

By: Senator(s) Chaney

To: Education; Finance

SENATE BILL NO. 2885

1 AN ACT TO AMEND SECTION 37-57-104, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THAT PROPERTY LOCATED IN SCHOOL DISTRICTS AFFECTED BY  
3 HURRICANE KATRINA IS NOT SUBJECT TO THE 4% BUDGET INCREASE  
4 LIMITATION FOR AD VALOREM TAXES IN SUPPORT OF THE SCHOOLS IN THE  
5 FIRST YEAR FOLLOWING IMPROVEMENT TO SUCH PROPERTY; AND FOR RELATED  
6 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) The aggregate receipts from ad valorem taxes levied for  
174 school district purposes pursuant to Sections 37-57-1 and  
175 37-57-105, excluding collection fees, additional revenue from the  
176 ad valorem tax on any newly constructed properties or any existing  
177 properties added to the tax rolls or any properties previously  
178 exempt which were not assessed in the next preceding year, and  
179 amounts received by school districts from the School Ad Valorem  
180 Tax Reduction Fund pursuant to Section 37-61-35, shall be subject  
181 to the increase limitation under this section and Section  
182 37-57-107.

183 (6) For school districts where assessed valuation for  
184 properties was lowered as a direct result of damage caused by  
185 Hurricane Katrina, any aggregate receipts from ad valorem taxes  
186 levied on any increased valuation from improvements to such  
187 property occurring after the Hurricane Katrina damage shall not be  
188 subject to the increase limitation under this section and Section  
189 37-57-107 until the next school district budget year. This  
190 subsection shall be effective for school district budget year  
191 beginning July 1, 2007, and shall be repealed effective June 30,  
192 2012.

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

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

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

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

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

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

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

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

215       **SECTION 2.** This act shall take effect and be in force from  
216 and after July 1, 2007.