLVED, That this proposed amendment shall be  
213 submitted by the Secretary of State to the qualified electors at  
214 an election to be held on the first Tuesday after the first Monday  
215 of November 2005, as provided by Section 273 of the Constitution  
216 and by general law.

217 BE IT FURTHER RESOLVED, That the explanation of this proposed  
218 amendment for the ballot shall read as follows: "This proposed  
219 constitutional amendment entitled the "Taxpayer's Bill of Rights,"  
220 limits revenue growth for the state and local governments and  
221 requires any tax increase in state or local government to be  
222 approved by the voters. The amendment also limits revenue the  
223 state may retain to the previous year's collections plus an  
224 adjustment equal to the percentage growth in population increased  
225 by inflation. Any revenues in excess of this limit must be  
226 refunded to the voters."

227           BE IT FURTHER RESOLVED, That the Attorney General of the  
228 State of Mississippi shall submit this resolution, immediately  
229 upon adoption by the Legislature, to the Attorney General of the  
230 United States or to the United States District Court for the  
231 District of Columbia in accordance with the provisions of the  
232 Voting Rights Act of 1965, as amended and extended.