

By: Representative Watson

To: Education

HOUSE BILL NO. 1302
(As Passed the House)

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO ALLOW SCHOOL BOARDS TO CONTRACT WITH FINANCIAL INSTITUTIONS TO
3 ALLOW THE WITHHOLDING OF FUNDS BY STATE AGENCIES WITH RESPECT TO
4 THE ISSUANCE OF BONDS, NOTES OR OTHER OBLIGATIONS, TO ALLOW THE
5 WITHHOLDING OF FUNDS BY STATE AGENCIES IN THE EVENT OF DEFAULT BY
6 A LOCAL SCHOOL BOARD; TO AUTHORIZE A SCHOOL BOARD TO ACCEPT THE
7 SAME TYPE GOOD FAITH DEPOSIT OR BID BOND OR BID SURETY THAT MAY BE
8 ACCEPTED BY THE STATE OR OTHER POLITICAL SUBDIVISIONS; TO
9 AUTHORIZE SCHOOL BOARDS TO CONTRACT WITH UNIVERSITIES, COLLEGES
10 AND OTHERS FOR THE JOINT OPERATION OF ECONOMIC DEVELOPMENT
11 PROJECTS; TO AUTHORIZE A SCHOOL BOARD TO PLEDGE REVENUES RECEIVED
12 UNDER SECTIONS 37-7-471 THROUGH 37-7-483 FOR THE REPAYMENT OF
13 NOTES AND OTHER OBLIGATIONS; NO PERSON INVOLVED IN ANY ECONOMIC
14 DEVELOPMENT PROJECT ENTERED INTO BY A SCHOOL BOARD SHALL BE
15 RELATED BY CONSANGUINITY WITHIN THE THIRD DEGREE TO ANY MEMBER OF
16 THE SCHOOL BOARD OR THE SUPERINTENDENT OR ASSISTANT
17 SUPERINTENDENT; TO REQUIRE SCHOOL BOARDS TO FOLLOW ALL APPLICABLE
18 STATE BID LAWS FOR THE CONSTRUCTION OF ANY SCHOOL-RELATED
19 BUILDING; TO AMEND SECTION 37-7-471, MISSISSIPPI CODE OF 1972, TO
20 ALLOW A SCHOOL DISTRICT TO RETAIN AN UNDIVIDED INTEREST IN
21 PROPERTY DISPOSED BY THE SCHOOL BOARD IF IT MAY YIELD A HIGHER
22 LONG TERM ECONOMIC BENEFIT; TO AMEND SECTION 37-7-473, MISSISSIPPI
23 CODE OF 1972, TO ALLOW SCHOOL PROPERTY TO BE USED AS PART OF
24 DEVELOPMENT ACTIVITIES; TO AMEND SECTION 37-7-475, MISSISSIPPI
25 CODE OF 1972, TO ALLOW CONVEYANCES TO INCLUDE A RETENTION OF A
26 PARTIAL INTEREST BY THE SCHOOL BOARD; TO AMEND SECTION 37-7-477,
27 MISSISSIPPI CODE OF 1972, TO MAKE REVERSION OF INTERESTS
28 DISCRETIONARY IF THE SCHOOL BOARD RETAINS A PARTIAL INTEREST IN
29 THE PROPERTY; TO AMEND SECTION 37-7-479, MISSISSIPPI CODE OF 1972,
30 TO PROVIDE THAT A REVERTER IS DISCRETIONARY IF THE SCHOOL BOARD
31 RETAINS A PARTIAL INTEREST IN THE PROPERTY; TO AMEND SECTION
32 37-7-481, MISSISSIPPI CODE OF 1972, TO ALLOW SCHOOL BOARDS TO
33 CONTRACT WITH OTHER GOVERNMENTAL ENTITIES; TO AMEND SECTION
34 37-7-483, MISSISSIPPI CODE OF 1972, TO CLARIFY LEGISLATIVE INTENT
35 WITH RESPECT TO DEVELOPMENT OF SCHOOL PROPERTY; NO PERSON, AGENT,
36 SUBSIDIARY OR PARENT CORPORATION OR FIRM OWNED IN WHOLE OR IN PART
37 BY THE PERSON, SHALL BE ELIGIBLE TO BID IN THE CONSTRUCTION ON ANY
38 PROJECT FOR WHICH THE PERSON HAS BEEN HIRED TO PERFORM
39 CONSTRUCTION PROGRAM MANAGEMENT SERVICES; TO REQUIRE SCHOOL BOARD
40 MEMBERS TO CERTIFY THAT THEY ARE IN COMPLIANCE WITH SECTION
41 25-4-27, MISSISSIPPI CODE OF 1972, REGARDING FILING OF STATEMENTS
42 OF ECONOMIC INTEREST WITH THE MISSISSIPPI ETHICS COMMISSION; AND
43 FOR RELATED PURPOSES.

