

Senate Amendments to House Bill No. 1302

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

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

53 **SECTION 1.** This act shall be referred to as the "School
54 Property Development Act of 2005." It is the intent of the
55 Legislature that this act shall provide school boards with an
56 alternative optional method of disposal of surplus school property
57 that may generate greater returns to the district than a public
58 disposal sale, or to promote or stimulate economic development
59 within the school district or to promote, stabilize or enhance
60 property and tax values within the school district.

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

63 37-7-301. The school boards of all school districts shall
64 have the following powers, authority and duties in addition to all
65 others imposed or granted by law, to wit:

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

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

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

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

79 (e) To suspend or to expel a pupil or to change the
80 placement of a pupil to the school district's alternative school
81 or home-bound program for misconduct in the school or on school
82 property, as defined in Section 37-11-29, on the road to and from
83 school, or at any school-related activity or event, or for conduct
84 occurring on property other than school property or other than at
85 a school-related activity or event when such conduct by a pupil,
86 in the determination of the school superintendent or principal,
87 renders that pupil's presence in the classroom a disruption to the
88 educational environment of the school or a detriment to the best
89 interest and welfare of the pupils and teacher of such class as a
90 whole, and to delegate such authority to the appropriate officials
91 of the school district;

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

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

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

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

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

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

112 (l) To prescribe and enforce rules and regulations not
113 inconsistent with law or with the regulations of the State Board

114 of Education for their own government and for the government of
115 the schools, and to transact their business at regular and special
116 meetings called and held in the manner provided by law;

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

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

122 (o) To make orders directed to the superintendent of
123 schools for the issuance of pay certificates for lawful purposes
124 on any available funds of the district and to have full control of
125 the receipt, distribution, allotment and disbursement of all funds
126 provided for the support and operation of the schools of such
127 school district whether such funds be derived from state
128 appropriations, local ad valorem tax collections, or otherwise;

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

133 (q) To provide athletic programs and other school
134 activities and to regulate the establishment and operation of such
135 programs and activities;

136 (r) To join, in their discretion, any association of
137 school boards and other public school-related organizations, and
138 to pay from local funds other than minimum foundation funds, any
139 membership dues;

140 (s) To expend local school activity funds, or other
141 available school district funds, other than minimum education
142 program funds, for the purposes prescribed under this paragraph.
143 "Activity funds" shall mean all funds received by school officials
144 in all school districts paid or collected to participate in any
145 school activity, such activity being part of the school program
146 and partially financed with public funds or supplemented by public
147 funds. The term "activity funds" shall not include any funds
148 raised and/or expended by any organization unless commingled in a

149 bank account with existing activity funds, regardless of whether
150 the funds were raised by school employees or received by school
151 employees during school hours or using school facilities, and
152 regardless of whether a school employee exercises influence over
153 the expenditure or disposition of such funds. Organizations shall
154 not be required to make any payment to any school for the use of
155 any school facility if, in the discretion of the local school
156 governing board, the organization's function shall be deemed to be
157 beneficial to the official or extracurricular programs of the
158 school. For the purposes of this provision, the term
159 "organization" shall not include any organization subject to the
160 control of the local school governing board. Activity funds may
161 only be expended for any necessary expenses or travel costs,
162 including advances, incurred by students and their chaperons in
163 attending any in-state or out-of-state school-related programs,
164 conventions or seminars and/or any commodities, equipment, travel
165 expenses, purchased services or school supplies which the local
166 school governing board, in its discretion, shall deem beneficial
167 to the official or extracurricular programs of the district,
168 including items which may subsequently become the personal
169 property of individuals, including yearbooks, athletic apparel,
170 book covers and trophies. Activity funds may be used to pay
171 travel expenses of school district personnel. The local school
172 governing board shall be authorized and empowered to promulgate
173 rules and regulations specifically designating for what purposes
174 school activity funds may be expended. The local school governing
175 board shall provide (i) that such school activity funds shall be
176 maintained and expended by the principal of the school generating
177 the funds in individual bank accounts, or (ii) that such school
178 activity funds shall be maintained and expended by the
179 superintendent of schools in a central depository approved by the
180 board. The local school governing board shall provide that such
181 school activity funds be audited as part of the annual audit
182 required in Section 37-9-18. The State Auditor shall prescribe a

