

By: Representative Whittington

To: Ways and Means

HOUSE BILL NO. 444

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

96 the receipt, distribution, allotment and disbursement of all funds
97 provided for the support and operation of the schools of such
98 school district whether such funds be derived from state
99 appropriations, local ad valorem tax collections, or otherwise.
100 The local school board shall be authorized and empowered to
101 promulgate rules and regulations that specify the types of claims
102 and set limits of the dollar amount for payment of claims by the
103 superintendent of schools to be ratified by the board at the next
104 regularly scheduled meeting after payment has been made;

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

109 (q) To provide athletic programs and other school
110 activities and to regulate the establishment and operation of such
111 programs and activities;

112 (r) To join, in their discretion, any association of
113 school boards and other public school-related organizations, and
114 to pay from local funds other than minimum foundation funds, any
115 membership dues;

116 (s) To expend local school activity funds, or other
117 available school district funds, other than minimum education
118 program funds, for the purposes prescribed under this paragraph.
119 "Activity funds" shall mean all funds received by school officials
120 in all school districts paid or collected to participate in any
121 school activity, such activity being part of the school program
122 and partially financed with public funds or supplemented by public
123 funds. The term "activity funds" shall not include any funds
124 raised and/or expended by any organization unless commingled in a
125 bank account with existing activity funds, regardless of whether
126 the funds were raised by school employees or received by school
127 employees during school hours or using school facilities, and
128 regardless of whether a school employee exercises influence over

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

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

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

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

194 given, in the same manner for elections upon the questions of the
195 issuance of the bonds of school districts, and the results thereof
196 shall be certified to the school board. If at least three-fifths
197 (3/5) of the qualified electors of the school district who voted
198 in such election shall vote in favor of the leasing of a school
199 building, then the school board shall proceed to lease a school
200 building. The term of the lease contract shall not exceed twenty
201 (20) years, and the total cost of such lease shall be either the
202 amount of the lowest and best bid accepted by the school board
203 after advertisement for bids or an amount not to exceed the
204 current fair market value of the lease as determined by the
205 averaging of at least two (2) appraisals by certified general
206 appraisers licensed by the State of Mississippi. The term "school
207 building" as used in this paragraph (v)(i) shall be construed to
208 mean any building or buildings used for classroom purposes in
209 connection with the operation of schools and shall include the
210 site therefor, necessary support facilities, and the equipment
211 thereof and appurtenances thereto such as heating facilities,
212 water supply, sewage disposal, landscaping, walks, drives and
213 playgrounds. The term "lease" as used in this paragraph (v)(i)
214 may include a lease/purchase contract;

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

227 occupancy by any lessee unless the aggregate rental is paid as
228 stipulated in the lease contract. All rights of joint lessees
229 under the lease contract shall be in proportion to the amount of
230 lease rental paid by each;

231 (w) To employ all noninstructional and noncertificated
232 employees and fix the duties and compensation of such personnel
233 deemed necessary pursuant to the recommendation of the
234 superintendent of schools;

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

237 (y) Subject to rules and regulations of the State Board
238 of Education, to purchase, own and operate trucks, vans and other
239 motor vehicles, which shall bear the proper identification
240 required by law;

241 (z) To expend funds for the payment of substitute
242 teachers and to adopt reasonable regulations for the employment
243 and compensation of such substitute teachers;

244 (aa) To acquire in its own name by purchase all real
245 property which shall be necessary and desirable in connection with
246 the construction, renovation or improvement of any public school
247 building or structure. Whenever the purchase price for such real
248 property is greater than Fifty Thousand Dollars (\$50,000.00), the
249 school board shall not purchase the property for an amount
250 exceeding the fair market value of such property as determined by
251 the average of at least two (2) independent appraisals by
252 certified general appraisers licensed by the State of Mississippi.
253 If the board shall be unable to agree with the owner of any such
254 real property in connection with any such project, the board shall
255 have the power and authority to acquire any such real property by
256 condemnation proceedings pursuant to Section 11-27-1 et seq.,
257 Mississippi Code of 1972, and for such purpose, the right of
258 eminent domain is hereby conferred upon and vested in said board.
259 Provided further, that the local school board is authorized to

