

By: Representative Warren

To: Ways and Means

HOUSE BILL NO. 1741

1 AN ACT TO PROVIDE A STATE INCOME TAX CREDIT FOR TAXPAYERS WHO  
2 CONTRIBUTE FUNDS TO PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS TO  
3 ASSIST IN PURCHASING INSTRUCTIONAL MATERIALS, CLASSROOM SUPPLIES  
4 AND EQUIPMENT; TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF  
5 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** (1) For any taxpayer who makes a voluntary cash  
8 contribution to a public school or public school district, or  
9 both, to assist such school or school district in purchasing  
10 instructional materials, classroom supplies and/or equipment to be  
11 used by students in a public school classroom, a credit against  
12 the income taxes imposed under Section 27-7-1 et seq., shall be  
13 allowed in the amount provided in subsection (2) of this section.

14 (2) (a) The income tax credit provided in this section  
15 shall be equal to the amount of the contribution to a school or  
16 school district, or both, during the taxable year, not to exceed  
17 the lesser of Two Hundred Dollars (\$200.00) in the aggregate, or  
18 the amount of income tax imposed upon the taxpayer for the taxable  
19 year reduced by the sum of all other credits allowable to such  
20 taxpayer under the state income tax laws, except credit for tax  
21 payments made by or on behalf of the taxpayer. In the case of  
22 married individuals filing separate returns, each person may claim  
23 an amount not to exceed one-half (1/2) of the tax credit which  
24 would have been allowed for a joint return. Any unused portion of  
25 the credit may be carried forward for the next five (5) succeeding  
26 tax years.

27 (b) Any amount of such a cash contribution made by a  
28 taxpayer that is applied toward the credit provided in this



29 section may not be used as a deduction by the taxpayer for state  
30 income tax purposes.

31 **SECTION 2.** Section 37-7-301, Mississippi Code of 1972, is  
32 amended as follows:

33 37-7-301. The school boards of all school districts shall  
34 have the following powers, authority and duties in addition to all  
35 others imposed or granted by law, to wit:

36 (a) To organize and operate the schools of the district  
37 and to make such division between the high school grades and  
38 elementary grades as, in their judgment, will serve the best  
39 interests of the school;

40 (b) To introduce public school music, art, manual  
41 training and other special subjects into either the elementary or  
42 high school grades, as the board shall deem proper;

43 (c) To be the custodians of real and personal school  
44 property and to manage, control and care for same, both during the  
45 school term and during vacation;

46 (d) To have responsibility for the erection, repairing  
47 and equipping of school facilities and the making of necessary  
48 school improvements;

49 (e) To suspend or to expel a pupil or to change the  
50 placement of a pupil to the school district's alternative school  
51 or home-bound program for misconduct in the school or on school  
52 property, as defined in Section 37-11-29, on the road to and from  
53 school, or at any school-related activity or event, or for conduct  
54 occurring on property other than school property or other than at  
55 a school-related activity or event when such conduct by a pupil,  
56 in the determination of the school superintendent or principal,  
57 renders that pupil's presence in the classroom a disruption to the  
58 educational environment of the school or a detriment to the best  
59 interest and welfare of the pupils and teacher of such class as a  
60 whole, and to delegate such authority to the appropriate officials  
61 of the school district;



62 (f) To visit schools in the district, in their  
63 discretion, in a body for the purpose of determining what can be  
64 done for the improvement of the school in a general way;

65 (g) To support, within reasonable limits, the  
66 superintendent, principal and teachers where necessary for the  
67 proper discipline of the school;

68 (h) To exclude from the schools students with what  
69 appears to be infectious or contagious diseases; provided,  
70 however, such student may be allowed to return to school upon  
71 presenting a certificate from a public health officer, duly  
72 licensed physician or nurse practitioner that the student is free  
73 from such disease;

74 (i) To require those vaccinations specified by the  
75 State Health Officer as provided in Section 41-23-37, Mississippi  
76 Code of 1972;

77 (j) To see that all necessary utilities and services  
78 are provided in the schools at all times when same are needed;

79 (k) To authorize the use of the school buildings and  
80 grounds for the holding of public meetings and gatherings of the  
81 people under such regulations as may be prescribed by said board;