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

45 **SECTION 1.** This Act shall be referred to as the "School
46 Property Development Act of 2005."

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

49 37-7-301. The school boards of all school districts shall
50 have the following powers, authority and duties in addition to all
51 others imposed or granted by law, to wit:

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

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

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

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

65 (e) To suspend or to expel a pupil or to change the
66 placement of a pupil to the school district's alternative school
67 or home-bound program for misconduct in the school or on school
68 property, as defined in Section 37-11-29, on the road to and from
69 school, or at any school-related activity or event, or for conduct
70 occurring on property other than school property or other than at
71 a school-related activity or event when such conduct by a pupil,
72 in the determination of the school superintendent or principal,
73 renders that pupil's presence in the classroom a disruption to the
74 educational environment of the school or a detriment to the best
75 interest and welfare of the pupils and teacher of such class as a
76 whole, and to delegate such authority to the appropriate officials
77 of the school district;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

177 (v) (i) To lease a school building from an individual,
178 partnership, nonprofit corporation or a private for-profit
179 corporation for the use of such school district, and to expend
180 funds therefor as may be available from any nonminimum program
181 sources. The school board of the school district desiring to
182 lease a school building shall declare by resolution that a need
183 exists for a school building and that the school district cannot
184 provide the necessary funds to pay the cost or its proportionate
185 share of the cost of a school building required to meet the
186 present needs. The resolution so adopted by the school board
187 shall be published once each week for three (3) consecutive weeks
188 in a newspaper having a general circulation in the school district
189 involved, with the first publication thereof to be made not less
190 than thirty (30) days prior to the date upon which the school
191 board is to act on the question of leasing a school building. If
192 no petition requesting an election is filed prior to such meeting
193 as hereinafter provided, then the school board may, by resolution
194 spread upon its minutes, proceed to lease a school building. If
195 at any time prior to said meeting a petition signed by not less
196 than twenty percent (20%) or fifteen hundred (1500), whichever is
197 less, of the qualified electors of the school district involved
198 shall be filed with the school board requesting that an election
199 be called on the question, then the school board shall, not later
200 than the next regular meeting, adopt a resolution calling an
201 election to be held within such school district upon the question
202 of authorizing the school board to lease a school building. Such
203 election shall be called and held, and notice thereof shall be
204 given, in the same manner for elections upon the questions of the
205 issuance of the bonds of school districts, and the results thereof
206 shall be certified to the school board. If at least three-fifths
207 (3/5) of the qualified electors of the school district who voted
208 in such election shall vote in favor of the leasing of a school
209 building, then the school board shall proceed to lease a school

210 building. The term of the lease contract shall not exceed twenty
211 (20) years, and the total cost of such lease shall be either the
212 amount of the lowest and best bid accepted by the school board
213 after advertisement for bids or an amount not to exceed the
214 current fair market value of the lease as determined by the
215 averaging of at least two (2) appraisals by certified general
216 appraisers licensed by the State of Mississippi. The term "school
217 building" as used in this item (v) shall be construed to mean any
218 building or buildings used for classroom purposes in connection
219 with the operation of schools and shall include the site therefor,
220 necessary support facilities, and the equipment thereof and
221 appurtenances thereto such as heating facilities, water supply,
222 sewage disposal, landscaping, walks, drives and playgrounds. The
223 term "lease" as used in this item (v)(i) may include a
224 lease/purchase contract;