260 grant an easement for ingress and egress over sixteenth section
261 land or lieu land in exchange for a similar easement upon
262 adjoining land where the exchange of easements affords substantial
263 benefit to the sixteenth section land; provided, however, the
264 exchange must be based upon values as determined by a competent
265 appraiser, with any differential in value to be adjusted by cash
266 payment. Any easement rights granted over sixteenth section land
267 under such authority shall terminate when the easement ceases to
268 be used for its stated purpose. No sixteenth section or lieu land
269 which is subject to an existing lease shall be burdened by any
270 such easement except by consent of the lessee or unless the school
271 district shall acquire the unexpired leasehold interest affected
272 by the easement;

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

276 (cc) Subject to rules and regulations of the State
277 Board of Education, to purchase relocatable classrooms for the use
278 of such school district, in the manner prescribed in Section
279 37-1-13;

280 (dd) Enter into contracts or agreements with other
281 school districts, political subdivisions or governmental entities
282 to carry out one or more of the powers or duties of the school
283 board, or to allow more efficient utilization of limited resources
284 for providing services to the public;

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

293 (ff) As part of their duties to prescribe the use of
294 textbooks, to provide that parents and legal guardians shall be
295 responsible for the textbooks and for the compensation to the
296 school district for any books which are not returned to the proper
297 schools upon the withdrawal of their dependent child. If a
298 textbook is lost or not returned by any student who drops out of
299 the public school district, the parent or legal guardian shall
300 also compensate the school district for the fair market value of
301 the textbooks;

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

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

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

316 (hh) To allow individual lessons for music, art and
317 other curriculum-related activities for academic credit or
318 nonacademic credit during school hours and using school equipment
319 and facilities, subject to uniform rules and regulations adopted
320 by the school board;

321 (ii) To charge reasonable fees for participating in an
322 extracurricular activity for academic or nonacademic credit for
323 necessary and required equipment such as safety equipment, band
324 instruments and uniforms;

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

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

330 (ll) To expend funds for the services of nonprofit arts
331 organizations or other such nonprofit organizations who provide
332 performances or other services for the students of the school
333 district;

334 (mm) To expend federal No Child Left Behind Act funds,
335 or any other available funds that are expressly designated and
336 authorized for that use, to pay training, educational expenses,
337 salary incentives and salary supplements to employees of local
338 school districts; except that incentives shall not be considered
339 part of the local supplement as defined in Section 37-151-5(o),
340 nor shall incentives be considered part of the local supplement
341 paid to an individual teacher for the purposes of Section
342 37-19-7(1). Mississippi Adequate Education Program funds or any
343 other state funds may not be used for salary incentives or salary
344 supplements as provided in this paragraph (mm);

345 (nn) To use any available funds, not appropriated or
346 designated for any other purpose, for reimbursement to the
347 state-licensed employees from both in-state and out-of-state, who
348 enter into a contract for employment in a school district, for the
349 expense of moving when the employment necessitates the relocation
350 of the licensed employee to a different geographical area than
351 that in which the licensed employee resides before entering into
352 the contract. The reimbursement shall not exceed One Thousand
353 Dollars (\$1,000.00) for the documented actual expenses incurred in
354 the course of relocating, including the expense of any
355 professional moving company or persons employed to assist with the
356 move, rented moving vehicles or equipment, mileage in the amount
357 authorized for county and municipal employees under Section

358 25-3-41 if the licensed employee used his personal vehicle or
359 vehicles for the move, meals and such other expenses associated
360 with the relocation. No licensed employee may be reimbursed for
361 moving expenses under this section on more than one (1) occasion
362 by the same school district. Nothing in this section shall be
363 construed to require the actual residence to which the licensed
364 employee relocates to be within the boundaries of the school
365 district that has executed a contract for employment in order for
366 the licensed employee to be eligible for reimbursement for the
367 moving expenses. However, the licensed employee must relocate
368 within the boundaries of the State of Mississippi. Any individual
369 receiving relocation assistance through the Critical Teacher
370 Shortage Act as provided in Section 37-159-5 shall not be eligible
371 to receive additional relocation funds as authorized in this
372 paragraph;

