

## REPORT OF CONFERENCE COMMITTEE

**MR. SPEAKER AND MADAM PRESIDENT:**

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1302: School districts; authorize to joint venture with private developers to maximize returns on school assets.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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           (l) 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,  
671 the school board of such school district shall be authorized and  
672 empowered, in its discretion, and upon the terms and conditions  
673 set forth in Section 37-7-477, to sell, convey, lease or otherwise  
674 dispose of same for any of the purposes set forth herein. Such  
675 sale, conveyance, lease or other disposition, including retention  
676 of partial interest, or undivided interest or other ownership  
677 interest, shall be made upon such terms and conditions and for  
678 such consideration, nominal or otherwise, as the school board may,  
679 in its discretion, deem proper in consideration of the benefits  
680 which will inure to the school district or the community in which  
681 the school building, property or other facility is located by the  
682 use thereof for the purpose for which it is to be sold, conveyed,  
683 leased or otherwise disposed of. The authority conferred by  
684 Sections 37-7-471 through 37-7-483 may be exercised by a school

685 board in the sale, conveyance or lease of relocatable classrooms  
686 to the school board of another school district. Said sections  
687 without reference to another statute shall be deemed full and  
688 complete power for the exercise 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.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

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.

CONFEREES FOR THE HOUSE

CONFEREES FOR THE SENATE

X (SIGNED)

(NOT SIGNED)

Brown

Chaney

(NOT SIGNED)

X (SIGNED)

Myers

Robertson

X (SIGNED)

X (SIGNED)

Reeves

Bryan