

By: Representative Watson

To: Education

HOUSE BILL NO. 1302
 (As Sent to Governor)

1 AN ACT TO CODIFY SECTION 37-7-485, MISSISSIPPI CODE OF 1972,
 2 TO BE KNOWN AS THE "SCHOOL PROPERTY DEVELOPMENT ACT OF 2005"; TO
 3 AUTHORIZE SCHOOL BOARDS TO SELL, CONVEY OR EXCHANGE, IN WHOLE OR
 4 IN PART, A NONOPERATIONAL PROPERTY INTEREST IN PROPOSED
 5 DEVELOPMENT PROJECTS; TO AUTHORIZE A SCHOOL BOARD TO PLEDGE
 6 REVENUES RECEIVED UNDER SECTIONS 37-7-471 THROUGH 37-7-483,
 7 MISSISSIPPI CODE OF 1972, FOR THE REPAYMENT OF NOTES AND OTHER
 8 OBLIGATIONS; TO PROHIBIT ANY PERSON FROM BEING INVOLVED IN ANY
 9 ECONOMIC DEVELOPMENT PROJECT ENTERED INTO BY A SCHOOL BOARD WHERE
 10 RELATED BY CONSANGUINITY WITHIN THE THIRD DEGREE TO ANY MEMBER OF
 11 THE SCHOOL BOARD OR THE SUPERINTENDENT OR ASSISTANT
 12 SUPERINTENDENT; TO MANDATE THAT SCHOOL BOARDS USE SOUND BUSINESS
 13 PRACTICES WHEN EXECUTING SUCH AGREEMENTS; TO AUTHORIZE THE
 14 MISSISSIPPI DEVELOPMENT AUTHORITY OR THE LOCAL SCHOOL BOARD TO
 15 REQUIRE ADDITIONAL INFORMATION FROM INVESTORS IN ANY PROPOSED
 16 DEVELOPMENT; TO AUTHORIZE SCHOOL BOARDS TO AUTHORIZE THE
 17 INVESTMENT OF SCHOOL DISTRICT FUNDS IN THE SAME KIND DISTRICT
 18 FUNDS IN THE SAME KIND AND MANNER OF INVESTMENTS AS ANY OTHER
 19 POLITICAL SUBDIVISION; TO AUTHORIZE THE SCHOOL BOARD TO RETAIN A
 20 SECURITY INTEREST IN ANY SUCH PROPERTY CONVEYED FOR DEVELOPMENT
 21 PURPOSES; TO LIMIT LIABILITY OF THE SCHOOL DISTRICT TO THE VALUE
 22 OF THE PROPERTY INTEREST RETAINED BY THE SCHOOL BOARD; TO REQUIRE
 23 SCHOOL BOARD MEMBERS TO CERTIFY THAT THEY ARE IN COMPLIANCE WITH
 24 SECTION 25-4-27 REGARDING FILING OF STATEMENTS OF ECONOMIC
 25 INTEREST WITH THE MISSISSIPPI ETHICS COMMISSION; TO AMEND SECTION
 26 37-7-301, MISSISSIPPI CODE OF 1972, TO PROVIDE AN ADDITIONAL
 27 METHOD OF DISPOSING OF SURPLUS SCHOOL PROPERTY WHICH MAY PROMOTE
 28 ECONOMIC DEVELOPMENT WITHIN THE SCHOOL DISTRICT; TO ALLOW SCHOOL
 29 BOARDS TO CONTRACT WITH FINANCIAL INSTITUTIONS TO ALLOW THE
 30 WITHHOLDING OF FUNDS BY STATE AGENCIES WITH RESPECT TO THE
 31 ISSUANCE OF BONDS, NOTES OR OTHER OBLIGATIONS, TO ALLOW THE
 32 WITHHOLDING OF FUNDS BY STATE AGENCIES IN THE EVENT OF DEFAULT BY
 33 A LOCAL SCHOOL BOARD; TO AUTHORIZE A SCHOOL BOARD TO ACCEPT THE
 34 SAME TYPE GOOD FAITH DEPOSIT OR BID BOND OR BID SURETY THAT MAY BE
 35 ACCEPTED BY THE STATE OR OTHER POLITICAL SUBDIVISIONS; TO AMEND
 36 SECTION 37-7-471, MISSISSIPPI CODE OF 1972, TO ALLOW A SCHOOL
 37 DISTRICT TO RETAIN AN UNDIVIDED INTEREST IN PROPERTY DISPOSED BY
 38 THE SCHOOL BOARD IF IT MAY YIELD A HIGHER LONG-TERM ECONOMIC
 39 BENEFIT; TO AMEND SECTION 37-7-473, MISSISSIPPI CODE OF 1972, TO
 40 ALLOW SCHOOL PROPERTY TO BE USED AS PART OF DEVELOPMENT
 41 ACTIVITIES; TO AMEND SECTION 37-7-475, MISSISSIPPI CODE OF 1972,
 42 TO ALLOW CONVEYANCES TO INCLUDE A RETENTION OF A PARTIAL INTEREST
 43 BY THE SCHOOL BOARD; TO AMEND SECTION 37-7-477, MISSISSIPPI CODE
 44 OF 1972, TO MAKE REVERSION OF INTERESTS DISCRETIONARY IF THE
 45 SCHOOL BOARD RETAINS A PARTIAL INTEREST IN THE PROPERTY; TO AMEND
 46 SECTION 37-7-479, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A
 47 REVERTER IS DISCRETIONARY IF THE SCHOOL BOARD RETAINS A PARTIAL
 48 INTEREST IN THE PROPERTY; TO AMEND SECTION 37-7-481, MISSISSIPPI
 49 CODE OF 1972, TO ALLOW SCHOOL BOARDS TO CONTRACT WITH OTHER
 50 GOVERNMENTAL ENTITIES; TO AMEND SECTION 37-7-483, MISSISSIPPI CODE
 51 OF 1972, TO CLARIFY LEGISLATIVE INTENT WITH RESPECT TO DEVELOPMENT
 52 OF SCHOOL PROPERTY; TO PROVIDE THAT NO PERSON, AGENT, SUBSIDIARY