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

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

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

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

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

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

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

276 payment. Any easement rights granted over sixteenth section land
277 under such authority shall terminate when the easement ceases to
278 be used for its stated purpose. No sixteenth section or lieu land
279 which is subject to an existing lease shall be burdened by any
280 such easement except by consent of the lessee or unless the school
281 district shall acquire the unexpired leasehold interest affected
282 by the easement;

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

286 (cc) Subject to rules and regulations of the State
287 Board of Education, to purchase relocatable classrooms for the use
288 of such school district, in the manner prescribed in Section
289 37-1-13;

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

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

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

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

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

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

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

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

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

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

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

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

342 performances or other services for the students of the school
343 district;

344 (mm) To expend federal No Child Left Behind Act funds,
345 or any other available funds that are expressly designated and
346 authorized for that use, to pay training, educational expenses,
347 salary incentives and salary supplements to employees of local
348 school districts; except that incentives shall not be considered
349 part of the local supplement as defined in Section 37-151-5(o),
350 nor shall incentives be considered part of the local supplement
351 paid to an individual teacher for the purposes of Section
352 37-19-7(1). Mississippi Adequate Education Program funds or any
353 other state funds may not be used for salary incentives or salary
354 supplements as provided in this paragraph (mm);

355 (nn) To use any available funds, not appropriated or
356 designated for any other purpose, for reimbursement to the
357 state-licensed employees from both in-state and out-of-state, who
358 enter into a contract for employment in a school district, for the
359 expense of moving when the employment necessitates the relocation
360 of the licensed employee to a different geographical area than
361 that in which the licensed employee resides before entering into
362 the contract. The reimbursement shall not exceed One Thousand
363 Dollars (\$1,000.00) for the documented actual expenses incurred in
364 the course of relocating, including the expense of any
365 professional moving company or persons employed to assist with the
366 move, rented moving vehicles or equipment, mileage in the amount
367 authorized for county and municipal employees under Section
368 25-3-41 if the licensed employee used his personal vehicle or
369 vehicles for the move, meals and such other expenses associated
370 with the relocation. No licensed employee may be reimbursed for
371 moving expenses under this section on more than one (1) occasion
372 by the same school district. Nothing in this section shall be
373 construed to require the actual residence to which the licensed
374 employee relocates to be within the boundaries of the school

375 district that has executed a contract for employment in order for
376 the licensed employee to be eligible for reimbursement for the
377 moving expenses. However, the licensed employee must relocate
378 within the boundaries of the State of Mississippi. Any individual
379 receiving relocation assistance through the Critical Teacher
380 Shortage Act as provided in Section 37-159-5 shall not be eligible
381 to receive additional relocation funds as authorized in this
382 paragraph;

383 (oo) To use any available funds, not appropriated or
384 designated for any other purpose, to reimburse persons who
385 interview for employment as a licensed employee with the district
386 for the mileage and other actual expenses incurred in the course
387 of travel to and from the interview at the rate authorized for
388 county and municipal employees under Section 25-3-41;

389 (pp) Consistent with the report of the Task Force to
390 Conduct a Best Financial Management Practices Review, to improve
391 school district management and use of resources and identify cost
392 savings as established in Section 8 of Chapter 610, Laws of 2002,
393 local school boards are encouraged to conduct independent reviews
394 of the management and efficiency of schools and school districts.
395 Such management and efficiency reviews shall provide state and
396 local officials and the public with the following:

397 (i) An assessment of a school district's
398 governance and organizational structure;

399 (ii) An assessment of the school district's
400 financial and personnel management;

