

By: Senator(s) Nunnelee

To: Education; Finance

SENATE BILL NO. 2147

1 AN ACT TO CREATE THE MISSISSIPPI PUBLIC SCHOOL RELIEF ACT; TO  
2 PROVIDE AN INCOME TAX CREDIT FOR TAXPAYERS WHO MAKE CASH  
3 CONTRIBUTIONS TO SCHOOL TUITION ORGANIZATIONS OR PUBLIC SCHOOLS;  
4 TO AMEND SECTIONS 37-7-301 AND 37-19-27, MISSISSIPPI CODE OF 1972,  
5 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Sections 1 through 3 of this act shall be known  
8 and may be cited as the Mississippi Public School Relief Act.

9 **SECTION 2.** It is the intent and purpose of Sections 1  
10 through 3 of this act to: (a) provide greater financial resources  
11 from Mississippi taxpayers for Mississippi public schools, (b)  
12 provide assistance for families of low or limited financial  
13 resources who want expanded educational opportunities for their  
14 children, (c) affirm that all children are unique and learn  
15 differently and may benefit from these expanded educational  
16 opportunities, and (d) enable Mississippi to achieve a greater  
17 level of educational excellence.

18 **SECTION 3.** (1) Except as otherwise provided in subsection  
19 (3) of this section, for any taxpayer who makes a voluntary cash  
20 contribution to a school tuition organization or a qualified  
21 school that is a public school, a credit against the income taxes  
22 imposed by Section 27-7-1 et seq., Mississippi Code of 1972, shall  
23 be allowed in the amount provided in subsection (2) of this  
24 section. For purposes of this section:

25 (a) "School tuition organization" means a charitable  
26 organization in this state which is exempt from federal taxation  
27 under Section 501(c)(3) of the Internal Revenue Code and which  
28 allocates at least ninety percent (90%) of its annual revenue for



29 educational scholarships or tuition grants to children in order to  
30 allow them to attend any qualified school of their parent's or  
31 guardian's choice, or for reimbursement to public qualified  
32 schools for expenses incurred in enrolling students lawfully  
33 transferred to such a school from outside the school's school  
34 district, or both.

35 (b) "Qualified school" means a public or nonpublic  
36 primary or secondary school in this state. In the case of a  
37 nonpublic school, the school must not discriminate on the basis of  
38 race, color, sex, handicap or national origin, and the school must  
39 maintain educational standards equivalent to the standards  
40 established by the State Department of Education for the state  
41 schools as outlined in the Approval Requirements of the State  
42 Board of Education for Nonpublic Schools.

43 (2) (a) The income tax credit provided in subsection (1) of  
44 this section for a voluntary cash contribution to a school tuition  
45 organization shall be equal to the amount of the contribution to  
46 such organization during the taxable year, not to exceed the  
47 lesser of Five Hundred Dollars (\$500.00) or the amount of income  
48 tax imposed upon the taxpayer for the taxable year reduced by the  
49 sum of all other credits allowable to such taxpayer under the  
50 state income tax laws, except credit for tax payments made by or  
51 on behalf of the taxpayer. In the case of married individuals  
52 filing separate returns, each person may claim an amount not to  
53 exceed one-half (1/2) of the tax credit which would have been  
54 allowed for a joint return. Any unused portion of the credit may  
55 be carried forward for the next five (5) succeeding tax years.

56 (b) The income tax credit provided in subsection (1) of  
57 this section for a voluntary cash contribution to a qualified  
58 school that is a public school shall be equal to the amount of the  
59 contribution to such school during the taxable year, not to exceed  
60 the lesser of Two Hundred Dollars (\$200.00) or the amount of  
61 income tax imposed upon the taxpayer for the taxable year reduced



62 by the sum of all other credits allowable to such taxpayer under  
63 the state income tax laws, except credit for tax payments made by  
64 or on behalf of the taxpayer. In the case of married individuals  
65 filing separate returns, each person may claim an amount not to  
66 exceed one-half (1/2) of the tax credit which would have been  
67 allowed for a joint return. Any unused portion of the credit may  
68 be carried forward for the next five (5) succeeding tax years.

