

By: Representatives Brown, Broomfield

To: Education; Ways and
Means

HOUSE BILL NO. 1249

1 AN ACT TO AMEND SECTIONS 37-57-104 AND 37-57-107, MISSISSIPPI
2 CODE OF 1972, TO EXEMPT FROM THE AD VALOREM TAX INCREASE
3 LIMITATIONS PRESCRIBED FOR SCHOOL DISTRICTS ANY ADDITIONAL REVENUE
4 GENERATED FROM AN INCREASE IN VALUATION OF PROPERTY THAT
5 PREVIOUSLY EXPERIENCED A DECREASE IN ASSESSED VALUATION DUE TO
6 DAMAGE RESULTING FROM HURRICANE KATRINA; 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) (a) Except as otherwise provided under paragraph (b) or
28 (c) of this subsection, if the millage rate necessary to generate
29 funds equal to the dollar amount requested by the school board is

30 greater than fifty-five (55) mills, and if this millage rate is
31 higher than the millage then being levied pursuant to the school
32 board's order requesting the ad valorem tax effort for the
33 currently existing fiscal year, then the levying authority shall
34 call a referendum on the question of exceeding, during the next
35 fiscal year, the then existing millage rate being levied for
36 school district purposes. The referendum shall be scheduled for
37 not more than six (6) weeks after the date on which the levying
38 authority receives the school board's order requesting the ad
39 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 (b) Provided, however, that if a levying authority is
94 levying in excess of fifty-five (55) mills on July 1, 1997, the
95 levying authority may levy an additional amount not exceeding

96 three (3) mills in the aggregate for the period beginning July 1,
97 1997, and ending June 30, 2003, subject to the limitation on
98 increased receipts from ad valorem taxes prescribed in Sections
99 37-57-105 and 37-57-107.

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

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

129 the school district, then the notice shall be published in a
130 newspaper having a general circulation in the school district. If
131 at any time before the adoption of the budget a petition signed by
132 not less than twenty percent (20%) or fifteen hundred (1500),
133 whichever is less, of the registered, qualified electors of the
134 school district is filed with the school board requesting that a
135 referendum be called on the question of exceeding the next
136 preceding fiscal year's ad valorem tax effort in dollars by more
137 than four percent (4%), then the school board shall adopt, not
138 later than the next regular meeting, a resolution calling a
139 referendum to be held within the school district upon the
140 question. The referendum shall be called and held, and notice
141 thereof shall be given, in the same manner provided for in
142 subsection (2) of this section. The ballot shall contain the
143 language "FOR THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)" and
144 "AGAINST THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)." If a
145 majority of the registered, qualified electors of the school
146 district who vote in the referendum vote in favor of the question,
147 then the increase requested by the school board shall be approved.
148 For the purposes of this subsection, the revenue sources excluded
149 from the increase limitation under Section 37-57-107 also shall be
150 excluded from the limitation described in this subsection in the
151 same manner as they are excluded under Section 37-57-107.
152 Provided, however, that any increases requested by the school
153 board as a result of the required local contribution to the
154 Mississippi Adequate Education Program, as certified to the local
155 school district by the State Board of Education under Section
156 37-151-7(2), Mississippi Code of 1972, shall not be subject to the
157 four percent (4%) and/or seven percent (7%) tax increase
158 limitations provided in this section.

159 (4) If the millage rate necessary to generate funds equal to
160 the dollar amount requested by the school board is equal to
161 fifty-five (55) mills or less, but the dollar amount requested by

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

173 (5) (a) Except as otherwise provided in paragraph (b) of
174 this subsection, the aggregate receipts from ad valorem taxes
175 levied for school district purposes pursuant to Sections 37-57-1
176 and 37-57-105, excluding collection fees, additional revenue from
177 the ad valorem tax on any newly constructed properties or any
178 existing properties added to the tax rolls or any properties
179 previously exempt which were not assessed in the next preceding
180 year, and amounts received by school districts from the School Ad
181 Valorem Tax Reduction Fund pursuant to Section 37-61-35, shall be
182 subject to the increase limitation under this section and Section
183 37-57-107.

184 (b) Beginning on July 1, 2007, in any school district
185 located in a county of the state covered by the Presidential
186 Declaration of Major Disaster for the State of Mississippi
187 (FEMA-1604-DR) dated August 29, 2005, where the assessed valuation
188 of property was lowered due to the property being destroyed or
189 damaged by Hurricane Katrina, any additional revenue from the ad
190 valorem tax resulting from the subsequent increased valuation of
191 the property is not subject to the increase limitation under this
192 section and Section 37-57-107. This paragraph shall stand
193 repealed on June 30, 2012.

