

By: Senator(s) Doxey, Chaney

To: Education; Finance

SENATE BILL NO. 2978  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 37-7-485, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE LOCAL SCHOOL BOARDS TO CONTRACT WITH OTHER ENTITIES  
3 FOR THE DEVELOPMENT, DESIGN, CONSTRUCTION, FINANCING, OWNERSHIP  
4 AND OPERATION OF SURPLUS SCHOOL PROPERTY PURSUANT TO THE  
5 PROVISIONS OF THE SCHOOL PROPERTY DEVELOPMENT ACT; TO AUTHORIZE  
6 SCHOOL BOARDS TO ISSUE NOTES AND OTHER WRITTEN OBLIGATIONS TO  
7 FINANCE SUCH ACTIVITIES; TO AUTHORIZE SCHOOL BOARDS TO PLEDGE  
8 TAXES COLLECTED UPON SUCH LAND AS SECURITY FOR SUCH NOTES; TO  
9 REMOVE THE REPEALER FOR THE SCHOOL PROPERTY DEVELOPMENT ACT; TO  
10 CODIFY SECTION 37-7-487, MISSISSIPPI CODE OF 1972, TO AUTHORIZE  
11 SCHOOL DISTRICTS TO ESTIMATE REVENUES FOR PURPOSES OF THIS ACT AND  
12 TO PLEDGE SUCH REVENUES; TO PROVIDE THAT A DISTRICT THAT PLEDGES  
13 REVENUES UNDER THIS ACT SHALL ANNUALLY APPROPRIATE SUCH REVENUES  
14 RECEIVED AND THAT SUCH DEBTS SHALL NOT BE A PART OF THE DISTRICTS'  
15 DEBT LIMIT; TO PROVIDE THAT A DISTRICT MAY IRREVOCABLY PLEDGE SUCH  
16 PAYMENT TO BE MADE BY THE APPROPRIATE TAX ASSESSOR OR TAX  
17 COLLECTOR TO SECURE SUCH PAYMENTS; TO DEFINE THE WORD "REVENUES"  
18 FOR PURPOSES OF THIS ACT; TO PROVIDE THAT A SCHOOL DISTRICT MAY  
19 ENTER INTO A DEVELOPMENT AGREEMENT WHEREIN THE FEES MAY BE A LIEN  
20 ON THE LAND TO BE DEVELOPED; TO PROVIDE THAT NOTHING IN THIS ACT  
21 SHALL BE CONSTRUED TO GIVE SCHOOL DISTRICTS ADDITIONAL DEBT OR ANY  
22 ADDITIONAL TAXING AUTHORITY; TO REPEAL SECTION 3, CHAPTER 65, LAWS  
23 OF 1935, WHICH PROVIDES THAT TITLE TO CERTAIN REAL PROPERTY  
24 DEDICATED TO THE CITY OF JACKSON FOR SCHOOL PURPOSES WILL REVERT  
25 TO THE STATE IF THE PROPERTY CEASES TO BE USED FOR SCHOOL  
26 PURPOSES; TO AUTHORIZE THE SECRETARY OF STATE TO EXECUTE A DEED  
27 CONVEYING INTERESTS IN SUCH PROPERTY; TO PROVIDE THAT THE JACKSON  
28 PUBLIC SCHOOL DISTRICT WILL SET-ASIDE 25% OF PROFITS FROM ANY AND  
29 ALL DEVELOPMENT, LEASE OR SALE OF SUCH PROPERTY FOR USE OF THE  
30 UNIVERSITY OF MISSISSIPPI MEDICAL CENTER, OR ITS AFFILIATED  
31 INSTITUTIONS, AS DETERMINED BY THE UNIVERSITY OF MISSISSIPPI  
32 MEDICAL CENTER; AND FOR RELATED PURPOSES.

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

34 **SECTION 1.** Section 37-7-485, Mississippi Code of 1972, is  
35 amended as follows:

36 37-7-485. (1) This section shall be referred to as the  
37 "School Property Development Act of 2005." It is the intent of  
38 the Legislature that this section shall provide school boards with  
39 an alternative optional method of disposal of surplus school  
40 property that may generate greater returns to the district than a  
41 public disposal sale, or to promote or stimulate economic

42 development within the school district or to promote, stabilize or  
43 enhance property and tax values within the school district.