53 OR PARENT CORPORATION OR FIRM OWNED IN WHOLE OR IN PART BY THE
54 PERSON, SHALL BE ELIGIBLE TO BID IN THE CONSTRUCTION ON ANY
55 PROJECT FOR WHICH THE PERSON HAS BEEN HIRED TO PERFORM
56 CONSTRUCTION PROGRAM MANAGEMENT SERVICES; TO AMEND SECTION
57 27-65-105, MISSISSIPPI CODE OF 1972, TO EXEMPT SALES TO REGIONAL
58 EDUCATIONAL SERVICE AGENCIES FROM SALES TAXATION; AND FOR RELATED
59 PURPOSES.

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

61 **SECTION 1.** The following provision shall be codified as
62 Section 37-7-485, Mississippi Code of 1972:

63 37-7-485. (1) This section shall be referred to as the
64 "School Property Development Act of 2005." It is the intent of
65 the Legislature that this section shall provide school boards with
66 an alternative optional method of disposal of surplus school
67 property that may generate greater returns to the district than a
68 public disposal sale, or to promote or stimulate economic
69 development within the school district or to promote, stabilize or
70 enhance property and tax values within the school district.

71 (2) The school board of any school district shall be
72 authorized and empowered, in its discretion, to sell, convey or
73 exchange a partial interest, undivided interest or any other
74 interest in real property (other than sixteenth section public
75 school trust land), in whole or in part, for a nonoperational
76 interest in any proposed development of the property, including
77 ownership of shares of a domestic corporation or a membership
78 interest in a limited liability company or a limited partnership
79 interest, any of which is organized for the operation of any
80 project, development or activity that, in the discretion of the
81 school board, will have the potential for fostering economic
82 development activities, increasing property values, increasing
83 student development or enhancing public safety. A school district
84 may pledge any revenues it is to receive from such sale,
85 conveyance or exchange, including any shares of a corporation or
86 membership interest in a limited liability company or limited
87 partnership interest under this subsection or under Sections
88 37-7-471 through 37-7-483, to secure the repayment of any notes,

89 leases (excluding leases of sixteenth section public school trust
90 land), bonds or other written obligations of the district issued
91 under any provision of state law. Any such pledge of revenues or
92 other monies shall be valid and binding from the date the pledge
93 is made; such revenues or other monies so pledged and thereafter
94 received by the school district shall immediately be subject to
95 the lien of such pledge without any physical delivery thereof or
96 further act, and the lien of any such pledge shall be valid and
97 binding as against all parties having claims of any kind in tort,
98 contract or otherwise against the school district irrespective of
99 whether such parties have notice thereof. Neither the
100 resolutions, contracts or any other instrument by which a pledge
101 is created need be recorded. Any debt secured in whole or in part
102 by a pledge of such revenues or other monies shall not be subject
103 to or included in any debt limitation imposed on the issuance of
104 such debt. This subsection (2) shall not be construed to apply to
105 sixteenth section public school trust land.

