MISSISSIPPI LEGISLATURE

By: Representatives Whittington, Chism, Dickson, Eads, Fredericks, Lott, Livingston, Martinson, Montgomery (15th), Moody, Moore (60th), Robinson (63rd), Ryals, Scott (17th), Smith (39th), West

To: Ways and Means

HOUSE BILL NO. 628

AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR TAXPAYERS WHO CONTRIBUTE FUNDS TO PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS TO ASSIST THE SCHOOLS OR SCHOOL DISTRICTS IN PROVIDING PHYSICAL FITNESS PROGRAMS OR OTHER HEALTH IMPROVEMENT PROGRAMS FOR STUDENTS; TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) For any taxpayer who makes a voluntary monetary contribution to a public school or public school district, or both, to assist such school or school district in providing physical fitness programs or other health improvement programs for students, a credit against the income taxes imposed under Section 27-7-1 et seq., shall be allowed in the amount provided in subsection (2) of this section.

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

(b) Any amount of such a monetary contribution made by a taxpayer that is applied toward the credit provided in this...
section may not be used as a deduction by the taxpayer for state
income tax purposes.

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

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

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

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

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

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

(e) To suspend or to expel a pupil or to change the
placement of a pupil to the school district's alternative school
or home-bound program for misconduct in the school or on school
property, as defined in Section 37-11-29, on the road to and from
school, or at any school-related activity or event, or for conduct
occurring on property other than school property or other than at
a school-related activity or event when such conduct by a pupil,
in the determination of the school superintendent or principal,
renders that pupil's presence in the classroom a disruption to the
educational environment of the school or a detriment to the best
interest and welfare of the pupils and teacher of such class as a
whole, and to delegate such authority to the appropriate officials
of the school district;
(f) To visit schools in the district, in their discretion, in a body for the purpose of determining what can be done for the improvement of the school in a general way;

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

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

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

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

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

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

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

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

(o) To make orders directed to the superintendent of schools for the issuance of pay certificates for lawful purposes 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;
(v) (i) To lease a school building from an individual, partnership, nonprofit corporation or a private for-profit corporation for the use of such school district, and to expend funds therefor as may be available from any nonminimum program sources. The school board of the school district desiring to lease a school building shall declare by resolution that a need exists for a school building and that the school district cannot provide the necessary funds to pay the cost or its proportionate share of the cost of a school building required to meet the present needs. The resolution so adopted by the school board shall be published once each week for three (3) consecutive weeks in a newspaper having a general circulation in the school district involved, with the first publication thereof to be made not less than thirty (30) days prior to the date upon which the school board is to act on the question of leasing a school building. If no petition requesting an election is filed prior to such meeting as hereinafter provided, then the school board may, by resolution spread upon its minutes, proceed to lease a school building. If at any time prior to said meeting a petition signed by not less than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the school district involved shall be filed with the school board requesting that an election be called on the question, then the school board shall, not later than the next regular meeting, adopt a resolution calling an election to be held within such school district upon the question of authorizing the school board to lease a school building. Such election shall be called and held, and notice thereof shall be given, in the same manner for elections upon the questions of the issuance of the bonds of school districts, and the results thereof shall be certified to the school board. If at least three-fifths (3/5) of the qualified electors of the school district who voted in such election shall vote in favor of the leasing of a school building, then the school board shall proceed to lease a school building.
building. The term of the lease contract shall not exceed twenty
(20) years, and the total cost of such lease shall be either the
amount of the lowest and best bid accepted by the school board
after advertisement for bids or an amount not to exceed the
current fair market value of the lease as determined by the
averaging of at least two (2) appraisals by certified general
appraisers licensed by the State of Mississippi. The term "school
building" as used in this item (v) shall be construed to mean any
building or buildings used for classroom purposes in connection
with the operation of schools and shall include the site therefor,
necessary support facilities, and the equipment thereof and
appurtenances thereto such as heating facilities, water supply,
sewage disposal, landscaping, walks, drives and playgrounds. The
term "lease" as used in this item (v)(i) may include a
lease/purchase contract;

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

(w) To employ all noninstructional and noncertificated
employees and fix the duties and compensation of such personnel
(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
payment. Any easement rights granted over sixteenth section land under such authority shall terminate when the easement ceases to be used for its stated purpose. No sixteenth section or lieu land which is subject to an existing lease shall be burdened by any such easement except by consent of the lessee or unless the school district shall acquire the unexpired leasehold interest affected by the easement;

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

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

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

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

(ff) As part of their duties to prescribe the use of textbooks, to provide that parents and legal guardians shall be responsible for the textbooks and for the compensation to the school district for any books which are not returned to the proper schools upon the withdrawal of their dependent child. If a 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;

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

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

SECTION 3. Section 1 of this act shall be codified as a separate section in Chapter 7, Title 27, Mississippi Code of 1972.

SECTION 4. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

SECTION 5. This act shall take effect and be in force from and after January 1, 2003.