

REPORT OF CONFERENCE COMMITTEE

MADAM PRESIDENT AND MR. SPEAKER:

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

S. B. No. 2978: School board may contract for the development of surplus school property and issue notes/bonds; authorize.

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

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

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

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

35 37-7-485. (1) This section shall be referred to as the
36 "School Property Development Act of 2005." It is the intent of
37 the Legislature that this section shall provide school boards with
38 an alternative optional method of disposal of surplus school
39 property that may generate greater returns to the district than a
40 public disposal sale, or to promote or stimulate economic
41 development within the school district or to promote, stabilize or
42 enhance property and tax values within the school district.

43 (2) The school board of any school district shall be
44 authorized and empowered, in its discretion, to sell, convey or
45 exchange a partial interest, undivided interest or any other
46 interest in real property (other than sixteenth section public
47 school trust land), in whole or in part, for a nonoperational
48 interest in any proposed development of the property, including
49 ownership of shares of a domestic corporation or a membership
50 interest in a limited liability company or a limited partnership
51 interest, any of which is organized for the operation of any
52 project, development or activity that, in the discretion of the
53 school board, will have the potential for fostering economic

54 development activities, increasing property values, increasing
55 student development or enhancing public safety. The school board
56 may contract with any other governmental entity, university or
57 community college, corporation, person or other legal entity for
58 the development, design, construction, financing, ownership or
59 operation of any project, development or activity and may issue
60 notes, leases, bonds or other written obligations to finance such
61 activities. The school board may pledge any revenues or taxes it
62 is to receive from such sale, conveyance or exchange, including
63 any shares of a corporation or membership interest in a limited
64 liability company or limited partnership interest under this
65 subsection or under Sections 37-7-471 through 37-7-483, to secure
66 the repayment of any notes, leases (excluding leases of sixteenth
67 section public school trust land), bonds or other written
68 obligations of the district issued under any provision of state
69 law. Any such pledge of revenues or other monies shall be valid
70 and binding from the date the pledge is made; such revenues or
71 other monies so pledged and thereafter received by the school
72 district shall immediately be subject to the lien of such pledge
73 without any physical delivery thereof or further act, and the lien
74 of any such pledge shall be valid and binding as against all
75 parties having claims of any kind in tort, contract or otherwise
76 against the school district irrespective of whether such parties
77 have notice thereof. Neither the resolutions, contracts or any
78 other instrument by which a pledge is created need be recorded.
79 Any debt secured in whole or in part by a pledge of such revenues
80 or other monies shall not be subject to or included in any debt
81 limitation imposed on the issuance of such debt. This subsection
82 (2) shall not be construed to apply to sixteenth section public
83 school trust land.

84 (3) The school board shall use sound business practices when
85 executing exchanges as provided in this section. The school board

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

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

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

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

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

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

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

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

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

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

118 business or have an economic relationship with any member of the
119 school board or the superintendent or any assistant superintendent
120 of the school district.

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

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

148 (8) If a school board exercises its option to enter into a
149 development agreement or other contract under this act or to

150 transfer any property or interest therein to a third party for
151 purposes of future development, the following conditions shall
152 apply:

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

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

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

179 (10) [Deleted]

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

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

185 37-7-487. (1) Notwithstanding any other provision of law, a
186 school district may estimate the amount of revenues, as defined
187 herein, to be generated from any parcel or parcels of any type of
188 property within the school district and may irrevocably pledge
189 such revenues to the repayment of any debt or other obligation
190 which the district may issue or incur under Sections 37-59-1 et
191 seq., 37-59-101 et seq., 37-7-351 et seq., 31-7-13(e), 31-7-14,
192 37-7-471 et seq. and 37-7-485 et. seq.

193 (2) Any district that pledges revenues under the provisions
194 of this section shall annually appropriate an amount of such
195 revenues, other than the avails of any special tax otherwise
196 levied to pay debt service on bonds or notes of the district, to
197 pay the debt or other obligations for which the revenues are
198 pledged. Any debt or obligation secured by a pledge of revenues
199 under this section shall not be subject to any debt limit or
200 annual appropriation limitation imposed by any other statute. To
201 further secure the school district's pledge, the district may
202 irrevocably instruct the appropriate tax assessor or collector to
203 irrevocably transfer on behalf of the district the pledged amount
204 from any ad valorem tax collections, other than any special tax
205 levy specifically imposed to pay debt service on any bonds or
206 notes of the district, directly to a paying agent, trustee or
207 other third party responsible for paying the debt or obligation of
208 the district. Upon receipt of such written instructions, the
209 appropriate tax assessor or collector shall transfer the pledged
210 revenues as directed in writing by the school district.