106 (3) The school board shall use sound business practices when
107 executing exchanges as provided in this section. The school board
108 may utilize the services of the Mississippi Development Authority,
109 the local planning and development district or the Board of
110 Trustees of State Institutions of Higher Learning when executing
111 exchanges as provided in this section. The local school board
112 shall require, in any project exceeding Two Hundred Thousand
113 Dollars (\$200,000.00) that the party with whom the school board is
114 contracting shall provide the following information, at a minimum:

115 (a) A two-year business plan (which shall include pro
116 forma balance sheets, income statements and monthly cash flow
117 statements);

118 (b) Financial statements and tax returns for the three
119 (3) years immediately prior to the date the contract is formed;

120 (c) Credit reports on all persons or entities with a
121 twenty percent (20%) or greater interest in the entity;

122 (d) Data supporting the expertise of the entity's
123 principals;

124 (e) A cost benefit analysis of the project performed by
125 the Mississippi Development Authority, a state institution of
126 higher learning or other entity selected by the local school
127 board; and

128 (f) Any other information required by the local school
129 board.

130 This subsection (3) shall not be construed to apply to
131 sixteenth section public school trust land.

132 (4) The local school board shall make public record any
133 final and signed contract created under this section.

134 (5) No person involved in any economic development project
135 entered into by a school board under the provisions of this
136 section shall be related by consanguinity or affinity within the
137 third degree to any member of the school board or the
138 superintendent or any assistant superintendent of the school
139 district, nor shall any such person have an interest in any
140 business or have an economic relationship with any member of the
141 school board or the superintendent or any assistant superintendent
142 of the school district.

143 (6) No person, or any agent, subsidiary or parent
144 corporation or firm owned in whole or in part by the person shall
145 be eligible to bid or otherwise participate in the construction,
146 contracting, or subcontracting on any project or part thereof for
147 which the person has been hired to perform construction program
148 management services. Any contract for public construction that
149 violates this provision shall be void and against the public
150 policy of the state. For purposes of this subsection, the term
151 "construction program management services" means a set of
152 management and technical services rendered by a person or firm to
153 a public sector building owner during the predesign, design,
154 construction, or post-construction phases of new construction,

155 demolition, alteration, repair, or renovation projects. These
156 services include any one or more of the following: project
157 planning, budgeting, scheduling, coordination, design management,
158 construction administration, or facility occupancy actions, but
159 shall not include any component of the actual construction work.
160 The term does not include the services performed by the general
161 contractor who is engaged to perform the construction work, or
162 services customarily performed by licensed architects or
163 registered engineers.

164 (7) This section shall be supplemental and additional to any
165 powers conferred by other laws on school districts. However, this
166 act shall not grant any authority to a school board to issue debt
167 in any amount that is not otherwise expressly provided for by law,
168 and shall not grant any authority to impose, levy or collect any
169 tax that is not otherwise expressly provided for by law.

170 (8) If a school board exercises its option to enter into a
171 development agreement or other contract under this act or to
172 transfer any property or interest therein to a third party for
173 purposes of future development, the following conditions shall
174 apply:

175 (a) The board shall have the express authority to
176 retain a deed of trust or such other security interest in the
177 property in an amount equal at least to the value of the property
178 at the time of such transfer, less any consideration paid by the
179 developer or other parties;

180 (b) The liability of the school board and the school
181 district under any such development agreement shall be limited to
182 the value of any retained property interest in the development
183 agreement or the property that is the subject of the development
184 agreement. Neither the school board nor the district shall be
185 liable to any party nor shall it indemnify or hold harmless any
186 party for any liabilities, obligations, losses, damages,
187 penalties, settlements, claims, actions, suits, proceedings or

188 judgments of any kind and nature, costs, expenses, or attorney's
189 fees incurred by such party or parties for any act or action
190 arising out of, or in connection with any development agreement
191 entered into by the school board, other than the value of the
192 retained ownership interest in the property that was conveyed
193 under such development agreement.

194 (9) Before entering into any transaction as provided in this
195 section, the school board members shall certify that they are in
196 compliance with Section 25-4-25 regarding filings of statements of
197 economic interest with the Mississippi Ethics Commission and that
198 they will receive no direct or indirect pecuniary benefit as a
199 result of the transaction or be in violation of the provisions of
200 Section 25-4-105 regarding the improper use of official position.

201 (10) Any agreement under this section shall be executed on
202 or before July 1, 2009.

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

205 37-7-301. The school boards of all school districts shall
206 have the following powers, authority and duties in addition to all
207 others imposed or granted by law, to wit:

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

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

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

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

221 (e) To suspend or to expel a pupil or to change the
222 placement of a pupil to the school district's alternative school
223 or home-bound program for misconduct in the school or on school
224 property, as defined in Section 37-11-29, on the road to and from
225 school, or at any school-related activity or event, or for conduct
226 occurring on property other than school property or other than at
227 a school-related activity or event when such conduct by a pupil,
228 in the determination of the school superintendent or principal,
229 renders that pupil's presence in the classroom a disruption to the
230 educational environment of the school or a detriment to the best
231 interest and welfare of the pupils and teacher of such class as a
232 whole, and to delegate such authority to the appropriate officials
233 of the school district;