401 (iii) An assessment of revenue levels and sources;

402 (iv) An assessment of facilities utilization,
403 planning and maintenance;

404 (v) An assessment of food services, transportation
405 and safety/security systems;

406 (vi) An assessment of instructional and
407 administrative technology;

408 (vii) A review of the instructional management and
409 the efficiency and effectiveness of existing instructional
410 programs; and

411 (viii) Recommended methods for increasing
412 efficiency and effectiveness in providing educational services to
413 the public;

414 (qq) To enter into agreements with other local school
415 boards for the establishment of an educational service agency
416 (ESA) to provide for the cooperative needs of the region in which
417 the school district is located, as provided in Section 37-7-345.
418 This paragraph shall repeal on July 1, 2007;

419 (rr) To implement a financial literacy program for
420 students in Grades 10 and 11. The board may review the national
421 programs and obtain free literature from various nationally
422 recognized programs. After review of the different programs, the
423 board may certify a program that is most appropriate for the
424 school districts' needs. If a district implements a financial
425 literacy program, then any student in Grade 10 or 11 may
426 participate in the program. The financial literacy program shall
427 include, but is not limited to, instruction in the same areas of
428 personal business and finance as required under Section
429 37-1-3(2)(b). The school board may coordinate with volunteer
430 teachers from local community organizations, including, but not
431 limited to, the following: United States Department of
432 Agriculture Rural Development, United States Department of Housing
433 and Urban Development, Junior Achievement, bankers and other
434 nonprofit organizations. Nothing in this paragraph shall be
435 construed as to require school boards to implement a financial
436 literacy program;

437 (ss) To collaborate with the State Board of Education,
438 Community Action Agencies or the Department of Human Services to
439 develop and implement a voluntary program to provide services for
440 a full day prekindergarten program that addresses the cognitive,

441 social, and emotional needs of four-year-old and three-year-old
442 children. The school board may utilize nonstate source special
443 funds, grants, donations or gifts to fund the voluntary program;

444 (tt) With respect to any lawful, written obligation of
445 a school district, including but not limited to leases, bonds,
446 notes, or other agreement, to agree in writing with the obligee
447 that the State Tax Commission or any state agency, department or
448 commission created under state law shall:

449 (i) Withhold all or any part (as agreed by the
450 school board) of any monies which such local school board is
451 entitled to receive from time to time under any law and which is
452 in the possession of the State Tax Commission, or any state
453 agency, department or commission created under state law; and

454 (ii) Pay the same over to any financial
455 institution, trustee or other obligee, as directed in writing by
456 the school board, to satisfy all or part of such obligation of the
457 school district.

458 The school board may make such written agreement to withhold
459 and transfer funds irrevocable for the term of the written
460 obligation and may include in the written agreement any other
461 terms and provisions acceptable to the school board. If the
462 school board files a copy of such written agreement with the
463 State Tax Commission, or any state agency, department or
464 commission created under state law then the State Tax Commission
465 or any state agency, department or commission created under state
466 law shall immediately make the withholdings provided in such
467 agreement from the amounts due the local school board and shall
468 continue to pay the same over to such financial institution,
469 trustee or obligee for the term of the agreement;

470 (uu) With respect to any matter or transaction that is
471 competitively bid by a school district, to accept from any bidder
472 as a good faith deposit or bid bond or bid surety, the same type
473 of good faith deposit or bid bond or bid surety that may be

474 accepted by the State or any other political subdivision on
475 similar competitively bid matters or transactions;