82 (l) To prescribe and enforce rules and regulations not  
83 inconsistent with law or with the regulations of the State Board  
84 of Education for their own government and for the government of  
85 the schools, and to transact their business at regular and special  
86 meetings called and held in the manner provided by law;

87 (m) To maintain and operate all of the schools under  
88 their control for such length of time during the year as may be  
89 required;

90 (n) To enforce in the schools the courses of study and  
91 the use of the textbooks prescribed by the proper authorities;

92 (o) To make orders directed to the superintendent of  
93 schools for the issuance of pay certificates for lawful purposes  
94 on any available funds of the district and to have full control of



95 the receipt, distribution, allotment and disbursement of all funds  
96 provided for the support and operation of the schools of such  
97 school district whether such funds be derived from state  
98 appropriations, local ad valorem tax collections, or otherwise;

99 (p) To select all school district personnel in the  
100 manner provided by law, and to provide for such employee fringe  
101 benefit programs, including accident reimbursement plans, as may  
102 be deemed necessary and appropriate by the board;

103 (q) To provide athletic programs and other school  
104 activities and to regulate the establishment and operation of such  
105 programs and activities;

106 (r) To join, in their discretion, any association of  
107 school boards and other public school-related organizations, and  
108 to pay from local funds other than minimum foundation funds, any  
109 membership dues;

110 (s) To expend local school activity funds, or other  
111 available school district funds, other than minimum education  
112 program funds, for the purposes prescribed under this paragraph.  
113 "Activity funds" shall mean all funds received by school officials  
114 in all school districts paid or collected to participate in any  
115 school activity, such activity being part of the school program  
116 and partially financed with public funds or supplemented by public  
117 funds. The term "activity funds" shall not include any funds  
118 raised and/or expended by any organization unless commingled in a  
119 bank account with existing activity funds, regardless of whether  
120 the funds were raised by school employees or received by school  
121 employees during school hours or using school facilities, and  
122 regardless of whether a school employee exercises influence over  
123 the expenditure or disposition of such funds. Organizations shall  
124 not be required to make any payment to any school for the use of  
125 any school facility if, in the discretion of the local school  
126 governing board, the organization's function shall be deemed to be  
127 beneficial to the official or extracurricular programs of the



128 school. For the purposes of this provision, the term  
129 "organization" shall not include any organization subject to the  
130 control of the local school governing board. Activity funds may  
131 only be expended for any necessary expenses or travel costs,  
132 including advances, incurred by students and their chaperons in  
133 attending any in-state or out-of-state school-related programs,  
134 conventions or seminars and/or any commodities, equipment, travel  
135 expenses, purchased services or school supplies which the local  
136 school governing board, in its discretion, shall deem beneficial  
137 to the official or extracurricular programs of the district,  
138 including items which may subsequently become the personal  
139 property of individuals, including yearbooks, athletic apparel,  
140 book covers and trophies. Activity funds may be used to pay  
141 travel expenses of school district personnel. The local school  
142 governing board shall be authorized and empowered to promulgate  
143 rules and regulations specifically designating for what purposes  
144 school activity funds may be expended. The local school governing  
145 board shall provide (i) that such school activity funds shall be  
146 maintained and expended by the principal of the school generating  
147 the funds in individual bank accounts, or (ii) that such school  
148 activity funds shall be maintained and expended by the  
149 superintendent of schools in a central depository approved by the  
150 board. The local school governing board shall provide that such  
151 school activity funds be audited as part of the annual audit  
152 required in Section 37-9-18. The State Auditor shall prescribe a  
153 uniform system of accounting and financial reporting for all  
154 school activity fund transactions;

155 (t) To contract, on a shared savings, lease or  
156 lease-purchase basis, for energy efficiency services and/or  
157 equipment as provided for in Section 31-7-14, not to exceed ten  
158 (10) years;

159 (u) To maintain accounts and issue pay certificates on  
160 school food service bank accounts;