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

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

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

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

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

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

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

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

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

264 (o) To make orders directed to the superintendent of
265 schools for the issuance of pay certificates for lawful purposes
266 on any available funds of the district and to have full control of
267 the receipt, distribution, allotment and disbursement of all funds
268 provided for the support and operation of the schools of such
269 school district whether such funds be derived from state
270 appropriations, local ad valorem tax collections, or otherwise;

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

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

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

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

287 school activity, such activity being part of the school program
288 and partially financed with public funds or supplemented by public
289 funds. The term "activity funds" shall not include any funds
290 raised and/or expended by any organization unless commingled in a
291 bank account with existing activity funds, regardless of whether
292 the funds were raised by school employees or received by school
293 employees during school hours or using school facilities, and
294 regardless of whether a school employee exercises influence over
295 the expenditure or disposition of such funds. Organizations shall
296 not be required to make any payment to any school for the use of
297 any school facility if, in the discretion of the local school
298 governing board, the organization's function shall be deemed to be
299 beneficial to the official or extracurricular programs of the
300 school. For the purposes of this provision, the term
301 "organization" shall not include any organization subject to the
302 control of the local school governing board. Activity funds may
303 only be expended for any necessary expenses or travel costs,
304 including advances, incurred by students and their chaperons in
305 attending any in-state or out-of-state school-related programs,
306 conventions or seminars and/or any commodities, equipment, travel
307 expenses, purchased services or school supplies which the local
308 school governing board, in its discretion, shall deem beneficial
309 to the official or extracurricular programs of the district,
310 including items which may subsequently become the personal
311 property of individuals, including yearbooks, athletic apparel,
312 book covers and trophies. Activity funds may be used to pay
313 travel expenses of school district personnel. The local school
314 governing board shall be authorized and empowered to promulgate
315 rules and regulations specifically designating for what purposes
316 school activity funds may be expended. The local school governing
317 board shall provide (i) that such school activity funds shall be
318 maintained and expended by the principal of the school generating
319 the funds in individual bank accounts, or (ii) that such school

320 activity funds shall be maintained and expended by the
321 superintendent of schools in a central depository approved by the
322 board. The local school governing board shall provide that such
323 school activity funds be audited as part of the annual audit
324 required in Section 37-9-18. The State Auditor shall prescribe a
325 uniform system of accounting and financial reporting for all
326 school activity fund transactions;

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

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

333 (v) (i) To lease a school building from an individual,
334 partnership, nonprofit corporation or a private for-profit
335 corporation for the use of such school district, and to expend
336 funds therefor as may be available from any nonminimum program
337 sources. The school board of the school district desiring to
338 lease a school building shall declare by resolution that a need
339 exists for a school building and that the school district cannot
340 provide the necessary funds to pay the cost or its proportionate
341 share of the cost of a school building required to meet the
342 present needs. The resolution so adopted by the school board
343 shall be published once each week for three (3) consecutive weeks
344 in a newspaper having a general circulation in the school district
345 involved, with the first publication thereof to be made not less
346 than thirty (30) days prior to the date upon which the school
347 board is to act on the question of leasing a school building. If
348 no petition requesting an election is filed prior to such meeting
349 as hereinafter provided, then the school board may, by resolution
350 spread upon its minutes, proceed to lease a school building. If
351 at any time prior to said meeting a petition signed by not less
352 than twenty percent (20%) or fifteen hundred (1500), whichever is

353 less, of the qualified electors of the school district involved
354 shall be filed with the school board requesting that an election
355 be called on the question, then the school board shall, not later
356 than the next regular meeting, adopt a resolution calling an
357 election to be held within such school district upon the question
358 of authorizing the school board to lease a school building. Such
359 election shall be called and held, and notice thereof shall be
360 given, in the same manner for elections upon the questions of the
361 issuance of the bonds of school districts, and the results thereof
362 shall be certified to the school board. If at least three-fifths
363 (3/5) of the qualified electors of the school district who voted
364 in such election shall vote in favor of the leasing of a school
365 building, then the school board shall proceed to lease a school
366 building. The term of the lease contract shall not exceed twenty
367 (20) years, and the total cost of such lease shall be either the
368 amount of the lowest and best bid accepted by the school board
369 after advertisement for bids or an amount not to exceed the
370 current fair market value of the lease as determined by the
371 averaging of at least two (2) appraisals by certified general
372 appraisers licensed by the State of Mississippi. The term "school
373 building" as used in this item (v) shall be construed to mean any
374 building or buildings used for classroom purposes in connection
375 with the operation of schools and shall include the site therefor,
376 necessary support facilities, and the equipment thereof and
377 appurtenances thereto such as heating facilities, water supply,
378 sewage disposal, landscaping, walks, drives and playgrounds. The
379 term "lease" as used in this item (v)(i) may include a
380 lease/purchase contract;