183 uniform system of accounting and financial reporting for all
184 school activity fund transactions;

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

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

191 (v) (i) To lease a school building from an individual,
192 partnership, nonprofit corporation or a private for-profit
193 corporation for the use of such school district, and to expend
194 funds therefor as may be available from any nonminimum program
195 sources. The school board of the school district desiring to
196 lease a school building shall declare by resolution that a need
197 exists for a school building and that the school district cannot
198 provide the necessary funds to pay the cost or its proportionate
199 share of the cost of a school building required to meet the
200 present needs. The resolution so adopted by the school board
201 shall be published once each week for three (3) consecutive weeks
202 in a newspaper having a general circulation in the school district
203 involved, with the first publication thereof to be made not less
204 than thirty (30) days prior to the date upon which the school
205 board is to act on the question of leasing a school building. If
206 no petition requesting an election is filed prior to such meeting
207 as hereinafter provided, then the school board may, by resolution
208 spread upon its minutes, proceed to lease a school building. If
209 at any time prior to said meeting a petition signed by not less
210 than twenty percent (20%) or fifteen hundred (1500), whichever is
211 less, of the qualified electors of the school district involved
212 shall be filed with the school board requesting that an election
213 be called on the question, then the school board shall, not later
214 than the next regular meeting, adopt a resolution calling an
215 election to be held within such school district upon the question
216 of authorizing the school board to lease a school building. Such
217 election shall be called and held, and notice thereof shall be

218 given, in the same manner for elections upon the questions of the
219 issuance of the bonds of school districts, and the results thereof
220 shall be certified to the school board. If at least three-fifths
221 (3/5) of the qualified electors of the school district who voted
222 in such election shall vote in favor of the leasing of a school
223 building, then the school board shall proceed to lease a school
224 building. The term of the lease contract shall not exceed twenty
225 (20) years, and the total cost of such lease shall be either the
226 amount of the lowest and best bid accepted by the school board
227 after advertisement for bids or an amount not to exceed the
228 current fair market value of the lease as determined by the
229 averaging of at least two (2) appraisals by certified general
230 appraisers licensed by the State of Mississippi. The term "school
231 building" as used in this item (v) shall be construed to mean any
232 building or buildings used for classroom purposes in connection
233 with the operation of schools and shall include the site therefor,
234 necessary support facilities, and the equipment thereof and
235 appurtenances thereto such as heating facilities, water supply,
236 sewage disposal, landscaping, walks, drives and playgrounds. The
237 term "lease" as used in this item (v)(i) may include a
238 lease/purchase contract;

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

253 contract shall be in proportion to the amount of lease rental paid
254 by each;

255 (w) To employ all noninstructional and noncertificated
256 employees and fix the duties and compensation of such personnel
257 deemed necessary pursuant to the recommendation of the
258 superintendent of schools;

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

261 (y) Subject to rules and regulations of the State Board
262 of Education, to purchase, own and operate trucks, vans and other
263 motor vehicles, which shall bear the proper identification
264 required by law;

265 (z) To expend funds for the payment of substitute
266 teachers and to adopt reasonable regulations for the employment
267 and compensation of such substitute teachers;

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

288 exchange must be based upon values as determined by a competent
289 appraiser, with any differential in value to be adjusted by cash
290 payment. Any easement rights granted over sixteenth section land
291 under such authority shall terminate when the easement ceases to
292 be used for its stated purpose. No sixteenth section or lieu land
293 which is subject to an existing lease shall be burdened by any
294 such easement except by consent of the lessee or unless the school
295 district shall acquire the unexpired leasehold interest affected
296 by the easement;

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

300 (cc) Subject to rules and regulations of the State
301 Board of Education, to purchase relocatable classrooms for the use
302 of such school district, in the manner prescribed in Section
303 37-1-13;

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

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

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

323 the public school district, the parent or legal guardian shall
324 also compensate the school district for the fair market value of
325 the textbooks;

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

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

333 (ii) Fund-raising activities conducted or
334 authorized by the board for the sale of school pictures, the
335 rental of caps and gowns or the sale of graduation invitations for
336 which the school board receives a commission, rebate or fee shall
337 contain a disclosure statement advising that a portion of the
338 proceeds of the sales or rentals shall be contributed to the
339 student activity fund;

