

## REPORT OF CONFERENCE COMMITTEE

# 2

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

261 **SECTION 4.** This act shall take effect and be in force from  
262 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 THE JACKSON PUBLIC SCHOOL DISTRICT WILL SET-ASIDE  
28 25% OF PROFITS FROM ANY AND ALL DEVELOPMENT, LEASE OR SALE OF SUCH  
29 PROPERTY 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

(NOT SIGNED)  
Reeves

X (SIGNED)  
Watson