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

386 district under the procedure hereinabove set forth in item (v)(i).
387 All of the provisions of item (v)(i) regarding the term and amount
388 of the lease contract shall apply to the school boards of school
389 districts acting jointly. Any lease contract executed by two (2)
390 or more school districts as joint lessees shall set out the amount
391 of the aggregate lease rental to be paid by each, which may be
392 agreed upon, but there shall be no right of occupancy by any
393 lessee unless the aggregate rental is paid as stipulated in the
394 lease contract. All rights of joint lessees under the lease
395 contract shall be in proportion to the amount of lease rental paid
396 by each;

397 (w) To employ all noninstructional and noncertificated
398 employees and fix the duties and compensation of such personnel
399 deemed necessary pursuant to the recommendation of the
400 superintendent of schools;

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

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

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

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

419 If the board shall be unable to agree with the owner of any such
420 real property in connection with any such project, the board shall
421 have the power and authority to acquire any such real property by
422 condemnation proceedings pursuant to Section 11-27-1 et seq.,
423 Mississippi Code of 1972, and for such purpose, the right of
424 eminent domain is hereby conferred upon and vested in said board.
425 Provided further, that the local school board is authorized to
426 grant an easement for ingress and egress over sixteenth section
427 land or lieu land in exchange for a similar easement upon
428 adjoining land where the exchange of easements affords substantial
429 benefit to the sixteenth section land; provided, however, the
430 exchange must be based upon values as determined by a competent
431 appraiser, with any differential in value to be adjusted by cash
432 payment. Any easement rights granted over sixteenth section land
433 under such authority shall terminate when the easement ceases to
434 be used for its stated purpose. No sixteenth section or lieu land
435 which is subject to an existing lease shall be burdened by any
436 such easement except by consent of the lessee or unless the school
437 district shall acquire the unexpired leasehold interest affected
438 by the easement;

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

442 (cc) Subject to rules and regulations of the State
443 Board of Education, to purchase relocatable classrooms for the use
444 of such school district, in the manner prescribed in Section
445 37-1-13;

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

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

459 (ff) As part of their duties to prescribe the use of
460 textbooks, to provide that parents and legal guardians shall be
461 responsible for the textbooks and for the compensation to the
462 school district for any books which are not returned to the proper
463 schools upon the withdrawal of their dependent child. If a
464 textbook is lost or not returned by any student who drops out of
465 the public school district, the parent or legal guardian shall
466 also compensate the school district for the fair market value of
467 the textbooks;

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

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

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

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

484 nonacademic credit during school hours and using school equipment
485 and facilities, subject to uniform rules and regulations adopted
486 by the school board;

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

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

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

496 (ll) To expend funds for the services of nonprofit arts
497 organizations or other such nonprofit organizations who provide
498 performances or other services for the students of the school
499 district;

500 (mm) To expend federal No Child Left Behind Act funds,
501 or any other available funds that are expressly designated and
502 authorized for that use, to pay training, educational expenses,
503 salary incentives and salary supplements to employees of local
504 school districts; except that incentives shall not be considered
505 part of the local supplement as defined in Section 37-151-5(o),
506 nor shall incentives be considered part of the local supplement
507 paid to an individual teacher for the purposes of Section
508 37-19-7(1). Mississippi Adequate Education Program funds or any
509 other state funds may not be used for salary incentives or salary
510 supplements as provided in this paragraph (mm);

511 (nn) To use any available funds, not appropriated or
512 designated for any other purpose, for reimbursement to the
513 state-licensed employees from both in-state and out-of-state, who
514 enter into a contract for employment in a school district, for the
515 expense of moving when the employment necessitates the relocation
516 of the licensed employee to a different geographical area than

517 that in which the licensed employee resides before entering into
518 the contract. The reimbursement shall not exceed One Thousand
519 Dollars (\$1,000.00) for the documented actual expenses incurred in
520 the course of relocating, including the expense of any
521 professional moving company or persons employed to assist with the
522 move, rented moving vehicles or equipment, mileage in the amount
523 authorized for county and municipal employees under Section
524 25-3-41 if the licensed employee used his personal vehicle or
525 vehicles for the move, meals and such other expenses associated
526 with the relocation. No licensed employee may be reimbursed for
527 moving expenses under this section on more than one (1) occasion
528 by the same school district. Nothing in this section shall be
529 construed to require the actual residence to which the licensed
530 employee relocates to be within the boundaries of the school
531 district that has executed a contract for employment in order for
532 the licensed employee to be eligible for reimbursement for the
533 moving expenses. However, the licensed employee must relocate
534 within the boundaries of the State of Mississippi. Any individual
535 receiving relocation assistance through the Critical Teacher
536 Shortage Act as provided in Section 37-159-5 shall not be eligible
537 to receive additional relocation funds as authorized in this
538 paragraph;