340 (hh) To allow individual lessons for music, art and
341 other curriculum-related activities for academic credit or
342 nonacademic credit during school hours and using school equipment
343 and facilities, subject to uniform rules and regulations adopted
344 by the school board;

345 (ii) To charge reasonable fees for participating in an
346 extracurricular activity for academic or nonacademic credit for
347 necessary and required equipment such as safety equipment, band
348 instruments and uniforms;

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

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

354 (ll) To expend funds for the services of nonprofit arts
355 organizations or other such nonprofit organizations who provide
356 performances or other services for the students of the school
357 district;

358 (mm) To expend federal No Child Left Behind Act funds,
359 or any other available funds that are expressly designated and
360 authorized for that use, to pay training, educational expenses,
361 salary incentives and salary supplements to employees of local
362 school districts; except that incentives shall not be considered
363 part of the local supplement as defined in Section 37-151-5(o),
364 nor shall incentives be considered part of the local supplement
365 paid to an individual teacher for the purposes of Section
366 37-19-7(1). Mississippi Adequate Education Program funds or any
367 other state funds may not be used for salary incentives or salary
368 supplements as provided in this paragraph (mm);

369 (nn) To use any available funds, not appropriated or
370 designated for any other purpose, for reimbursement to the
371 state-licensed employees from both in-state and out-of-state, who
372 enter into a contract for employment in a school district, for the
373 expense of moving when the employment necessitates the relocation
374 of the licensed employee to a different geographical area than
375 that in which the licensed employee resides before entering into
376 the contract. The reimbursement shall not exceed One Thousand
377 Dollars (\$1,000.00) for the documented actual expenses incurred in
378 the course of relocating, including the expense of any
379 professional moving company or persons employed to assist with the
380 move, rented moving vehicles or equipment, mileage in the amount
381 authorized for county and municipal employees under Section
382 25-3-41 if the licensed employee used his personal vehicle or
383 vehicles for the move, meals and such other expenses associated
384 with the relocation. No licensed employee may be reimbursed for
385 moving expenses under this section on more than one (1) occasion
386 by the same school district. Nothing in this section shall be
387 construed to require the actual residence to which the licensed
388 employee relocates to be within the boundaries of the school
389 district that has executed a contract for employment in order for
390 the licensed employee to be eligible for reimbursement for the
391 moving expenses. However, the licensed employee must relocate
392 within the boundaries of the State of Mississippi. Any individual

393 receiving relocation assistance through the Critical Teacher
394 Shortage Act as provided in Section 37-159-5 shall not be eligible
395 to receive additional relocation funds as authorized in this
396 paragraph;

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

403 (pp) Consistent with the report of the Task Force to
404 Conduct a Best Financial Management Practices Review, to improve
405 school district management and use of resources and identify cost
406 savings as established in Section 8 of Chapter 610, Laws of 2002,
407 local school boards are encouraged to conduct independent reviews
408 of the management and efficiency of schools and school districts.
409 Such management and efficiency reviews shall provide state and
410 local officials and the public with the following:

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

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

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

416 (iv) An assessment of facilities utilization,
417 planning and maintenance;

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

420 (vi) An assessment of instructional and
421 administrative technology;

422 (vii) A review of the instructional management and
423 the efficiency and effectiveness of existing instructional
424 programs; and

425 (viii) Recommended methods for increasing
426 efficiency and effectiveness in providing educational services to
427 the public;

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

433 (rr) To implement a financial literacy program for
434 students in Grades 10 and 11. The board may review the national
435 programs and obtain free literature from various nationally
436 recognized programs. After review of the different programs, the
437 board may certify a program that is most appropriate for the
438 school districts' needs. If a district implements a financial
439 literacy program, then any student in Grade 10 or 11 may
440 participate in the program. The financial literacy program shall
441 include, but is not limited to, instruction in the same areas of
442 personal business and finance as required under Section
443 37-1-3(2)(b). The school board may coordinate with volunteer
444 teachers from local community organizations, including, but not
445 limited to, the following: United States Department of
446 Agriculture Rural Development, United States Department of Housing
447 and Urban Development, Junior Achievement, bankers and other
448 nonprofit organizations. Nothing in this paragraph shall be
449 construed as to require school boards to implement a financial
450 literacy program;

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

458 (tt) With respect to any lawful, written obligation of
459 a school district, including, but not limited to, leases
460 (excluding leases of sixteenth section public school trust land),
461 bonds, notes, or other agreement, to agree in writing with the

462 obligee that the State Tax Commission or any state agency,
463 department or commission created under state law may:

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

469 (ii) Pay the same over to any financial
470 institution, trustee or other obligee, as directed in writing by
471 the school board, to satisfy all or part of such obligation of the
472 school district.