69 (3) Any amount of a cash contribution made by a taxpayer  
70 that is applied toward the credit provided in this section may not  
71 be used as a deduction by the taxpayer for state income tax  
72 purposes.

73 (4) The tax credit provided for in this section shall not be  
74 allowed if the taxpayer designates the taxpayer's cash  
75 contribution to the school tuition organization for the direct  
76 benefit of any dependent of the taxpayer.

77 **SECTION 4.** Section 37-7-301, Mississippi Code of 1972, is  
78 amended as follows:

79 37-7-301. The school boards of all school districts shall  
80 have the following powers, authority and duties in addition to all  
81 others imposed or granted by law, to wit:

82 (a) To organize and operate the schools of the district  
83 and to make such division between the high school grades and  
84 elementary grades as, in their judgment, will serve the best  
85 interests of the school;

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

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

92 (d) To have responsibility for the erection, repairing  
93 and equipping of school facilities and the making of necessary  
94 school improvements;



95           (e) To suspend or to expel a pupil or to change the  
96 placement of a pupil to the school district's alternative school  
97 or home-bound program for misconduct in the school or on school  
98 property, as defined in Section 37-11-29, on the road to and from  
99 school, or at any school-related activity or event, or for conduct  
100 occurring on property other than school property or other than at  
101 a school-related activity or event when such conduct by a pupil,  
102 in the determination of the school superintendent or principal,  
103 renders that pupil's presence in the classroom a disruption to the  
104 educational environment of the school or a detriment to the best  
105 interest and welfare of the pupils and teacher of such class as a  
106 whole, and to delegate such authority to the appropriate officials  
107 of the school district;

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

111           (g) To support, within reasonable limits, the  
112 superintendent, principal and teachers where necessary for the  
113 proper discipline of the school;

114           (h) To exclude from the schools students with what  
115 appears to be infectious or contagious diseases; provided,  
116 however, such student may be allowed to return to school upon  
117 presenting a certificate from a public health officer, duly  
118 licensed physician or nurse practitioner that the student is free  
119 from such disease;

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

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

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



128           (1) To prescribe and enforce rules and regulations not  
129 inconsistent with law or with the regulations of the State Board  
130 of Education for their own government and for the government of  
131 the schools, and to transact their business at regular and special  
132 meetings called and held in the manner provided by law;

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

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

138           (o) To make orders directed to the superintendent of  
139 schools for the issuance of pay certificates for lawful purposes  
140 on any available funds of the district and to have full control of  
141 the receipt, distribution, allotment and disbursement of all funds  
142 provided for the support and operation of the schools of such  
143 school district whether such funds be derived from state  
144 appropriations, local ad valorem tax collections, or otherwise;

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

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

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

156           (s) To expend local school activity funds, or other  
157 available school district funds, other than minimum education  
158 program funds, for the purposes prescribed under this paragraph.  
159 "Activity funds" shall mean all funds received by school officials  
160 in all school districts paid or collected to participate in any



