

By: Representative Smith (35th)

To: Ways and Means

HOUSE BILL NO. 1829

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 lesser of fifty percent (50%) of the
16 aggregate amount of the taxpayer's contributions to a school or
17 school district, or both, during the taxable year or the amount of
18 income tax imposed upon the taxpayer for the taxable year reduced
19 by the sum of all other credits allowable to such taxpayer under
20 the state income tax laws, except credit for tax payments made by
21 or on behalf of the taxpayer. In the case of married individuals
22 filing separate returns, each person may claim an amount not to
23 exceed one-half (1/2) of the tax credit which would have been
24 allowed for a joint return. Any unused portion of the credit may
25 be carried forward for the next five (5) succeeding tax years.

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



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

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

32 37-7-301. The school boards of all school districts shall
33 have the following powers, authority and duties in addition to all
34 others imposed or granted by law, to wit:

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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



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



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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