473 The school board may make such written agreement to withhold
474 and transfer funds irrevocable for the term of the written
475 obligation and may include in the written agreement any other
476 terms and provisions acceptable to the school board. If the
477 school board files a copy of such written agreement with the State
478 Tax Commission, or any state agency, department or commission
479 created under state law then the State Tax Commission or any state
480 agency, department or commission created under state law shall
481 immediately make the withholdings provided in such agreement from
482 the amounts due the local school board and shall continue to pay
483 the same over to such financial institution, trustee or obligee
484 for the term of the agreement.

485 This paragraph (tt) shall be construed to be supplemental and
486 additional to any powers conferred by other laws on school
487 districts and not in derogation of any such powers not existing.
488 Provided, however, that this paragraph (tt) shall not grant any
489 extra authority to a school board to issue debt in any amount
490 exceeding statutory limitations on assessed value of taxable
491 property within such school district or the statutory limitations
492 on debt maturities, and shall not grant any extra authority to
493 impose, levy or collect a tax which is not otherwise expressly
494 provided for, and shall not be construed to apply to sixteenth
495 section public school trust land;

496 (uu) With respect to any matter or transaction that is
497 competitively bid by a school district, to accept from any bidder
498 as a good faith deposit or bid bond or bid surety, the same type
499 of good faith deposit or bid bond or bid surety that may be
500 accepted by the state or any other political subdivision on
501 similar competitively bid matters or transactions. This paragraph
502 (uu) shall not be construed to apply to sixteenth section public
503 school trust land;

504 (vv) To sell, convey or exchange a partial interest,
505 undivided interest or any other interest in real property (other
506 than sixteenth section public school trust land), in whole or in
507 part, for a nonoperational interest in any proposed development of
508 said property, including ownership of shares of a domestic
509 corporation or a membership interest in a limited liability
510 company or a limited partnership interest, any of which is
511 organized for the operation of any project, development or
512 activity that, in the discretion of the school board, will have
513 the potential for fostering economic development activities,
514 increasing property values, increasing student development or
515 enhancing public safety. A school district may pledge any
516 revenues it is to receive from such sale, conveyance or exchange,
517 including any shares of a corporation or membership interest in a
518 limited liability company or limited partnership interest under
519 this subsection or under Sections 37-7-471 through 37-7-483, to
520 secure the repayment of any notes, leases (excluding leases of
521 sixteenth section public school trust land), bonds or other
522 written obligations of the district issued under any provision of
523 state law. It is the intention of the Legislature that any such
524 pledge of revenues or other monies shall be valid and binding from
525 the date the pledge is made; that such revenues or other monies so
526 pledged and thereafter received by the school district shall
527 immediately be subject to the lien of such pledge without any
528 physical delivery thereof or further act, and that the lien of any
529 such pledge shall be valid and binding as against all parties
530 having claims of any kind in tort, contract or otherwise against

531 the school district irrespective of whether such parties have
532 notice thereof; and neither the resolutions, contracts or any
533 other instrument by which a pledge is created need be recorded.
534 Furthermore, any debt secured in whole or in part by a pledge of
535 such revenues or other monies shall not be subject to or included
536 in any debt limitation imposed on the issuance of such debt. This
537 paragraph (vv) shall not be construed to apply to sixteenth
538 section public school trust land;

539 (ww) To mandate that the school board use sound
540 business practices when executing exchanges as provided in
541 paragraph (tt), (uu) or (vv) of this section. The Mississippi
542 Development Authority or the local school board may require that
543 any entity that executes exchanges with and any entity that is an
544 investor in any entity that executes exchanges with the school
545 board as provided in paragraph (tt), (uu) or (vv) of this section,
546 provide the following information, at a minimum:

547 (i) A two-year business plan (which shall include
548 pro forma balance sheets, income statements and monthly cash flow
549 statements);