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

379 (pp) Consistent with the report of the Task Force to
380 Conduct a Best Financial Management Practices Review, to improve
381 school district management and use of resources and identify cost
382 savings as established in Section 8 of Chapter 610, Laws of 2002,
383 local school boards are encouraged to conduct independent reviews
384 of the management and efficiency of schools and school districts.
385 Such management and efficiency reviews shall provide state and
386 local officials and the public with the following:

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

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

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

392 (iv) An assessment of facilities utilization,
393 planning and maintenance;

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

396 (vi) An assessment of instructional and
397 administrative technology;

398 (vii) A review of the instructional management and
399 the efficiency and effectiveness of existing instructional
400 programs; and

401 (viii) Recommended methods for increasing
402 efficiency and effectiveness in providing educational services to
403 the public;

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

409 (rr) To implement a financial literacy program for
410 students in Grades 10 and 11. The board may review the national
411 programs and obtain free literature from various nationally
412 recognized programs. After review of the different programs, the
413 board may certify a program that is most appropriate for the
414 school districts' needs. If a district implements a financial
415 literacy program, then any student in Grade 10 or 11 may
416 participate in the program. The financial literacy program shall
417 include, but is not limited to, instruction in the same areas of
418 personal business and finance as required under Section
419 37-1-3(2)(b). The school board may coordinate with volunteer
420 teachers from local community organizations, including, but not
421 limited to, the following: United States Department of
422 Agriculture Rural Development, United States Department of Housing
423 and Urban Development, Junior Achievement, bankers and other

424 nonprofit organizations. Nothing in this paragraph shall be
425 construed as to require school boards to implement a financial
426 literacy program;

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

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

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

445 (ii) Pay the same over to any financial
446 institution, trustee or other obligee, as directed in writing by
447 the school board, to satisfy all or part of such obligation of the
448 school district.

449 The school board may make such written agreement to withhold
450 and transfer funds irrevocable for the term of the written
451 obligation and may include in the written agreement any other
452 terms and provisions acceptable to the school board. If the
453 school board files a copy of such written agreement with the State
454 Tax Commission, or any state agency, department or commission
455 created under state law then the State Tax Commission or any state
456 agency, department or commission created under state law shall

457 immediately make the withholdings provided in such agreement from
458 the amounts due the local school board and shall continue to pay
459 the same over to such financial institution, trustee or obligee
460 for the term of the agreement.

461 This paragraph (tt) shall not grant any extra authority to a
462 school board to issue debt in any amount exceeding statutory
463 limitations on assessed value of taxable property within such
464 school district or the statutory limitations on debt maturities,
465 and shall not grant any extra authority to impose, levy or collect
466 a tax which is not otherwise expressly provided for, and shall not
467 be construed to apply to sixteenth section public school trust
468 land;

469 (uu) With respect to any matter or transaction that is
470 competitively bid by a school district, to accept from any bidder
471 as a good faith deposit or bid bond or bid surety, the same type
472 of good faith deposit or bid bond or bid surety that may be
473 accepted by the state or any other political subdivision on
474 similar competitively bid matters or transactions. This paragraph
475 (uu) shall not be construed to apply to sixteenth section public
476 school trust land. The school board may authorize the investment
477 of any school district funds in the same kind and manner of
478 investments, including pooled investments, as any other political
479 subdivision, including community hospitals; and

480 (vv) To utilize the alternate method for the conveyance
481 or exchange of unused school buildings and/or land, reserving a
482 partial or other undivided interest in the property, as
483 specifically authorized and provided in Section 37-7-485,
484 Mississippi Code of 1972.

485 (ww) To accept any monetary contribution or other form
486 of financial assistance.

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

489 **SECTION 4.** Nothing in this act shall affect or defeat any
490 claim, assessment, appeal, suit, right or cause of action for
491 taxes due or accrued under the income tax laws before the date on
492 which this act becomes effective, whether such claims,
493 assessments, appeals, suits or actions have been begun before the
494 date on which this act becomes effective or are begun thereafter;
495 and the provisions of the income tax laws are expressly continued
496 in full force, effect and operation for the purpose of the
497 assessment, collection and enrollment of liens for any taxes due
498 or accrued and the execution of any warrant under such laws before
499 the date on which this act becomes effective, and for the
500 imposition of any penalties, forfeitures or claims for failure to
501 comply with such laws.

502 **SECTION 5.** This act shall take effect and be in force from
503 and after January 1, 2006.