

By: Representative Whittington

To: Ways and Means

HOUSE BILL NO. 706

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

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

8 **SECTION 1.** (1) For any taxpayer who makes a voluntary  
9 monetary contribution to a public school or public school  
10 district, or both, to assist such school or school district in  
11 providing physical fitness programs or other health improvement  
12 programs for students, a credit against the income taxes imposed  
13 under this chapter shall be allowed in the amount provided in  
14 subsection (2) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

271 (cc) Subject to rules and regulations of the State  
272 Board of Education, to purchase relocatable classrooms for the use  
273 of such school district, in the manner prescribed in Section  
274 37-1-13;

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

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

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

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

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

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

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

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

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

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

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

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

327 performances or other services for the students of the school  
328 district; and  
329 (mm) To accept any monetary contribution or other form  
330 of financial assistance.

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

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

346 **SECTION 5.** This act shall take effect and be in force from  
347 and after January 1, 2004.