

By: Representative Moore

To: Education; Ways and  
Means

## HOUSE BILL NO. 452

1 AN ACT TO AMEND SECTION 37-57-104, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE LEVYING AUTHORITY FOR A SCHOOL DISTRICT TO VETO  
3 THE SCHOOL BOARD'S REQUEST FOR AN INCREASE IN THE AD VALOREM TAX  
4 DOLLARS UP TO SEVEN PERCENT; TO AMEND SECTION 37-57-105,  
5 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS  
6 ACT; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 37-57-104, Mississippi Code of 1972, is  
9 amended as follows:

10 37-57-104. (1) Each school board shall submit to the  
11 levying authority for the school district a certified copy of an  
12 order adopted by the school board requesting an ad valorem tax  
13 effort in dollars for the support of the school district. The  
14 copy of the order shall be submitted by the school board when the  
15 copies of the school district's budget are filed with the levying  
16 authority pursuant to Section 37-61-9. Upon receipt of the school  
17 board's order requesting the ad valorem tax effort in dollars, the  
18 levying authority shall determine the millage rate necessary to  
19 generate funds equal to the dollar amount requested by the school  
20 board. For the purpose of calculating this millage rate, any  
21 additional amount that is levied pursuant to Section 37-57-105(1)  
22 to cover anticipated delinquencies and costs of collection or any  
23 amount that may be levied for the payment of the principal and  
24 interest on school bonds or notes shall be excluded from the  
25 limitation of fifty-five (55) mills provided for in subsection (2)  
26 of this section.

27 (2) **Millage requests exceeding fifty-five (55) mills.** (a)

28 Except as otherwise provided under paragraph (b) \* \* \* of this  
29 subsection, if the millage rate necessary to generate funds equal

30 to the dollar amount requested by the school board is greater than  
31 fifty-five (55) mills, and if this millage rate is higher than the  
32 millage then being levied pursuant to the school board's order  
33 requesting the ad valorem tax effort for the currently existing  
34 fiscal year, then the levying authority shall call a referendum on  
35 the question of exceeding, during the next fiscal year, the then  
36 existing millage rate being levied for school district purposes.  
37 The referendum shall be scheduled for not more than six (6) weeks  
38 after the date on which the levying authority receives the school  
39 board's order requesting the ad valorem tax effort.

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

63 LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S  
64 ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR  
65 SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED)  
66 MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER)  
67 MILLS." The voter shall vote by placing a cross (X) or checkmark  
68 (√) opposite his choice on the proposition.

69 If a majority of the registered, qualified electors of the  
70 school district who vote in the referendum vote in favor of the  
71 question, then the ad valorem tax effort in dollars requested by  
72 the school board shall be approved. However, if a majority of the  
73 registered, qualified electors who vote in the referendum vote  
74 against the question, the millage rate levied by the levying  
75 authority shall not exceed the millage then being levied pursuant  
76 to the school board's order requesting the ad valorem tax effort  
77 for the then currently existing fiscal year.

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

93 \* \* \*

94 (b) If the levying authority for any school district  
95 lawfully has decreased the millage levied for school district

96 purposes, but subsequently determines that there is a need to  
97 increase the millage rate due to a disaster in which the Governor  
98 has declared a disaster emergency or the President of the United  
99 States has declared an emergency or major disaster, then the  
100 levying authority may increase the millage levied for school  
101 district purposes up to an amount that does not exceed the millage  
102 rate in any one (1) of the immediately preceding ten (10) fiscal  
103 years without any referendum that otherwise would be required  
104 under this subsection.

105       (3) Millage requests equal to or less than fifty-five (55)  
106 mills, up to seven percent (7%) increase. If the millage rate  
107 necessary to generate funds equal to the dollar amount requested  
108 by the school board is equal to fifty-five (55) mills or less, but  
109 the dollar amount requested by the school board exceeds the next  
110 preceding fiscal year's ad valorem tax effort in dollars by an  
111 amount not more than seven percent (7%) (as provided for under  
112 subsection (4) of this section), the levying authority for the  
113 school district, in its discretion, may veto the school board's  
114 request for the increased tax levy. If the levying authority does  
115 not veto the request for the increased tax levy, then the school  
116 board shall publish notice of the increase at least five (5) days  
117 per week, unless the only newspaper published in the school  
118 district is published less than five (5) days per week, for at  
119 least three (3) consecutive weeks in a newspaper published in the  
120 school district. The notice shall be no less than one-fourth  
121 (1/4) page in size, and the type used shall be no smaller than  
122 eighteen (18) point and surrounded by a one-fourth-inch solid  
123 black border. The notice may not be placed in that portion of the  
124 newspaper where legal notices and classified advertisements  
125 appear. The first publication shall be made not less than fifteen  
126 (15) days before the final adoption of the budget by the school  
127 board. If no newspaper is published in the school district, then  
128 the notice shall be published in a newspaper having a general