476 (vv) To exchange real property (other than sixteenth
477 section land) for shares of a domestic corporation or a membership
478 interest in a limited liability company or a limited partnership
479 interest, any of which is organized for the operation of any
480 project, development or activity that, in the discretion of the
481 school board, will have the potential for fostering economic
482 development activities, increasing property values, increasing
483 student development or enhancing public safety. A school district
484 may pledge any revenues it is to receive from any shares of a
485 corporation or membership interest in a limited liability company
486 or limited partnership interest under this subsection or under
487 Sections 37-7-471 through 37-7-483 to secure the repayment of any
488 notes, leases, bonds or other written obligations of the district
489 issued under any provision of State law. It is the intention of
490 the Legislature that any such pledge of revenues or other monies
491 shall be valid and binding from the date the pledge is made; that
492 such revenues or other monies so pledged and thereafter received
493 by the school district shall immediately be subject to the lien of
494 such pledge without any physical delivery thereof or further act,
495 and that the lien of any such pledge shall be valid and binding as
496 against all parties having claims of any kind in tort, contract or
497 otherwise against the school district irrespective of whether such
498 parties have notice thereof; and neither the resolutions,
499 contracts or any other instrument by which a pledge is created
500 need be recorded. Furthermore, any debt secured in whole or in
501 part by a pledge of such revenues or other monies shall not be
502 subject to or included in any debt limitation imposed on the
503 issuance of such debt;

504 (ww) To mandate that the school board use sound
505 business practices when executing exchanges as provided in
506 paragraph (tt), (uu) or (vv) of this section. The Mississippi

507 Development Authority or the local school board shall require that
508 any entity that executes exchanges with and any entity that is an
509 investor in any entity that executes exchanges with the school
510 board as provided in paragraph (tt), (uu) or (vv) of this section,
511 provide the following information, at a minimum:

512 (i) A two-year business plan (which shall include
513 proforma balance sheets, income statements and monthly cash flow
514 statements);

515 (ii) Financial statements and tax returns for the
516 three (3) years immediately prior to the date the contract is
517 formed;

518 (iii) Credit reports on all persons or entities
519 with a twenty percent (20%) or greater interest in the entity;

520 (iv) Data supporting the expertise of the entity's
521 principals;

522 (v) A cost benefit analysis of the project
523 performed by a state institution of higher learning or other
524 entity selected by the Mississippi Development Authority or the
525 local school board; and

526 (vi) Any other information required by the
527 Mississippi Development Authority or the local school board;

528 (xx) To make public record any final and signed
529 contract created under paragraph (tt), (uu) or (vv) of this
530 section;

531 (yy) No person involved in any economic development
532 project entered into by a school board under the provisions of
533 this section shall be related by consanguinity or affinity within
534 the third degree to any member of the school board or the
535 superintendent or any assistant superintendent of the school
536 district, nor shall any such person have an interest in any
537 business or have an economic relationship with any member of the
538 school board or the superintendent or any assistant superintendent
539 of the school district; and

540 (zz) Regarding paragraphs (tt), (uu), (vv) and (xx),
541 the school boards shall follow all applicable state bid laws for
542 the construction of any school-related building including, but not
543 limited to, classroom buildings, administrative buildings or
544 athletic buildings.

545 **SECTION 3.** Section 37-7-471, Mississippi Code of 1972, is
546 amended as follows:

547 37-7-471. Whenever the school board of any school district
548 shall find and determine, by resolution duly and lawfully adopted
549 and spread upon its minutes:

550 (a) That any school building, land, property or other
551 school facility is no longer needed for school or related purposes
552 and is not to be used in the operation of the schools of the
553 district, or that such school building, land, property or other
554 school facility may yield a higher long term economic value to the
555 district, in the discretion of the local school board;

556 (b) That the sale of the property in the manner
557 otherwise provided by law is not necessary or desirable for the
558 financial welfare of the school district; and

559 (c) That the use of the school building, land, property
560 or other school facility for the purpose for which it is to be
561 sold, conveyed or leased will promote and foster the development
562 and improvement of the community in which it is located and the
563 civic, social, educational, cultural, moral, economic or
564 industrial welfare thereof, the school board of such school
565 district shall be authorized and empowered, in its discretion, and
566 upon the terms and conditions set forth in Section 37-7-477, to
567 sell, convey, lease or otherwise dispose of same for any of the
568 purposes set forth herein. Such sale, conveyance, lease or other
569 disposition, including retention of partial ownership, shall be
570 made upon such terms and conditions and for such consideration,
571 nominal or otherwise, as the school board may, in its discretion,
572 deem proper in consideration of the benefits which will inure to