161 (v) (i) To lease a school building from an individual,  
162 partnership, nonprofit corporation or a private for-profit  
163 corporation for the use of such school district, and to expend  
164 funds therefor as may be available from any nonminimum program  
165 sources. The school board of the school district desiring to  
166 lease a school building shall declare by resolution that a need  
167 exists for a school building and that the school district cannot  
168 provide the necessary funds to pay the cost or its proportionate  
169 share of the cost of a school building required to meet the  
170 present needs. The resolution so adopted by the school board  
171 shall be published once each week for three (3) consecutive weeks  
172 in a newspaper having a general circulation in the school district  
173 involved, with the first publication thereof to be made not less  
174 than thirty (30) days prior to the date upon which the school  
175 board is to act on the question of leasing a school building. If  
176 no petition requesting an election is filed prior to such meeting  
177 as hereinafter provided, then the school board may, by resolution  
178 spread upon its minutes, proceed to lease a school building. If  
179 at any time prior to said meeting a petition signed by not less  
180 than twenty percent (20%) or fifteen hundred (1500), whichever is  
181 less, of the qualified electors of the school district involved  
182 shall be filed with the school board requesting that an election  
183 be called on the question, then the school board shall, not later  
184 than the next regular meeting, adopt a resolution calling an  
185 election to be held within such school district upon the question  
186 of authorizing the school board to lease a school building. Such  
187 election shall be called and held, and notice thereof shall be  
188 given, in the same manner for elections upon the questions of the  
189 issuance of the bonds of school districts, and the results thereof  
190 shall be certified to the school board. If at least three-fifths  
191 (3/5) of the qualified electors of the school district who voted  
192 in such election shall vote in favor of the leasing of a school  
193 building, then the school board shall proceed to lease a school



194 building. The term of the lease contract shall not exceed twenty  
195 (20) years, and the total cost of such lease shall be either the  
196 amount of the lowest and best bid accepted by the school board  
197 after advertisement for bids or an amount not to exceed the  
198 current fair market value of the lease as determined by the  
199 averaging of at least two (2) appraisals by certified general  
200 appraisers licensed by the State of Mississippi. The term "school  
201 building" as used in this item (v) shall be construed to mean any  
202 building or buildings used for classroom purposes in connection  
203 with the operation of schools and shall include the site therefor,  
204 necessary support facilities, and the equipment thereof and  
205 appurtenances thereto such as heating facilities, water supply,  
206 sewage disposal, landscaping, walks, drives and playgrounds. The  
207 term "lease" as used in this item (v) (i) may include a  
208 lease/purchase contract;

209 (ii) If two (2) or more school districts propose  
210 to enter into a lease contract jointly, then joint meetings of the  
211 school boards having control may be held but no action taken shall  
212 be binding on any such school district unless the question of  
213 leasing a school building is approved in each participating school  
214 district under the procedure hereinabove set forth in item (v) (i).  
215 All of the provisions of item (v) (i) regarding the term and amount  
216 of the lease contract shall apply to the school boards of school  
217 districts acting jointly. Any lease contract executed by two (2)  
218 or more school districts as joint lessees shall set out the amount  
219 of the aggregate lease rental to be paid by each, which may be  
220 agreed upon, but there shall be no right of occupancy by any  
221 lessee unless the aggregate rental is paid as stipulated in the  
222 lease contract. All rights of joint lessees under the lease  
223 contract shall be in proportion to the amount of lease rental paid  
224 by each;

225 (w) To employ all noninstructional and noncertificated  
226 employees and fix the duties and compensation of such personnel



227 deemed necessary pursuant to the recommendation of the  
228 superintendent of schools;

229 (x) To employ and fix the duties and compensation of  
230 such legal counsel as deemed necessary;

231 (y) Subject to rules and regulations of the State Board  
232 of Education, to purchase, own and operate trucks, vans and other  
233 motor vehicles, which shall bear the proper identification  
234 required by law;

235 (z) To expend funds for the payment of substitute  
236 teachers and to adopt reasonable regulations for the employment  
237 and compensation of such substitute teachers;