129 circulation in the school district. If at any time before the  
130 adoption of the budget a petition signed by not less than twenty  
131 percent (20%) or fifteen hundred (1500), whichever is less, of the  
132 registered, qualified electors of the school district is filed  
133 with the school board requesting that a referendum be called on  
134 the question of exceeding the next preceding fiscal year's ad  
135 valorem tax effort in dollars by an amount not more than seven  
136 percent (7%), then the school board shall adopt, not later than  
137 the next regular meeting, a resolution calling a referendum to be  
138 held within the school district upon the question. The referendum  
139 shall be called and held, and notice thereof shall be given, in  
140 the same manner provided for in subsection (2) of this section.  
141 The ballot shall contain the language "FOR THE SCHOOL TAX  
142 INCREASE \* \* \*" and "AGAINST THE SCHOOL TAX INCREASE \* \* \*." If a  
143 majority of the registered, qualified electors of the school  
144 district who vote in the referendum vote in favor of the question,  
145 then the increase requested by the school board shall be approved.  
146 For the purposes of this subsection, the revenue sources excluded  
147 from the increase limitation under Section 37-57-107 also shall be  
148 excluded from the limitation described in this subsection in the  
149 same manner as they are excluded under Section 37-57-107. \* \* \*  
150 However, \* \* \* any increases requested by the school board as a  
151 result of the required local contribution to the Mississippi  
152 Adequate Education Program, as certified to the local school  
153 district by the State Board of Education under Section  
154 37-151-7(2), shall not be subject to the \* \* \* tax increase  
155 limitations provided in this section.

156 (4) Millage requests equal to or less than fifty-five (55)  
157 mills, exceeding seven percent (7%) increase. If the millage rate  
158 necessary to generate funds equal to the dollar amount requested  
159 by the school board is equal to fifty-five (55) mills or less, but  
160 the dollar amount requested by the school board exceeds the seven  
161 percent (7%) increase limitation provided for in Section

162 37-57-107, the school board may exceed the seven percent (7%)  
163 increase limitation only after the school board has determined the  
164 need for additional revenues and three-fifths (3/5) of the  
165 registered, qualified electors voting in a referendum called by  
166 the levying authority have voted in favor of the increase. The  
167 notice and manner of holding the referendum shall be as prescribed  
168 in subsection (2) of this section for a referendum on the question  
169 of increasing the millage rate in school districts levying more  
170 than fifty-five (55) mills for school district purposes.

171 (5) The aggregate receipts from ad valorem taxes levied for  
172 school district purposes pursuant to Sections 37-57-1 and  
173 37-57-105, excluding collection fees, additional revenue from the  
174 ad valorem tax on any newly constructed properties or any existing  
175 properties added to the tax rolls or any properties previously  
176 exempt which were not assessed in the next preceding year, and  
177 amounts received by school districts from the School Ad Valorem  
178 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject  
179 to the increase limitation under this section and Section  
180 37-57-107.

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

184 (7) \* \* \* This section shall not be construed to affect in  
185 any manner the authority of school boards to levy millage for the  
186 following purposes:

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

190 (b) The lease of property for school purposes, as  
191 authorized under the Emergency School Leasing Authority Act of  
192 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