550 (ii) Financial statements and tax returns for the
551 three (3) years immediately prior to the date the contract is
552 formed;

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

555 (iv) Data supporting the expertise of the entity's
556 principals;

557 (v) A cost benefit analysis of the project
558 performed by a state institution of higher learning or other
559 entity selected by the Mississippi Development Authority or the
560 local school board; and

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

563 This paragraph (ww) shall not be construed to apply to sixteenth
564 section public school trust land;

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

568 (yy) No person involved in any economic development
569 project entered into by a school board under the provisions of
570 this section shall be related by consanguinity or affinity within
571 the third degree to any member of the school board or the
572 superintendent or any assistant superintendent of the school
573 district, nor shall any such person have an interest in any
574 business or have an economic relationship with any member of the
575 school board or the superintendent or any assistant superintendent
576 of the school district.

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

579 37-7-471. Whenever the school board of any school district
580 shall find and determine, by resolution duly and lawfully adopted
581 and spread upon its minutes:

582 (a) That any school building, land, property or other
583 school facility is no longer needed for school or related purposes
584 and is not to be used in the operation of the schools of the
585 district, or that such school building, land, property or other
586 school facility may yield a higher long-term economic value to the
587 district, in the discretion of the local school board;

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

591 (c) That the use of the school building, land, property
592 or other school facility for the purpose for which it is to be
593 sold, conveyed or leased will promote and foster the development
594 and improvement of the community in which it is located and the
595 civic, social, educational, cultural, moral, economic or
596 industrial welfare thereof, the school board of such school
597 district shall be authorized and empowered, in its discretion, and
598 upon the terms and conditions set forth in Section 37-7-477, to
599 sell, convey, lease or otherwise dispose of same for any of the

600 purposes set forth herein. Such sale, conveyance, lease or other
601 disposition, including retention of partial interest, or undivided
602 interest or other ownership interest, shall be made upon such
603 terms and conditions and for such consideration, nominal or
604 otherwise, as the school board may, in its discretion, deem proper
605 in consideration of the benefits which will inure to the school
606 district or the community in which the school building, property
607 or other facility is located by the use thereof for the purpose
608 for which it is to be sold, conveyed, leased or otherwise disposed
609 of. The authority conferred by Sections 37-7-471 through 37-7-483
610 may be exercised by a school board in the sale, conveyance or
611 lease of relocatable classrooms to the school board of another
612 school district. Said sections without reference to another
613 statute shall be deemed full and complete power for the exercise
614 of the authority conferred hereby.

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

617 37-7-473. School buildings, land, property and related
618 facilities may be sold, conveyed, leased or otherwise disposed of
619 under Sections 37-7-471 through 37-7-483, to any group of persons,
620 to any association, club or corporation, or to any county,
621 municipality or other political subdivision, to be used as a
622 civic, community, recreational or youth center, or to be used by
623 any county or district fair association in connection with its
624 activities, or to be used for church purposes, or to be used as a
625 library or other public building, or to be used as a factory or
626 otherwise in connection with an industrial enterprise, or to be
627 used as part of a development activity to stimulate economic
628 development activities within the district, or to enhance property
629 values within the district, or to be used for any similar or
630 related purpose or activity.

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

633 37-7-475. Upon being authorized by a resolution of the
634 school board as is provided by Section 37-7-471, the president and

635 secretary shall be authorized and empowered to execute, for and on
636 behalf of the school district, a conveyance or lease of the
637 property for the purposes, upon the terms and conditions, and for
638 the consideration provided and specified by the school board,
639 including retention of a partial interest, or undivided interest
640 or other ownership interest in the property, in the discretion of
641 the school board. It shall not be necessary or requisite that
642 competitive bids be advertised for or received in connection with
643 such sale, conveyance, leasing or other disposition of property.