573 the school district or the community in which the school building,
574 property or other facility is located by the use thereof for the
575 purpose for which it is to be sold, conveyed, leased or otherwise
576 disposed of. The authority conferred by Sections 37-7-471 through
577 37-7-483 may be exercised by a school board in the sale,
578 conveyance or lease of relocatable classrooms to the school board
579 of another school district. Said sections without reference to
580 another statute shall be deemed full and complete power for the
581 exercise of the authority conferred hereby.

582 **SECTION 4.** Section 37-7-473, Mississippi Code of 1972, is
583 amended as follows:

584 37-7-473. School buildings, land, property and related
585 facilities may be sold, conveyed, leased or otherwise disposed of
586 under Sections 37-7-471 through 37-7-483, to any group of persons,
587 to any association, club or corporation, or to any county,
588 municipality or other political subdivision, to be used as a
589 civic, community, recreational or youth center, or to be used by
590 any county or district fair association in connection with its
591 activities, or to be used for church purposes, or to be used as a
592 library or other public building, or to be used as a factory or
593 otherwise in connection with an industrial enterprise, or to be
594 used as part of a development activity to stimulate economic
595 development activities within the district, or to enhance property
596 values within the district, or to be used for any similar or
597 related purpose or activity.

598 **SECTION 5.** Section 37-7-475, Mississippi Code of 1972, is
599 amended as follows:

600 37-7-475. Upon being authorized by a resolution of the
601 school board as is provided by Section 37-7-471, the president and
602 secretary shall be authorized and empowered to execute, for and on
603 behalf of the school district, a conveyance or lease of the
604 property for the purposes, upon the terms and conditions, and for
605 the consideration provided and specified by the school board,

606 including retention of partial ownership in the property, in the
607 discretion of the school board. It shall not be necessary or
608 requisite that competitive bids be advertised for or received in
609 connection with such sale, conveyance, leasing or other
610 disposition of property.

611 **SECTION 6.** Section 37-7-477, Mississippi Code of 1972, is
612 amended as follows:

613 37-7-477. Unless a school board retains partial ownership in
614 the school property being conveyed, any instrument conveying or
615 leasing any school property under the provisions of Sections
616 37-7-471 through 37-7-483, shall provide that the title to such
617 property shall automatically revert to the school district, if
618 such property shall cease to be used for the purpose for which it
619 is conveyed or leased. Said instrument shall also contain the
620 condition that the grantee or lessee shall keep and maintain said
621 property in a good state of repair and shall keep said property
622 insured in a reasonable amount against loss by fire, windstorm and
623 other hazards. Upon breach of any of said conditions, the school
624 board shall have the right of reentry upon said property as for
625 condition broken and shall have the power and authority to bring
626 and maintain such actions as shall be necessary and appropriate
627 for such purpose in its own name. However, the provisions of this
628 section shall not be mandatory in the event that the school board
629 retains partial ownership in the school property being conveyed.

630 **SECTION 7.** Section 37-7-479, Mississippi Code of 1972, is
631 amended as follows:

632 37-7-479. Any group of persons, any association, club or
633 corporation, or any county, municipality or other political
634 subdivision having acquired school buildings, land, property or
635 related facilities under the provisions of Sections 37-7-471
636 through 37-7-483, may, by resolution duly adopted at a regular or
637 special meeting called and convened for such purpose, determine
638 that such school buildings, land, property or related facilities,

639 or any portion thereof, are no longer needed or used for the
640 purpose for which such was acquired, and may by such resolution
641 provide for the sale of such school buildings, land, property or
642 related facilities, or any portion thereof. Said resolution shall
643 be forwarded to the school board of the school district involved,
644 and if the said board shall adopt a resolution determining that
645 such school buildings, land, property or related facilities, or
646 such portion thereof as is sought to be sold, is no longer needed
647 or used by the school district involved, then such school
648 buildings, land, property or related facilities, or any portion
649 thereof, may be sold in accordance with the procedure set forth in
650 Section 37-7-455.