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

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

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

235 **SECTION 3.** (1) Section 3, Chapter 65, Laws of 1935, is
236 hereby repealed. The State of Mississippi expressly releases and
237 waives its reversionary interest and transfers and conveys any and
238 all interests it may have in certain real property known as the
239 Bailey Magnet School property, formerly dedicated to the City of
240 Jackson, and subsequently to the Jackson Public School District,
241 pursuant to Chapter 65, Laws of 1935. The Secretary of State is
242 authorized and directed to execute a deed conveying the state's

243 interest in the subject property to the Jackson Public School
244 District, reserving only mineral rights for the state.

245 (2) In the event that the Jackson Public School District
246 enters into an agreement under the School Property Development Act
247 of 2005 for the commercial development of the unused portion of
248 the Bailey Magnet School property for noneducational purposes, the
249 district shall set-aside twenty-five percent (25%) of the net
250 profit which the district may receive from the development and
251 make payments of such profits under terms and conditions as may be
252 negotiated with the University of Mississippi Medical Center, or
253 an affiliated institution or organization, as may be designated by
254 the Chancellor of the University of Mississippi, or the Vice
255 Chancellor for Health Affairs and Dean of the Medical Center.
256 This set-aside provision, however, shall not apply to any revenues
257 that the district may receive from any future sale of Bailey
258 Magnet School building or facilities, or Newell Field, or any
259 other improvements on the property which were constructed by or on
260 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.

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

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 TO AUTHORIZE SCHOOL DISTRICTS TO ESTIMATE
11 REVENUES FOR PURPOSES OF THIS ACT AND TO PLEDGE SUCH REVENUES; TO
12 PROVIDE THAT A DISTRICT THAT PLEDGES REVENUES UNDER THIS ACT SHALL
13 ANNUALLY APPROPRIATE SUCH REVENUES RECEIVED AND THAT SUCH DEBTS
14 SHALL NOT BE A PART OF THE DISTRICTS' DEBT LIMIT; TO PROVIDE THAT
15 A DISTRICT MAY IRREVOCABLY PLEDGE SUCH PAYMENT TO BE MADE BY THE
16 APPROPRIATE TAX ASSESSOR OR TAX COLLECTOR TO SECURE SUCH PAYMENTS;
17 TO DEFINE THE WORD "REVENUES" FOR PURPOSES OF THIS ACT; TO PROVIDE

18 THAT A SCHOOL DISTRICT MAY ENTER INTO A DEVELOPMENT AGREEMENT
19 WHEREIN THE FEES MAY BE A LIEN ON THE LAND TO BE DEVELOPED; TO
20 PROVIDE THAT NOTHING IN THIS ACT SHALL BE CONSTRUED TO GIVE SCHOOL
21 DISTRICTS ADDITIONAL DEBT OR ANY ADDITIONAL TAXING AUTHORITY; TO
22 REPEAL SECTION 3, CHAPTER 65, LAWS OF 1935, WHICH PROVIDES THAT
23 TITLE TO CERTAIN REAL PROPERTY DEDICATED TO THE CITY OF JACKSON
24 FOR SCHOOL PURPOSES WILL REVERT TO THE STATE IF THE PROPERTY
25 CEASES TO BE USED FOR SCHOOL PURPOSES; TO AUTHORIZE THE SECRETARY
26 OF STATE TO EXECUTE A DEED CONVEYING INTERESTS IN SUCH PROPERTY;
27 TO PROVIDE THAT IN THE EVENT OF COMMERCIAL DEVELOPMENT OF SAID
28 PROPERTY THE JACKSON PUBLIC SCHOOL DISTRICT WILL SET-ASIDE 25% OF
29 PROFITS FOR USE OF THE UNIVERSITY OF MISSISSIPPI MEDICAL CENTER,
30 OR ITS AFFILIATED INSTITUTIONS, AS DETERMINED BY THE UNIVERSITY OF
31 MISSISSIPPI MEDICAL CENTER; AND FOR RELATED PURPOSES.

CONFEREES FOR THE SENATE

X (SIGNED)
Chaney

X (SIGNED)
Robertson

X (SIGNED)
Clarke

CONFEREES FOR THE HOUSE

X (SIGNED)
Brown

X (SIGNED)
Reeves

X (SIGNED)
Watson