161 school activity, such activity being part of the school program  
162 and partially financed with public funds or supplemented by public  
163 funds. The term "activity funds" shall not include any funds  
164 raised and/or expended by any organization unless commingled in a  
165 bank account with existing activity funds, regardless of whether  
166 the funds were raised by school employees or received by school  
167 employees during school hours or using school facilities, and  
168 regardless of whether a school employee exercises influence over  
169 the expenditure or disposition of such funds. Organizations shall  
170 not be required to make any payment to any school for the use of  
171 any school facility if, in the discretion of the local school  
172 governing board, the organization's function shall be deemed to be  
173 beneficial to the official or extracurricular programs of the  
174 school. For the purposes of this provision, the term  
175 "organization" shall not include any organization subject to the  
176 control of the local school governing board. Activity funds may  
177 only be expended for any necessary expenses or travel costs,  
178 including advances, incurred by students and their chaperons in  
179 attending any in-state or out-of-state school-related programs,  
180 conventions or seminars and/or any commodities, equipment, travel  
181 expenses, purchased services or school supplies which the local  
182 school governing board, in its discretion, shall deem beneficial  
183 to the official or extracurricular programs of the district,  
184 including items which may subsequently become the personal  
185 property of individuals, including yearbooks, athletic apparel,  
186 book covers and trophies. Activity funds may be used to pay  
187 travel expenses of school district personnel. The local school  
188 governing board shall be authorized and empowered to promulgate  
189 rules and regulations specifically designating for what purposes  
190 school activity funds may be expended. The local school governing  
191 board shall provide (a) that such school activity funds shall be  
192 maintained and expended by the principal of the school generating  
193 the funds in individual bank accounts, or (b) that such school



194 activity funds shall be maintained and expended by the  
195 superintendent of schools in a central depository approved by the  
196 board. The local school governing board shall provide that such  
197 school activity funds be audited as part of the annual audit  
198 required in Section 37-9-18. The State Auditor shall prescribe a  
199 uniform system of accounting and financial reporting for all  
200 school activity fund transactions;

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

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

207 (v) (i) To lease a school building from an individual,  
208 partnership, nonprofit corporation or a private for-profit  
209 corporation for the use of such school district, and to expend  
210 funds therefor as may be available from any nonminimum program  
211 sources. The school board of the school district desiring to  
212 lease a school building shall declare by resolution that a need  
213 exists for a school building and that the school district cannot  
214 provide the necessary funds to pay the cost or its proportionate  
215 share of the cost of a school building required to meet the  
216 present needs. The resolution so adopted by the school board  
217 shall be published once each week for three (3) consecutive weeks  
218 in a newspaper having a general circulation in the school district  
219 involved, with the first publication thereof to be made not less  
220 than thirty (30) days prior to the date upon which the school  
221 board is to act on the question of leasing a school building. If  
222 no petition requesting an election is filed prior to such meeting  
223 as hereinafter provided, then the school board may, by resolution  
224 spread upon its minutes, proceed to lease a school building. If  
225 at any time prior to said meeting a petition signed by not less  
226 than twenty percent (20%) or fifteen hundred (1500), whichever is



227 less, of the qualified electors of the school district involved  
228 shall be filed with the school board requesting that an election  
229 be called on the question, then the school board shall, not later  
230 than the next regular meeting, adopt a resolution calling an  
231 election to be held within such school district upon the question  
232 of authorizing the school board to lease a school building. Such  
233 election shall be called and held, and notice thereof shall be  
234 given, in the same manner for elections upon the questions of the  
235 issuance of the bonds of school districts, and the results thereof  
236 shall be certified to the school board. If at least three-fifths  
237 (3/5) of the qualified electors of the school district who voted  
238 in such election shall vote in favor of the leasing of a school  
239 building, then the school board shall proceed to lease a school  
240 building. The term of the lease contract shall not exceed twenty  
241 (20) years, and the total cost of such lease shall be either the  
242 amount of the lowest and best bid accepted by the school board  
243 after advertisement for bids or an amount not to exceed the  
244 current fair market value of the lease as determined by the  
245 averaging of at least two (2) appraisals by certified general  
246 appraisers licensed by the State of Mississippi. The term "school  
247 building" as used in this item (v) shall be construed to mean any  
248 building or buildings used for classroom purposes in connection  
249 with the operation of schools and shall include the site therefor,  
250 necessary support facilities, and the equipment thereof and  
251 appurtenances thereto such as heating facilities, water supply,  
252 sewage disposal, landscaping, walks, drives and playgrounds. The  
253 term "lease" as used in this item (v)(i) may include a  
254 lease/purchase contract;