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

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

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

203 (b) The lease of property for school purposes, as
204 authorized under the Emergency School Leasing Authority Act of
205 1986 (Sections 37-7-351 through 37-7-359);

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

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

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

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

216 **SECTION 2.** Section 37-57-107, Mississippi Code of 1972, is
217 amended as follows:

218 37-57-107. * * * The aggregate receipts from taxes levied
219 for school district purposes pursuant to Sections 37-57-105 and
220 37-57-1 shall not exceed the aggregate receipts from those sources
221 during any one (1) of the immediately preceding three (3) fiscal
222 years, as determined by the school board, plus an increase not to
223 exceed seven percent (7%). For the purpose of this limitation,
224 the term "aggregate receipts" when used in connection with the
225 amount of funds generated in a preceding fiscal year shall not
226 include excess receipts required by law to be deposited into a

227 special account. The additional revenue from the ad valorem tax
228 on any newly constructed properties or any existing properties
229 added to the tax rolls or any properties previously exempt which
230 were not assessed in the next preceding year may be excluded from
231 the seven percent (7%) increase limitation set forth herein. From
232 and after July 1, 2007, through June 30, 2012, in any school
233 district located in a county of the state covered by the
234 Presidential Declaration of Major Disaster for the State of
235 Mississippi (FEMA-1604-DR) dated August 29, 2005, where the
236 assessed valuation of property was lowered due to the property
237 being destroyed or damaged by Hurricane Katrina, any additional
238 revenue from the ad valorem tax resulting from the subsequent
239 increased valuation of the property is not subject to the seven
240 percent (7%) increase limitation prescribed under this section.
241 Taxes levied for payment of principal of and interest on general
242 obligation school bonds issued heretofore or hereafter shall be
243 excluded from the seven percent (7%) increase limitation set forth
244 herein. Any additional millage levied to fund any new program
245 mandated by the Legislature shall be excluded from the limitation
246 for the first year of the levy and included within such limitation
247 in any year thereafter. For the purposes of this section, the
248 term "new program" shall include, but shall not be limited to, (a)
249 the Early Childhood Education Program required to commence with
250 the 1986-1987 school year as provided by Section 37-21-7 and any
251 additional millage levied and the revenue generated therefrom,
252 which is excluded from the limitation for the first year of the
253 levy, to support the mandated Early Childhood Education Program
254 shall be specified on the minutes of the school board and of the
255 governing body making such tax levy; (b) any additional millage
256 levied and the revenue generated therefrom which shall be excluded
257 from the limitation for the first year of the levy, for the
258 purpose of generating additional local contribution funds required
259 for the adequate education program for the 2003 fiscal year and

260 for each fiscal year thereafter under Section 37-151-7(2); and (c)
261 any additional millage levied and the revenue generated therefrom
262 which shall be excluded from the limitation for the first year of
263 the levy, for the purpose of support and maintenance of any
264 agricultural high school which has been transferred to the
265 control, operation and maintenance of the school board by the
266 board of trustees of the community college district under
267 provisions of Section 37-29-272.

268 The seven percent (7%) increase limitation prescribed in this
269 section may be increased an additional amount only when the school
270 board has determined the need for additional revenues and has held
271 an election on the question of raising the limitation prescribed
272 in this section. The limitation may be increased only if
273 three-fifths (3/5) of those voting in the election shall vote for
274 the proposed increase. The resolution, notice and manner of
275 holding the election shall be as prescribed by law for the holding
276 of elections for the issuance of bonds by the respective school
277 boards. Revenues collected for the fiscal year in excess of the
278 seven percent (7%) increase limitation pursuant to an election
279 shall be included in the tax base for the purpose of determining
280 aggregate receipts for which the seven percent (7%) increase
281 limitation applies for subsequent fiscal years.

282 Except as otherwise provided for excess revenues generated
283 pursuant to an election, if revenues collected as the result of
284 the taxes levied for the fiscal year pursuant to this section and
285 Section 37-57-1 exceed the increase limitation, then it shall be
286 the mandatory duty of the school board of the school district to
287 deposit such excess receipts over and above the increase
288 limitation into a special account and credit it to the fund for
289 which the levy was made. It will be the further duty of such
290 board to hold said funds and invest the same as authorized by law.
291 Such excess funds shall be calculated in the budgets for the
292 school districts for the purpose for which such levies were made,

293 for the succeeding fiscal year. Taxes imposed for the succeeding
294 year shall be reduced by the amount of excess funds available.
295 Under no circumstances shall such excess funds be expended during
296 the fiscal year in which such excess funds are collected.

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

300 **SECTION 3.** This act shall take effect and be in force from
301 and after its passage.