651 The school board of such district shall by order entered on
652 its minutes, provide for the distribution of the proceeds received
653 from the sale of such property in such proportions as the said
654 school board may, in its discretion, determine reasonable as the
655 interests may appear between the district and the group of
656 persons, association, club, corporation, county, municipality or
657 other political subdivision having an interest in such property at
658 the time of such sale.

659 However, the provisions of this section shall not be
660 mandatory in the event that the school board retains partial
661 ownership in the school property being conveyed.

662 **SECTION 8.** Section 37-7-481, Mississippi Code of 1972, is
663 amended as follows:

664 37-7-481. The authority conferred by Sections 37-7-471
665 through 37-7-483, may be exercised by the existing school board of
666 any school district in which any such school building, land,
667 property or other school facility is located or situated. Such
668 school board may contract with any other school board, or any
669 other governmental entity, to assign and transfer its right and
670 duties under this chapter, under such terms and conditions as the
671 school board may determine, in its discretion, to further the

672 public interest. The sections, without reference to any other
673 statute, shall be deemed full, complete and exclusive power for
674 the exercise of the authority conferred hereby.

675 **SECTION 9.** Section 37-7-483, Mississippi Code of 1972, is
676 amended as follows:

677 37-7-483. The Legislature hereby declares that it is its
678 intention and purpose to authorize and permit each and every type
679 of disposition of property permitted in Sections 37-7-471 through
680 37-7-481 and by each and every type of transfer mentioned, and by
681 every combination possible thereunder.

682 Said sections shall be construed to be supplemental to
683 Sections 37-7-451 through 37-7-457 and Sections 37-7-501 through
684 37-7-511, and to all other statutes dealing with the subject
685 matter thereof, and shall be deemed to provide a supplemental,
686 additional and alternate method for the disposition of school
687 buildings, land, property and other school facilities which are no
688 longer to be used for school purposes and are not needed in the
689 operation of the schools of the district, based on an objective
690 cost/benefit analysis as to whether the proposal shall maximize
691 the interest of the taxpayers.

692 **SECTION 10.** (1) No person, or any agent, subsidiary or
693 parent corporation or firm owned in whole or in part by the
694 person, shall be eligible to bid or otherwise participate in the
695 construction, contracting, or subcontracting on any project or
696 part thereof for which the person has been hired to perform
697 construction program management services. Any contract for public
698 construction that violates this provision shall be void and
699 against the public policy of the state.

700 (2) For purposes of this section, the term "construction
701 program management services" means a set of management and
702 technical services rendered by a person or firm to a public sector
703 building owner during the predesign, design, construction, or
704 post-construction phases of new construction, demolition,

705 alteration, repair, or renovation projects. These services
706 include any one or more of the following: project planning,
707 budgeting, scheduling, coordination, design management,
708 construction administration, or facility occupancy actions, but
709 shall not include any component of the actual construction work.
710 The term does not include the services performed by the general
711 contractor who is engaged to perform the construction work, or
712 services customarily performed by licensed architects or
713 registered engineers.

714 SECTION 11. Before entering into any transaction as provided
715 in paragraph (tt), (uu) or (vv) of Section 2 of this act, the
716 school board members shall certify that they are in compliance
717 with Section 25-4-25, regarding filings of statements of economic
718 interest with the Mississippi Ethics Commission and that they will
719 receive no direct or indirect pecuniary benefit as a result of
720 the transaction or be in violation of the provisions of Section
721 25-4-105 regarding the improper use of official position.

722 SECTION 12. This act shall take effect and be in force from
723 and after its passage.