255 (ii) If two (2) or more school districts propose  
256 to enter into a lease contract jointly, then joint meetings of the  
257 school boards having control may be held but no action taken shall  
258 be binding on any such school district unless the question of  
259 leasing a school building is approved in each participating school



260 district under the procedure hereinabove set forth in item (v)(i).  
261 All of the provisions of item (v)(i) regarding the term and amount  
262 of the lease contract shall apply to the school boards of school  
263 districts acting jointly. Any lease contract executed by two (2)  
264 or more school districts as joint lessees shall set out the amount  
265 of the aggregate lease rental to be paid by each, which may be  
266 agreed upon, but there shall be no right of occupancy by any  
267 lessee unless the aggregate rental is paid as stipulated in the  
268 lease contract. All rights of joint lessees under the lease  
269 contract shall be in proportion to the amount of lease rental paid  
270 by each;

271 (w) To employ all noninstructional and noncertificated  
272 employees and fix the duties and compensation of such personnel  
273 deemed necessary pursuant to the recommendation of the  
274 superintendent of schools;

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

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

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

284 (aa) To acquire in its own name by purchase all real  
285 property which shall be necessary and desirable in connection with  
286 the construction, renovation or improvement of any public school  
287 building or structure. Whenever the purchase price for such real  
288 property is greater than Fifty Thousand Dollars (\$50,000.00), the  
289 school board shall not purchase the property for an amount  
290 exceeding the fair market value of such property as determined by  
291 the average of at least two (2) independent appraisals by  
292 certified general appraisers licensed by the State of Mississippi.



293 If the board shall be unable to agree with the owner of any such  
294 real property in connection with any such project, the board shall  
295 have the power and authority to acquire any such real property by  
296 condemnation proceedings pursuant to Section 11-27-1 et seq.,  
297 Mississippi Code of 1972, and for such purpose, the right of  
298 eminent domain is hereby conferred upon and vested in said board.  
299 Provided further, that the local school board is authorized to  
300 grant an easement for ingress and egress over sixteenth section  
301 land or lieu land in exchange for a similar easement upon  
302 adjoining land where the exchange of easements affords substantial  
303 benefit to the sixteenth section land; provided, however, the  
304 exchange must be based upon values as determined by a competent  
305 appraiser, with any differential in value to be adjusted by cash  
306 payment. Any easement rights granted over sixteenth section land  
307 under such authority shall terminate when the easement ceases to  
308 be used for its stated purpose. No sixteenth section or lieu land  
309 which is subject to an existing lease shall be burdened by any  
310 such easement except by consent of the lessee or unless the school  
311 district shall acquire the unexpired leasehold interest affected  
312 by the easement;

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

316 (cc) Subject to rules and regulations of the State  
317 Board of Education, to purchase relocatable classrooms for the use  
318 of such school district, in the manner prescribed in Section  
319 37-1-13;

320 (dd) Enter into contracts or agreements with other  
321 school districts, political subdivisions or governmental entities  
322 to carry out one or more of the powers or duties of the school  
323 board, or to allow more efficient utilization of limited resources  
324 for providing services to the public;



325           (ee) To provide for in-service training for employees  
326 of the district. Until June 30, 1994, the school boards may  
327 designate two (2) days of the minimum school term, as defined in  
328 Section 37-19-1, for employee in-service training for  
329 implementation of the new statewide testing system as developed by  
330 the State Board of Education. Such designation shall be subject  
331 to approval by the State Board of Education pursuant to uniform  
332 rules and regulations;

333           (ff) As part of their duties to prescribe the use of  
334 textbooks, to provide that parents and legal guardians shall be  
335 responsible for the textbooks and for the compensation to the  
336 school district for any books which are not returned to the proper  
337 schools upon the withdrawal of their dependent child. If a  
338 textbook is lost or not returned by any student who drops out of  
339 the public school district, the parent or legal guardian shall  
340 also compensate the school district for the fair market value of  
341 the textbooks;

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

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

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

356           (hh) To allow individual lessons for music, art and  
357 other curriculum-related activities for academic credit or



358 nonacademic credit during school hours and using school equipment  
359 and facilities, subject to uniform rules and regulations adopted  
360 by the school board;

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

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

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

370 (ll) To expend funds for the services of nonprofit arts  
371 organizations or other such nonprofit organizations who provide  
372 performances or other services for the students of the school  
373 district; and

374 (mm) To accept any contribution or other term of  
375 financial assistance.