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

545 (pp) Consistent with the report of the Task Force to
546 Conduct a Best Financial Management Practices Review, to improve
547 school district management and use of resources and identify cost
548 savings as established in Section 8 of Chapter 610, Laws of 2002,
549 local school boards are encouraged to conduct independent reviews

550 of the management and efficiency of schools and school districts.
551 Such management and efficiency reviews shall provide state and
552 local officials and the public with the following:

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

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

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

558 (iv) An assessment of facilities utilization,
559 planning and maintenance;

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

562 (vi) An assessment of instructional and
563 administrative technology;

564 (vii) A review of the instructional management and
565 the efficiency and effectiveness of existing instructional
566 programs; and

567 (viii) Recommended methods for increasing
568 efficiency and effectiveness in providing educational services to
569 the public;

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

575 (rr) To implement a financial literacy program for
576 students in Grades 10 and 11. The board may review the national
577 programs and obtain free literature from various nationally
578 recognized programs. After review of the different programs, the
579 board may certify a program that is most appropriate for the
580 school districts' needs. If a district implements a financial
581 literacy program, then any student in Grade 10 or 11 may
582 participate in the program. The financial literacy program shall

583 include, but is not limited to, instruction in the same areas of
584 personal business and finance as required under Section
585 37-1-3(2)(b). The school board may coordinate with volunteer
586 teachers from local community organizations, including, but not
587 limited to, the following: United States Department of
588 Agriculture Rural Development, United States Department of Housing
589 and Urban Development, Junior Achievement, bankers and other
590 nonprofit organizations. Nothing in this paragraph shall be
591 construed as to require school boards to implement a financial
592 literacy program;

593 (ss) To collaborate with the State Board of Education,
594 Community Action Agencies or the Department of Human Services to
595 develop and implement a voluntary program to provide services for
596 a full day prekindergarten program that addresses the cognitive,
597 social, and emotional needs of four-year-old and three-year-old
598 children. The school board may utilize nonstate source special
599 funds, grants, donations or gifts to fund the voluntary program;

600 (tt) With respect to any lawful, written obligation of
601 a school district, including, but not limited to, leases
602 (excluding leases of sixteenth section public school trust land),
603 bonds, notes, or other agreement, to agree in writing with the
604 obligee that the State Tax Commission or any state agency,
605 department or commission created under state law may:

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

611 (ii) Pay the same over to any financial
612 institution, trustee or other obligee, as directed in writing by
613 the school board, to satisfy all or part of such obligation of the
614 school district.

615 The school board may make such written agreement to withhold
616 and transfer funds irrevocable for the term of the written
617 obligation and may include in the written agreement any other
618 terms and provisions acceptable to the school board. If the
619 school board files a copy of such written agreement with the State
620 Tax Commission, or any state agency, department or commission
621 created under state law then the State Tax Commission or any state
622 agency, department or commission created under state law shall
623 immediately make the withholdings provided in such agreement from
624 the amounts due the local school board and shall continue to pay
625 the same over to such financial institution, trustee or obligee
626 for the term of the agreement.

627 This paragraph (tt) shall not grant any extra authority to a
628 school board to issue debt in any amount exceeding statutory
629 limitations on assessed value of taxable property within such
630 school district or the statutory limitations on debt maturities,
631 and shall not grant any extra authority to impose, levy or collect
632 a tax which is not otherwise expressly provided for, and shall not
633 be construed to apply to sixteenth section public school trust
634 land.

635 (uu) With respect to any matter or transaction that is
636 competitively bid by a school district, to accept from any bidder
637 as a good faith deposit or bid bond or bid surety, the same type
638 of good faith deposit or bid bond or bid surety that may be
639 accepted by the state or any other political subdivision on
640 similar competitively bid matters or transactions. This
641 subsection (uu) shall not be construed to apply to sixteenth
642 section public school trust land. The school board may authorize
643 the investment of any school district funds in the same kind and
644 manner of investments, including pooled investments, as any other
645 political subdivision, including community hospitals; and

646 (vv) To utilize the alternate method for the conveyance
647 or exchange of unused school buildings and/or land, reserving a

648 partial or other undivided interest in the property, as
649 specifically authorized and provided in Section 37-7-485,
650 Mississippi Code of 1972.