44 (2) The school board of any school district shall be  
45 authorized and empowered, in its discretion, to sell, convey or  
46 exchange a partial interest, undivided interest or any other  
47 interest in real property (other than sixteenth section public  
48 school trust land), in whole or in part, for a nonoperational  
49 interest in any proposed development of the property, including  
50 ownership of shares of a domestic corporation or a membership  
51 interest in a limited liability company or a limited partnership  
52 interest, any of which is organized for the operation of any  
53 project, development or activity that, in the discretion of the  
54 school board, will have the potential for fostering economic  
55 development activities, increasing property values, increasing  
56 student development or enhancing public safety. The school board  
57 may contract with any other governmental entity, university or  
58 community college, corporation, person or other legal entity for  
59 the development, design, construction, financing, ownership or  
60 operation of any project, development or activity and may issue  
61 notes, leases, bonds or other written obligations to finance such  
62 activities. The school board may pledge any revenues or taxes it  
63 is to receive from such sale, conveyance or exchange, including  
64 any shares of a corporation or membership interest in a limited  
65 liability company or limited partnership interest under this  
66 subsection or under Sections 37-7-471 through 37-7-483, to secure  
67 the repayment of any notes, leases (excluding leases of sixteenth  
68 section public school trust land), bonds or other written  
69 obligations of the district issued under any provision of state  
70 law. Any such pledge of revenues or other monies shall be valid  
71 and binding from the date the pledge is made; such revenues or  
72 other monies so pledged and thereafter received by the school  
73 district shall immediately be subject to the lien of such pledge  
74 without any physical delivery thereof or further act, and the lien

75 of any such pledge shall be valid and binding as against all  
76 parties having claims of any kind in tort, contract or otherwise  
77 against the school district irrespective of whether such parties  
78 have notice thereof. Neither the resolutions, contracts or any  
79 other instrument by which a pledge is created need be recorded.  
80 Any debt secured in whole or in part by a pledge of such revenues  
81 or other monies shall not be subject to or included in any debt  
82 limitation imposed on the issuance of such debt. This subsection  
83 (2) shall not be construed to apply to sixteenth section public  
84 school trust land.

85 (3) The school board shall use sound business practices when  
86 executing exchanges as provided in this section. The school board  
87 may utilize the services of the Mississippi Development Authority,  
88 the local planning and development district or the Board of  
89 Trustees of State Institutions of Higher Learning when executing  
90 exchanges as provided in this section. The local school board  
91 shall require, in any project exceeding Two Hundred Thousand  
92 Dollars (\$200,000.00) that the party with whom the school board is  
93 contracting shall provide the following information, at a minimum:

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

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

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

101 (d) Data supporting the expertise of the entity's  
102 principals;

103 (e) A cost benefit analysis of the project performed by  
104 the Mississippi Development Authority, a state institution of  
105 higher learning or other entity selected by the local school  
106 board; and

107 (f) Any other information required by the local school  
108 board.

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

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

113 (5) No person involved in any economic development project  
114 entered into by a school board under the provisions of this  
115 section shall be related by consanguinity or affinity within the  
116 third degree to any member of the school board or the  
117 superintendent or any assistant superintendent of the school  
118 district, nor shall any such person have an interest in any  
119 business or have an economic relationship with any member of the  
120 school board or the superintendent or any assistant superintendent  
121 of the school district.

122 (6) No person, or any agent, subsidiary or parent  
123 corporation or firm owned in whole or in part by the person shall  
124 be eligible to bid or otherwise participate in the construction,  
125 contracting, or subcontracting on any project or part thereof for  
126 which the person has been hired to perform construction program  
127 management services. Any contract for public construction that  
128 violates this provision shall be void and against the public  
129 policy of the state. For purposes of this subsection, the term  
130 "construction program management services" means a set of  
131 management and technical services rendered by a person or firm to  
132 a public sector building owner during the predesign, design,  
133 construction, or post-construction phases of new construction,  
134 demolition, alteration, repair, or renovation projects. These  
135 services include any one or more of the following: project  
136 planning, budgeting, scheduling, coordination, design management,  
137 construction administration, or facility occupancy actions, but  
138 shall not include any component of the actual construction work.  
139 The term does not include the services performed by the general

140 contractor who is engaged to perform the construction work, or  
141 services customarily performed by licensed architects or  
142 registered engineers.

143 (7) This section shall be supplemental and additional to any  
144 powers conferred by other laws on school districts. However, this  
145 act shall not grant any authority to a school board to issue debt  
146 in any amount that is not otherwise expressly provided for by law,  
147 and shall not grant any authority to impose, levy or collect any  
148 tax that is not otherwise expressly provided for by law.

149 (8) If a school board exercises its option to enter into a  
150 development agreement or other contract under this act or to  
151 transfer any property or interest therein to a third party for  
152 purposes of future development, the following conditions shall  
153 apply:

154 (a) The board shall have the express authority to  
155 retain a deed of trust or such other security interest in the  
156 property in an amount equal at least to the value of the property  
157 at the time of such transfer, less any consideration paid by the  
158 developer or other parties;

159 (b) The liability of the school board and the school  
160 district under any such development agreement shall be limited to  
161 the value of any retained property interest in the development  
162 agreement or the property that is the subject of the development  
163 agreement. Neither the school board nor the district shall be  
164 liable to any party nor shall it indemnify or hold harmless any  
165 party for any liabilities, obligations, losses, damages,  
166 penalties, settlements, claims, actions, suits, proceedings or  
167 judgments of any kind and nature, costs, expenses, or attorney's  
168 fees incurred by such party or parties for any act or action  
169 arising out of, or in connection with any development agreement  
170 entered into by the school board, other than the value of the  
171 retained ownership interest in the property that was conveyed  
172 under such development agreement.