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

646 37-7-477. Unless a school board retains a partial interest,
647 or undivided interest or other ownership interest in the school
648 property being conveyed, any instrument conveying or leasing any
649 school property under the provisions of Sections 37-7-471 through
650 37-7-483, shall provide that the title to such property shall
651 automatically revert to the school district, if such property
652 shall cease to be used for the purpose for which it is conveyed or
653 leased. Said instrument shall also contain the condition that the
654 grantee or lessee shall keep and maintain said property in a good
655 state of repair and shall keep said property insured in a
656 reasonable amount against loss by fire, windstorm and other
657 hazards. Upon breach of any of said conditions, the school board
658 shall have the right of reentry upon said property as for
659 condition broken and shall have the power and authority to bring
660 and maintain such actions as shall be necessary and appropriate
661 for such purpose in its own name. However, the provisions of this
662 section shall not be mandatory in the event that the school board
663 retains a partial interest, or undivided interest or other
664 ownership interest in the school property being conveyed.

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

667 37-7-479. Any group of persons, any association, club or
668 corporation, or any county, municipality or other political
669 subdivision having acquired school buildings, land, property or

670 related facilities under the provisions of Sections 37-7-471
671 through 37-7-483, may, by resolution duly adopted at a regular or
672 special meeting called and convened for such purpose, determine
673 that such school buildings, land, property or related facilities,
674 or any portion thereof, are no longer needed or used for the
675 purpose for which such was acquired, and may by such resolution
676 provide for the sale of such school buildings, land, property or
677 related facilities, or any portion thereof. Said resolution shall
678 be forwarded to the school board of the school district involved,
679 and if the said board shall adopt a resolution determining that
680 such school buildings, land, property or related facilities, or
681 such portion thereof as is sought to be sold, is no longer needed
682 or used by the school district involved, then such school
683 buildings, land, property or related facilities, or any portion
684 thereof, may be sold in accordance with the procedure set forth in
685 Section 37-7-455.

686 The school board of such district shall by order entered on
687 its minutes, provide for the distribution of the proceeds received
688 from the sale of such property in such proportions as the said
689 school board may, in its discretion, determine reasonable as the
690 interests may appear between the district and the group of
691 persons, association, club, corporation, county, municipality or
692 other political subdivision having an interest in such property at
693 the time of such sale.

694 However, the provisions of this section shall not be
695 mandatory in the event that the school board retains a partial
696 interest, or undivided interest or other ownership interest in the
697 school property being conveyed.

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

700 37-7-481. The authority conferred by Sections 37-7-471
701 through 37-7-483 may be exercised by the existing school board of
702 any school district in which any such school building, land,
703 property or other school facility is located or situated. Such
704 school board may contract with any other school board, or any

705 other governmental entity, to assign and transfer its rights and
706 duties under this chapter, under such terms and conditions as the
707 school board may determine, in its discretion, to further the
708 public interest. The sections, without reference to any other
709 statute, shall be deemed full, complete and exclusive power for
710 the exercise of the authority conferred hereby.

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

713 37-7-483. The Legislature hereby declares that it is its
714 intention and purpose to authorize and permit each and every type
715 of disposition of property permitted in Sections 37-7-471 through
716 37-7-481 and by each and every type of transfer mentioned, and by
717 every combination possible thereunder.

718 Said sections shall be construed to be supplemental to
719 Sections 37-7-451 through 37-7-457 and Sections 37-7-501 through
720 37-7-511, and to all other statutes dealing with the subject
721 matter thereof, and shall be deemed to provide a supplemental,
722 additional and alternate method for the disposition of school
723 buildings, land, property and other school facilities which are no
724 longer to be used for school purposes and are not needed in the
725 operation of the schools of the district or for the conveyance of
726 a partial ownership interest or for exchange, sale or conveyance
727 of an undivided interest in school buildings, land, property or
728 other school facilities that may yield a long-term economic value
729 to the district, in the discretion of the local school board,
730 based on an objective cost/benefit analysis as to whether the
731 proposal shall maximize the interest of the taxpayers.

732 **SECTION 10.** (1) No person, or any agent, subsidiary or
733 parent corporation or firm owned in whole or in part by the
734 person, shall be eligible to bid or otherwise participate in the
735 construction, contracting, or subcontracting on any project or
736 part thereof for which the person has been hired to perform
737 construction program management services. Any contract for public
738 construction that violates this provision shall be void and
739 against the public policy of the state.