238 (aa) To acquire in its own name by purchase all real  
239 property which shall be necessary and desirable in connection with  
240 the construction, renovation or improvement of any public school  
241 building or structure. Whenever the purchase price for such real  
242 property is greater than Fifty Thousand Dollars (\$50,000.00), the  
243 school board shall not purchase the property for an amount  
244 exceeding the fair market value of such property as determined by  
245 the average of at least two (2) independent appraisals by  
246 certified general appraisers licensed by the State of Mississippi.  
247 If the board shall be unable to agree with the owner of any such  
248 real property in connection with any such project, the board shall  
249 have the power and authority to acquire any such real property by  
250 condemnation proceedings pursuant to Section 11-27-1 et seq.,  
251 Mississippi Code of 1972, and for such purpose, the right of  
252 eminent domain is hereby conferred upon and vested in said board.  
253 Provided further, that the local school board is authorized to  
254 grant an easement for ingress and egress over sixteenth section  
255 land or lieu land in exchange for a similar easement upon  
256 adjoining land where the exchange of easements affords substantial  
257 benefit to the sixteenth section land; provided, however, the  
258 exchange must be based upon values as determined by a competent  
259 appraiser, with any differential in value to be adjusted by cash





260 payment. Any easement rights granted over sixteenth section land  
261 under such authority shall terminate when the easement ceases to  
262 be used for its stated purpose. No sixteenth section or lieu land  
263 which is subject to an existing lease shall be burdened by any  
264 such easement except by consent of the lessee or unless the school  
265 district shall acquire the unexpired leasehold interest affected  
266 by the easement;

267 (bb) To charge reasonable fees related to the  
268 educational programs of the district, in the manner prescribed in  
269 Section 37-7-335;

270 (cc) Subject to rules and regulations of the State  
271 Board of Education, to purchase relocatable classrooms for the use  
272 of such school district, in the manner prescribed in Section  
273 37-1-13;

274 (dd) Enter into contracts or agreements with other  
275 school districts, political subdivisions or governmental entities  
276 to carry out one or more of the powers or duties of the school  
277 board, or to allow more efficient utilization of limited resources  
278 for providing services to the public;

279 (ee) To provide for in-service training for employees  
280 of the district. Until June 30, 1994, the school boards may  
281 designate two (2) days of the minimum school term, as defined in  
282 Section 37-19-1, for employee in-service training for  
283 implementation of the new statewide testing system as developed by  
284 the State Board of Education. Such designation shall be subject  
285 to approval by the State Board of Education pursuant to uniform  
286 rules and regulations;

287 (ff) As part of their duties to prescribe the use of  
288 textbooks, to provide that parents and legal guardians shall be  
289 responsible for the textbooks and for the compensation to the  
290 school district for any books which are not returned to the proper  
291 schools upon the withdrawal of their dependent child. If a  
292 textbook is lost or not returned by any student who drops out of



293 the public school district, the parent or legal guardian shall  
294 also compensate the school district for the fair market value of  
295 the textbooks;

296 (gg) To conduct fund-raising activities on behalf of  
297 the school district that the local school board, in its  
298 discretion, deems appropriate or beneficial to the official or  
299 extracurricular programs of the district; provided that:

300 (i) Any proceeds of the fund-raising activities  
301 shall be treated as "activity funds" and shall be accounted for as  
302 are other activity funds under this section; and

303 (ii) Fund-raising activities conducted or  
304 authorized by the board for the sale of school pictures, the  
305 rental of caps and gowns or the sale of graduation invitations for  
306 which the school board receives a commission, rebate or fee shall  
307 contain a disclosure statement advising that a portion of the  
308 proceeds of the sales or rentals shall be contributed to the  
309 student activity fund;

310 (hh) To allow individual lessons for music, art and  
311 other curriculum-related activities for academic credit or  
312 nonacademic credit during school hours and using school equipment  
313 and facilities, subject to uniform rules and regulations adopted  
314 by the school board;

315 (ii) To charge reasonable fees for participating in an  
316 extracurricular activity for academic or nonacademic credit for  
317 necessary and required equipment such as safety equipment, band  
318 instruments and uniforms;

319 (jj) To conduct or participate in any fund-raising  
320 activities on behalf of or in connection with a tax-exempt  
321 charitable organization;

322 (kk) To exercise such powers as may be reasonably  
323 necessary to carry out the provisions of this section; \* \* \*

324 (ll) To expend funds for the services of nonprofit arts  
325 organizations or other such nonprofit organizations who provide



326 performances or other services for the students of the school  
327 district; and

328 (mm) To accept any contribution or other form of  
329 financial assistance.

330 **SECTION 3.** This act shall take effect and be in force from  
331 and after January 1, 2002.