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

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

205           37-57-105. (1) In addition to the taxes levied under  
206 Section 37-57-1, the levying authority for the school district, as  
207 defined in Section 37-57-1, upon receipt of a certified copy of an  
208 order adopted by the school board of the school district  
209 requesting an ad valorem tax effort in dollars for the support of  
210 the school district, shall, at the same time and in the same  
211 manner as other ad valorem taxes are levied, levy an annual ad  
212 valorem tax in the amount fixed in such order upon all of the  
213 taxable property of such school district, which shall not be less  
214 than the millage rate certified by the State Board of Education as  
215 the uniform minimum school district ad valorem tax levy for the  
216 support of the adequate education program in such school district  
217 under Section 37-57-1. \* \* \* However, \* \* \* any school district  
218 levying less than the uniform minimum school district ad valorem  
219 tax levy on July 1, 1997, shall only be required to increase its  
220 local district maintenance levy in four (4) mill annual increments  
221 in order to attain such millage requirements. In making such  
222 levy, the levying authority shall levy an additional amount  
223 sufficient to cover anticipated delinquencies and costs of  
224 collection so that the net amount of money to be produced by such  
225 levy shall be equal to the amount which is requested by the school  
226 board. The proceeds of such tax levy, excluding levies for the  
227 payment of the principal of and interest on school bonds or notes

228 and excluding levies for costs of collection, shall be placed in  
229 the school depository to the credit of the school district and  
230 shall be expended in the manner provided by law for the purpose of  
231 supplementing teachers' salaries, extending school terms,  
232 purchasing furniture, supplies and materials, and for all other  
233 lawful operating and incidental expenses of such school district,  
234 funds for which are not provided by adequate education program  
235 fund allotments.

236         The monies authorized to be received by school districts from  
237 the School Ad Valorem Tax Reduction Fund pursuant to Section  
238 37-61-35 shall be included as ad valorem tax receipts. The  
239 levying authority for the school district, as defined in Section  
240 37-57-1, shall reduce the ad valorem tax levy for such school  
241 district in an amount equal to the amount distributed to such  
242 school district from the School Ad Valorem Tax Reduction Fund each  
243 calendar year pursuant to \* \* \* Section 37-61-35. Such reduction  
244 shall not be less than the millage rate necessary to generate a  
245 reduction in ad valorem tax receipts equal to the funds  
246 distributed to such school district from the School Ad Valorem Tax  
247 Reduction Fund pursuant to Section 37-61-35. \* \* \*

248         In any county where there is located a nuclear generating  
249 power plant on which a tax is assessed under Section 27-35-309(3),  
250 such required levy and revenue produced thereby may be reduced by  
251 the levying authority in an amount in proportion to a reduction in  
252 the base revenue of any such county from the previous year. Such  
253 reduction shall be allowed only if the reduction in base revenue  
254 equals or exceeds five percent (5%). "Base revenue" shall mean  
255 the revenue received by the county from the ad valorem tax levy  
256 plus the revenue received by the county from the tax assessed  
257 under Section 27-35-309(3) and authorized to be used for any  
258 purposes for which a county is authorized by law to levy an ad  
259 valorem tax. For purposes of determining if the reduction equals  
260 or exceeds five percent (5%), a levy of millage equal to the prior

261 year's millage shall be hypothetically applied to the current  
262 year's ad valorem tax base to determine the amount of revenue to  
263 be generated from the ad valorem tax levy. For the purposes of  
264 this section and Section 37-57-107, the portion of the base  
265 revenue used for the support of any school district shall be  
266 deemed to be the aggregate receipts from ad valorem taxes for the  
267 support of any school district. This paragraph shall apply to  
268 taxes levied for the 1987 fiscal year and for each fiscal year  
269 thereafter. If the Mississippi Supreme Court or another court  
270 finally adjudicates that the tax levied under Section 27-35-309(3)  
271 is unconstitutional, then this paragraph shall stand repealed.

272 (2) When the tax is levied upon the territory of any school  
273 district located in two (2) or more counties, the order of the  
274 school board requesting the levying of such tax shall be certified  
275 to the levying authority of each of the counties involved, and  
276 each of the levying authorities shall levy the tax in the manner  
277 specified herein. The taxes so levied shall be collected by the  
278 tax collector of the levying authority involved and remitted by  
279 the tax collector to the school depository of the home county to  
280 the credit of the school district involved as provided above,  
281 except that taxes for collection fees may be retained by the  
282 levying authority for deposit into its general fund.

283 (3) The aggregate receipts from ad valorem taxes levied for  
284 school district purposes, excluding collection fees, pursuant to  
285 this section and Section 37-57-1 shall be subject to the increased  
286 limitation under Section 37-57-107 \* \* \*.

287 **SECTION 3.** This act shall take effect and be in force from  
288 and after July 1, 2007.