740 (2) For purposes of this section, the term "construction
741 program management services" means a set of management and
742 technical services rendered by a person or firm to a public sector
743 building owner during the predesign, design, construction, or
744 post-construction phases of new construction, demolition,
745 alteration, repair, or renovation projects. These services
746 include any one or more of the following: project planning,
747 budgeting, scheduling, coordination, design management,
748 construction administration, or facility occupancy actions, but
749 shall not include any component of the actual construction work.
750 The term does not include the services performed by the general
751 contractor who is engaged to perform the construction work, or
752 services customarily performed by licensed architects or
753 registered engineers.

754 **SECTION 11.** This act shall be liberally construed and shall
755 be supplemental and additional to any powers conferred by other
756 laws on school districts and not in derogation of any such powers
757 not existing. Provided, however, that this act shall not grant
758 any extra authority to a school board to issue debt in any amount
759 exceeding statutory limitations on assessed value of taxable
760 property within such school district or the statutory limitations
761 on debt maturities, and shall not grant any extra authority to
762 impose, levy or collect a tax which is not otherwise expressly
763 provided for.

764 **SECTION 12.** In the event that a school board exercises its
765 option to enter into a development agreement or other contract
766 under this act or to transfer any property or interest therein to
767 a third party for purposes of future development, the following
768 conditions shall apply:

769 (a) The board shall have the express authority to
770 retain a deed of trust or such other security interest in the
771 property in an amount equal at least to the value of the property
772 at the time of such transfer, less any consideration paid by the
773 developer or other parties;

774 (b) The liability of the school board and the school
775 district and its representatives pursuant to any such development
776 agreement shall be limited to the value of any retained property
777 interest in the development agreement or the property which is the
778 subject of the development agreement. Neither the school board
779 nor the district nor its representatives shall be liable to any
780 party nor shall it indemnify or hold harmless any party for any
781 liabilities, obligations, losses, damages, penalties, settlements,
782 claims, actions, suits, proceedings or judgments of any kind and
783 nature, costs, expenses, or attorneys fees incurred by such party
784 or parties for any act or action arising out of, or in connection
785 with any development agreement entered into by the school board,
786 other than the value of the retained ownership interest in the
787 property which was conveyed pursuant to such development
788 agreement;

789 **SECTION 13.** Before entering into any transaction as provided
790 in paragraph (tt), (uu) or (vv) of Section 2 of this act, the
791 school board members shall certify that they are in compliance
792 with Section 25-4-25 regarding filings of statements of economic
793 interest with the Mississippi Ethics Commission and that they will
794 receive no direct or indirect pecuniary benefit as a result of the
795 transaction or be in violation of the provisions of Section
796 25-4-105 regarding the improper use of official position.

797 **SECTION 14.** This act shall take effect and be in force from
798 and after its passage.

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

1 AN ACT TO BE KNOWN AS THE "SCHOOL PROPERTY DEVELOPMENT ACT OF
2 2005"; TO PROVIDE AN ADDITIONAL METHOD OF DISPOSING OF SURPLUS
3 SCHOOL PROPERTY WHICH MAY PROMOTE ECONOMIC DEVELOPMENT WITHIN THE
4 SCHOOL DISTRICT; TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF
5 1972, TO ALLOW SCHOOL BOARDS TO CONTRACT WITH FINANCIAL
6 INSTITUTIONS TO ALLOW THE WITHHOLDING OF FUNDS BY STATE AGENCIES
7 WITH RESPECT TO THE ISSUANCE OF BONDS, NOTES OR OTHER OBLIGATIONS,
8 TO ALLOW THE WITHHOLDING OF FUNDS BY STATE AGENCIES IN THE EVENT
9 OF DEFAULT BY A LOCAL SCHOOL BOARD; TO AUTHORIZE A SCHOOL BOARD TO
10 ACCEPT THE SAME TYPE GOOD FAITH DEPOSIT OR BID BOND OR BID SURETY
11 THAT MAY BE ACCEPTED BY THE STATE OR OTHER POLITICAL SUBDIVISIONS;
12 TO AUTHORIZE SCHOOL BOARDS TO SALE, CONVEY OR EXCHANGE, IN WHOLE
13 OR IN PART, A NONOPERATIONAL PROPERTY INTEREST IN PROPOSED
14 DEVELOPMENT PROJECTS; TO AUTHORIZE A SCHOOL BOARD TO PLEDGE