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

180 (10) [Deleted]

181 (11) Any property developed by a school district under this  
182 section shall be deemed to be for "school purposes" or for  
183 "educational purposes."

184 **SECTION 2.** The following shall be codified as Section  
185 37-7-487, Mississippi Code of 1972:

186 37-7-487. (1) Notwithstanding any other provision of law, a  
187 school district may estimate the amount of revenues, as defined  
188 herein, to be generated from any parcel or parcels of any type of  
189 property within the school district and may irrevocably pledge  
190 such revenues to the repayment of any debt or other obligation  
191 which the district may issue or incur under Sections 37-59-1 et  
192 seq., 37-59-101 et seq., 37-7-351 et seq., 31-7-13(e), 31-7-14,  
193 37-7-471 et seq. and 37-7-485 et. seq.

194 (2) Any district that pledges revenues under the provisions  
195 of this section shall annually appropriate an amount of such  
196 revenues, other than the avails of any special tax otherwise  
197 levied to pay debt service on bonds or notes of the district, to  
198 pay the debt or other obligations for which the revenues are  
199 pledged. Any debt or obligation secured by a pledge of revenues  
200 under this section shall not be subject to any debt limit or  
201 annual appropriation limitation imposed by any other statute. To  
202 further secure the school district's pledge, the district may  
203 irrevocably instruct the appropriate tax assessor or collector to  
204 irrevocably transfer on behalf of the district the pledged amount  
205 from any ad valorem tax collections, other than any special tax

206 levy specifically imposed to pay debt service on any bonds or  
207 notes of the district, directly to a paying agent, trustee or  
208 other third party responsible for paying the debt or obligation of  
209 the district. Upon receipt of such written instructions, the  
210 appropriate tax assessor or collector shall transfer the pledged  
211 revenues as directed in writing by the school district.

212 (3) The term revenues, as used in this section shall mean  
213 revenues of all types, including ad valorem tax collections, other  
214 than collections from special levies specifically levied to pay  
215 debt service on any bonds or notes of the school district, lease  
216 or development revenues, and any special development fees imposed  
217 by a developer of property within the school district as provided  
218 herein.

219 (4) Any school district may enter into an agreement with a  
220 developer pursuant to which the developer agrees to impose a  
221 development fee, in the amount and in the manner agreed to by the  
222 district and the developer, on property being developed within the  
223 district by the developer. The term of any such agreement shall  
224 not exceed fifty (50) years. Upon the agreement being recorded in  
225 the land records of the chancery clerk of the county in which the  
226 property is located, the development fee shall become a lien on  
227 the property subject to the agreement between the developer and  
228 the district and shall be payable by all owners of the subject  
229 property at the same time and in the same manner, and the payment  
230 of such fee shall be enforced by the taxing authority in the same  
231 manner as other ad valorem taxes levied on the property.

232 (5) Nothing in this section shall be construed as giving  
233 school districts additional debt or to levy any additional taxes  
234 other than as allowed by this section or as otherwise provided by  
235 law.

236 **SECTION 3.** (1) Section 3, Chapter 65, Laws of 1935, is  
237 hereby repealed. The State of Mississippi expressly releases and  
238 waives its reversionary interest and transfers and conveys any and

239 all interests it may have in certain real property known as the  
240 Bailey Magnet School property, formerly dedicated to the City of  
241 Jackson, and subsequently to the Jackson Public School District,  
242 pursuant to Chapter 65, Laws of 1935. The Secretary of State is  
243 authorized and directed to execute a deed conveying the state's  
244 interest in the subject property to the Jackson Public School  
245 District, reserving only mineral rights for the state.

246 (2) In consideration for the state waiving its reversionary  
247 interest in the Bailey Magnet School property, Jackson Public  
248 School District shall set-aside twenty-five percent (25%) of the  
249 net profit which the district may receive from any and all  
250 development, lease or sale of the Bailey Magnet School property  
251 and make payments of such profits under terms and conditions as  
252 may be negotiated with the University of Mississippi Medical  
253 Center, or an affiliated institution or organization, as may be  
254 designated by the Chancellor of the University of Mississippi, or  
255 the Vice Chancellor for Health Affairs and Dean of the Medical  
256 Center. This set-aside provision, however, shall not apply to any  
257 revenues that the district may receive from any future sale of the  
258 Bailey Magnet School building or facilities, or Newell Field, or  
259 any other improvements on the property which were constructed by  
260 or on behalf of the Jackson Public School District or the City of  
261 Jackson.

262 **SECTION 4.** This act shall take effect and be in force from  
263 and after passage.