376 **SECTION 5.** Section 37-19-27, Mississippi Code of 1972, is  
377 amended as follows:

378 37-19-27. (1) Legally transferred students going from one  
379 school district to another shall be counted for teacher allotment  
380 and allotments for supportive services by the school district  
381 wherein the pupils attend school, including cost allotments  
382 prescribed in Sections 37-19-19 and 37-19-31 for school district  
383 administrative and clerical salaries and other expenses, but shall  
384 be counted for transportation allotment purposes in the school  
385 district which furnishes or provides the transportation. The  
386 school boards of the school districts which approve the transfer  
387 of a student under the provisions of Section 37-15-31 shall enter  
388 into an agreement and contract for the payment or nonpayment of  
389 any portion of their local maintenance funds which they deem fair  
390 and equitable in support of any transferred student. Except as



391 provided in subsection (2) of this section, local maintenance  
392 funds shall be transferred only to the extent specified in the  
393 agreement and contract entered into by the affected school  
394 districts. The terms of any local maintenance fund payment  
395 transfer contract shall be spread upon the minutes of both of the  
396 affected school district school boards. The school district  
397 accepting any transfer students under the provisions of Section  
398 37-15-31(1) shall be authorized to accept tuition from such  
399 students \* \* \* and such agreement may remain in effect for any  
400 length of time designated in the contract. The terms of such  
401 student transfer contracts and the amounts of any tuition charged  
402 any transfer student shall be spread upon the minutes of both of  
403 the affected school boards. Any voluntary cash contribution made  
404 to a school and any assistance provided by a school tuition  
405 organization as described in Section 3 of Senate Bill No. 2147,  
406 2002 Regular Session, may be designated for such tuition payments.  
407 No school district accepting any transfer students under the  
408 provisions of Section 37-15-31(2), which provides for the transfer  
409 of certain school district employee dependents, shall be  
410 authorized to charge such transfer students any tuition fees.

411 (2) Local maintenance funds shall be paid by the home school  
412 district to the transferee school district for students granted  
413 transfers under the provisions of Sections 37-15-29(3) and  
414 37-15-31(3), Mississippi Code of 1972, not to exceed the  
415 "individual student entitlement" as defined in Section  
416 37-22-1(2)(d), Mississippi Code of 1972, multiplied by the number  
417 of such legally transferred students.

418 **SECTION 6.** Nothing in this act shall affect or defeat any  
419 claim, assessment, appeal, suit, right or cause of action for  
420 taxes due or accrued under the income tax laws before the date on  
421 which this act becomes effective, whether such claims,  
422 assessments, appeals, suits or actions have been begun before the  
423 date on which this act becomes effective or are begun thereafter;



424 and the provisions of the income tax laws are expressly continued  
425 in full force, effect and operation for the purpose of the  
426 assessment, collection and enrollment of liens for any taxes due  
427 or accrued and the execution of any warrant under such laws before  
428 the date on which this act becomes effective, and for the  
429 imposition of any penalties, forfeitures or claims for failure to  
430 comply with such laws.

431       **SECTION 7.** The Legislature declares that the provisions of  
432 this act are not severable and that this act would not have been  
433 enacted without the inclusion of all provisions. If any provision  
434 of this act is for any reason held invalid, the entire act is  
435 invalid.

436       **SECTION 8.** This act shall take effect and be in force from  
437 and after January 1, 2002.