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

653 37-7-471. Whenever the school board of any school district
654 shall find and determine, by resolution duly and lawfully adopted
655 and spread upon its minutes:

656 (a) That any school building, land, property or other
657 school facility is no longer needed for school or related purposes
658 and is not to be used in the operation of the schools of the
659 district, or that such school building, land, property or other
660 school facility may yield a higher long-term economic value to the
661 district, in the discretion of the local school board;

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

665 (c) That the use of the school building, land, property
666 or other school facility for the purpose for which it is to be
667 sold, conveyed or leased will promote and foster the development
668 and improvement of the community in which it is located and the
669 civic, social, educational, cultural, moral, economic or
670 industrial welfare thereof, the school board of such school
671 district shall be authorized and empowered, in its discretion, and
672 upon the terms and conditions set forth in Section 37-7-477, to
673 sell, convey, lease or otherwise dispose of same for any of the
674 purposes set forth herein. Such sale, conveyance, lease or other
675 disposition, including retention of partial interest, or undivided
676 interest or other ownership interest, shall be made upon such
677 terms and conditions and for such consideration, nominal or
678 otherwise, as the school board may, in its discretion, deem proper
679 in consideration of the benefits which will inure to the school
680 district or the community in which the school building, property

681 or other facility is located by the use thereof for the purpose
682 for which it is to be sold, conveyed, leased or otherwise disposed
683 of. The authority conferred by Sections 37-7-471 through 37-7-483
684 may be exercised by a school board in the sale, conveyance or
685 lease of relocatable classrooms to the school board of another
686 school district. Said sections without reference to another
687 statute shall be deemed full and complete power for the exercise
688 of the authority conferred hereby.

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

691 37-7-473. School buildings, land, property and related
692 facilities may be sold, conveyed, leased or otherwise disposed of
693 under Sections 37-7-471 through 37-7-483, to any group of persons,
694 to any association, club or corporation, or to any county,
695 municipality or other political subdivision, to be used as a
696 civic, community, recreational or youth center, or to be used by
697 any county or district fair association in connection with its
698 activities, or to be used for church purposes, or to be used as a
699 library or other public building, or to be used as a factory or
700 otherwise in connection with an industrial enterprise, or to be
701 used as part of a development activity to stimulate economic
702 development activities within the district, or to enhance property
703 values within the district, or to be used for any similar or
704 related purpose or activity.

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

707 37-7-475. Upon being authorized by a resolution of the
708 school board as is provided by Section 37-7-471, the president and
709 secretary shall be authorized and empowered to execute, for and on
710 behalf of the school district, a conveyance or lease of the
711 property for the purposes, upon the terms and conditions, and for
712 the consideration provided and specified by the school board,
713 including retention of a partial interest, or undivided interest

714 or other ownership interest in the property, in the discretion of
715 the school board. It shall not be necessary or requisite that
716 competitive bids be advertised for or received in connection with
717 such sale, conveyance, leasing or other disposition of property.

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

720 37-7-477. Unless a school board retains a partial interest,
721 or undivided interest or other ownership interest in the school
722 property being conveyed, any instrument conveying or leasing any
723 school property under the provisions of Sections 37-7-471 through
724 37-7-483, shall provide that the title to such property shall
725 automatically revert to the school district, if such property
726 shall cease to be used for the purpose for which it is conveyed or
727 leased. Said instrument shall also contain the condition that the
728 grantee or lessee shall keep and maintain said property in a good
729 state of repair and shall keep said property insured in a
730 reasonable amount against loss by fire, windstorm and other
731 hazards. Upon breach of any of said conditions, the school board
732 shall have the right of reentry upon said property as for
733 condition broken and shall have the power and authority to bring
734 and maintain such actions as shall be necessary and appropriate
735 for such purpose in its own name. However, the provisions of this
736 section shall not be mandatory in the event that the school board
737 retains a partial interest, or undivided interest or other
738 ownership interest in the school property being conveyed.

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

741 37-7-479. Any group of persons, any association, club or
742 corporation, or any county, municipality or other political
743 subdivision having acquired school buildings, land, property or
744 related facilities under the provisions of Sections 37-7-471
745 through 37-7-483, may, by resolution duly adopted at a regular or
746 special meeting called and convened for such purpose, determine

747 that such school buildings, land, property or related facilities,
748 or any portion thereof, are no longer needed or used for the
749 purpose for which such was acquired, and may by such resolution
750 provide for the sale of such school buildings, land, property or
751 related facilities, or any portion thereof. Said resolution shall
752 be forwarded to the school board of the school district involved,
753 and if the said board shall adopt a resolution determining that
754 such school buildings, land, property or related facilities, or
755 such portion thereof as is sought to be sold, is no longer needed
756 or used by the school district involved, then such school
757 buildings, land, property or related facilities, or any portion
758 thereof, may be sold in accordance with the procedure set forth in
759 Section 37-7-455.

760 The school board of such district shall by order entered on
761 its minutes, provide for the distribution of the proceeds received
762 from the sale of such property in such proportions as the said
763 school board may, in its discretion, determine reasonable as the
764 interests may appear between the district and the group of
765 persons, association, club, corporation, county, municipality or
766 other political subdivision having an interest in such property at
767 the time of such sale.