15 REVENUES RECEIVED UNDER SECTIONS 37-7-471 THROUGH 37-7-483 FOR THE
16 REPAYMENT OF NOTES AND OTHER OBLIGATIONS; TO PROHIBIT ANY PERSON
17 TO BE INVOLVED IN ANY ECONOMIC DEVELOPMENT PROJECT ENTERED INTO BY
18 A SCHOOL BOARD WHERE RELATED BY CONSANGUINITY WITHIN THE THIRD
19 DEGREE TO ANY MEMBER OF THE SCHOOL BOARD OR THE SUPERINTENDENT OR
20 ASSISTANT SUPERINTENDENT; TO MANDATE THAT SCHOOL BOARDS USE SOUND
21 BUSINESS PRACTICES WHEN EXECUTING SUCH AGREEMENTS; TO AUTHORIZE
22 THE MISSISSIPPI DEVELOPMENT AUTHORITY OR THE LOCAL SCHOOL BOARD TO
23 REQUIRE ADDITIONAL INFORMATION FROM INVESTORS IN ANY PROPOSED
24 DEVELOPMENT; TO AMEND SECTION 37-7-471, MISSISSIPPI CODE OF 1972,
25 TO ALLOW A SCHOOL DISTRICT TO RETAIN AN UNDIVIDED INTEREST IN
26 PROPERTY DISPOSED BY THE SCHOOL BOARD IF IT MAY YIELD A HIGHER
27 LONG-TERM ECONOMIC BENEFIT; TO AMEND SECTION 37-7-473, MISSISSIPPI
28 CODE OF 1972, TO ALLOW SCHOOL PROPERTY TO BE USED AS PART OF
29 DEVELOPMENT ACTIVITIES; TO AMEND SECTION 37-7-475, MISSISSIPPI
30 CODE OF 1972, TO ALLOW CONVEYANCES TO INCLUDE A RETENTION OF A
31 PARTIAL INTEREST BY THE SCHOOL BOARD; TO AMEND SECTION 37-7-477,
32 MISSISSIPPI CODE OF 1972, TO MAKE REVERSION OF INTERESTS
33 DISCRETIONARY IF THE SCHOOL BOARD RETAINS A PARTIAL INTEREST IN
34 THE PROPERTY; TO AMEND SECTION 37-7-479, MISSISSIPPI CODE OF 1972,
35 TO PROVIDE THAT A REVERTER IS DISCRETIONARY IF THE SCHOOL BOARD
36 RETAINS A PARTIAL INTEREST IN THE PROPERTY; TO AMEND SECTION
37 37-7-481, MISSISSIPPI CODE OF 1972, TO ALLOW SCHOOL BOARDS TO
38 CONTRACT WITH OTHER GOVERNMENTAL ENTITIES; TO AMEND SECTION
39 37-7-483, MISSISSIPPI CODE OF 1972, TO CLARIFY LEGISLATIVE INTENT
40 WITH RESPECT TO DEVELOPMENT OF SCHOOL PROPERTY; TO PROVIDE THAT NO
41 PERSON, AGENT, SUBSIDIARY OR PARENT CORPORATION OR FIRM OWNED IN
42 WHOLE OR IN PART BY THE PERSON, SHALL BE ELIGIBLE TO BID IN THE
43 CONSTRUCTION ON ANY PROJECT FOR WHICH THE PERSON HAS BEEN HIRED TO
44 PERFORM CONSTRUCTION PROGRAM MANAGEMENT SERVICES; TO AUTHORIZE THE
45 SCHOOL BOARD TO RETAIN A SECURITY INTEREST IN ANY SUCH PROPERTY
46 CONVEYED FOR DEVELOPMENT PURPOSES; TO LIMIT LIABILITY OF THE
47 SCHOOL DISTRICT TO THE VALUE OF THE PROPERTY INTEREST RETAINED BY
48 THE SCHOOL BOARD; TO REQUIRE SCHOOL BOARD MEMBERS TO CERTIFY THAT
49 THEY ARE IN COMPLIANCE WITH SECTION 25-4-27, MISSISSIPPI CODE OF
50 1972, REGARDING FILING OF STATEMENTS OF ECONOMIC INTEREST WITH THE
51 MISSISSIPPI ETHICS COMMISSION; AND FOR RELATED PURPOSES.

SS26\HB1302A.2J

John O. Gilbert
Secretary of the Senate