768 However, the provisions of this section shall not be
769 mandatory if the school board retains a partial interest, or
770 undivided interest or other ownership interest in the school
771 property being conveyed.

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

774 37-7-481. The authority conferred by Sections 37-7-471
775 through 37-7-483 may be exercised by the existing school board of
776 any school district in which any such school building, land,
777 property or other school facility is located or situated. Such
778 school board may contract with any other school board, or any
779 other governmental entity, to assign and transfer its rights and

780 duties under this chapter, under such terms and conditions as the
781 school board may determine, in its discretion, to further the
782 public interest. The sections, without reference to any other
783 statute, shall be deemed full, complete and exclusive power for
784 the exercise of the authority conferred hereby.

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

787 37-7-483. The Legislature hereby declares that it is its
788 intention and purpose to authorize and permit each and every type
789 of disposition of property permitted in Sections 37-7-471 through
790 37-7-481 and by each and every type of transfer mentioned, and by
791 every combination possible thereunder.

792 Said sections shall be construed to be supplemental to
793 Sections 37-7-451 through 37-7-457 and Sections 37-7-501 through
794 37-7-511, and to all other statutes dealing with the subject
795 matter thereof, and shall be deemed to provide a supplemental,
796 additional and alternate method for the disposition of school
797 buildings, land, property and other school facilities which are no
798 longer to be used for school purposes and are not needed in the
799 operation of the schools of the district or for the conveyance of
800 a partial ownership interest or for exchange, sale or conveyance
801 of an undivided interest in school buildings, land, property or
802 other school facilities that may yield a long-term economic value
803 to the district, in the discretion of the local school board,
804 based on an objective cost/benefit analysis as to whether the
805 proposal shall maximize the interest of the taxpayers.

806 **SECTION 10.** Section 27-65-105, Mississippi Code of 1972, is
807 amended as follows:

808 27-65-105. The exemption from the provisions of this chapter
809 which are of a governmental nature or which are more properly
810 classified as governmental exemptions than any other exemption
811 classification of this chapter shall be confined to those persons
812 or property exempted by this section or by provisions of the

813 Constitutions of the United States or the State of Mississippi.
814 No governmental exemption as now provided by any other section
815 shall be valid as against the tax herein levied. Any subsequent
816 governmental exemption from the tax levied hereunder shall be
817 provided by amendment to this section.

818 No exemption provided in this section shall apply to taxes
819 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972,
820 except as provided by subsection (f) of this section.

821 The tax levied by this chapter shall not apply to the
822 following:

823 (a) Sales of property, labor or services taxable under
824 Sections 27-65-17, 27-65-19 and 27-65-23, when sold to and billed
825 directly to and payment therefor is made directly by the United
826 States government, the State of Mississippi and its departments,
827 institutions, counties and municipalities or departments or school
828 districts of said counties and municipalities.

829 The exemption from the tax imposed under this chapter shall
830 not apply to sales of tangible personal property, labor or
831 services to contractors purchasing in the performance of contracts
832 with the United States, the State of Mississippi, counties and
833 municipalities.

834 (b) Sales to schools, when such schools are supported
835 wholly or in part by funds provided by the State of Mississippi,
836 provided that this exemption does not apply to sales of property
837 which is not to be used in the ordinary operation of the school,
838 or which is to be resold to the students or the public.

839 (c) Amounts received from the sale of school textbooks
840 to students.

841 (d) Sales to the Mississippi Band of Choctaw Indians,
842 but not to Indians individually.

843 (e) Sales of fire fighting equipment to governmental
844 fire departments or volunteer fire departments for their use.

845 (f) Sales of any gas from any project, as defined in
846 the Municipal Gas Authority of Mississippi Law, to any
847 municipality shall not be subject to sales, use or other tax.

848 (g) Sales of home medical equipment and home medical
849 supplies listed as eligible for payment under Title XVIII of the
850 Social Security Act or under the state plan for medical assistance
851 under Title XIX of the Social Security Act, prosthetics,
852 orthotics, hearing aids, hearing devices, prescription eyeglasses,
853 oxygen and oxygen equipment, when ordered or prescribed by a
854 licensed physician for medical purposes of a patient, and when
855 payment for such equipment or supplies, or both, is made under the
856 provisions of the Medicare or Medicaid program. This exemption
857 shall only apply to the portion of the sales price of such
858 equipment or supplies, or both, paid for under the provisions of
859 the Medicare or Medicaid program.

860 (h) Sales to regional educational service agencies
861 established under Section 37-7-345.

862 **SECTION 11.** This act shall take effect and be in force from
863 and after its passage.