

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**Senate Bill No. 2978**

**BY: Committee**

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

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

18           37-7-485. (1) This section shall be referred to as the  
19 "School Property Development Act of 2005." It is the intent of  
20 the Legislature that this section shall provide school boards with  
21 an alternative optional method of disposal of surplus school  
22 property that may generate greater returns to the district than a  
23 public disposal sale, or to promote or stimulate economic  
24 development within the school district or to promote, stabilize or  
25 enhance property and tax values within the school district.

26           (2) The school board of any school district shall be  
27 authorized and empowered, in its discretion, to sell, convey or  
28 exchange a partial interest, undivided interest or any other  
29 interest in real property (other than sixteenth section public  
30 school trust land), in whole or in part, for a nonoperational  
31 interest in any proposed development of the property, including  
32 ownership of shares of a domestic corporation or a membership  
33 interest in a limited liability company or a limited partnership  
34 interest, any of which is organized for the operation of any

35 project, development or activity that, in the discretion of the  
36 school board, will have the potential for fostering economic  
37 development activities, increasing property values, increasing  
38 student development or enhancing public safety. The school board  
39 may contract with any other governmental entity, university or  
40 community college, corporation, person or other legal entity for  
41 the development, design, construction, financing, ownership or  
42 operation of any project, development or activity and may issue  
43 notes, leases, bonds or other written obligations to finance such  
44 activities. The school board may pledge any revenues or taxes it  
45 is to receive from such sale, conveyance or exchange, including  
46 any shares of a corporation or membership interest in a limited  
47 liability company or limited partnership interest under this  
48 subsection or under Sections 37-7-471 through 37-7-483, to secure  
49 the repayment of any notes, leases (excluding leases of sixteenth  
50 section public school trust land), bonds or other written  
51 obligations of the district issued under any provision of state  
52 law. Any such pledge of revenues or other monies shall be valid  
53 and binding from the date the pledge is made; such revenues or  
54 other monies so pledged and thereafter received by the school  
55 district shall immediately be subject to the lien of such pledge  
56 without any physical delivery thereof or further act, and the lien  
57 of any such pledge shall be valid and binding as against all  
58 parties having claims of any kind in tort, contract or otherwise  
59 against the school district irrespective of whether such parties  
60 have notice thereof. Neither the resolutions, contracts or any  
61 other instrument by which a pledge is created need be recorded.  
62 Any debt secured in whole or in part by a pledge of such revenues  
63 or other monies shall not be subject to or included in any debt  
64 limitation imposed on the issuance of such debt. This subsection  
65 (2) shall not be construed to apply to sixteenth section public  
66 school trust land.

67           (3) The school board shall use sound business practices when  
68 executing exchanges as provided in this section. The school board  
69 may utilize the services of the Mississippi Development Authority,  
70 the local planning and development district or the Board of  
71 Trustees of State Institutions of Higher Learning when executing  
72 exchanges as provided in this section. The local school board  
73 shall require, in any project exceeding Two Hundred Thousand  
74 Dollars (\$200,000.00) that the party with whom the school board is  
75 contracting shall provide the following information, at a minimum:

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

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

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

83           (d) Data supporting the expertise of the entity's  
84 principals;

85           (e) A cost benefit analysis of the project performed by  
86 the Mississippi Development Authority, a state institution of  
87 higher learning or other entity selected by the local school  
88 board; and

89           (f) Any other information required by the local school  
90 board.

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

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

95           (5) No person involved in any economic development project  
96 entered into by a school board under the provisions of this  
97 section shall be related by consanguinity or affinity within the  
98 third degree to any member of the school board or the

99 superintendent or any assistant superintendent of the school  
100 district, nor shall any such person have an interest in any  
101 business or have an economic relationship with any member of the  
102 school board or the superintendent or any assistant superintendent  
103 of the school district.

104 (6) No person, or any agent, subsidiary or parent  
105 corporation or firm owned in whole or in part by the person shall  
106 be eligible to bid or otherwise participate in the construction,  
107 contracting, or subcontracting on any project or part thereof for  
108 which the person has been hired to perform construction program  
109 management services. Any contract for public construction that  
110 violates this provision shall be void and against the public  
111 policy of the state. For purposes of this subsection, the term  
112 "construction program management services" means a set of  
113 management and technical services rendered by a person or firm to  
114 a public sector building owner during the predesign, design,  
115 construction, or post-construction phases of new construction,  
116 demolition, alteration, repair, or renovation projects. These  
117 services include any one or more of the following: project  
118 planning, budgeting, scheduling, coordination, design management,  
119 construction administration, or facility occupancy actions, but  
120 shall not include any component of the actual construction work.  
121 The term does not include the services performed by the general  
122 contractor who is engaged to perform the construction work, or  
123 services customarily performed by licensed architects or  
124 registered engineers.

125 (7) This section shall be supplemental and additional to any  
126 powers conferred by other laws on school districts. However, this  
127 act shall not grant any authority to a school board to issue debt  
128 in any amount that is not otherwise expressly provided for by law,  
129 and shall not grant any authority to impose, levy or collect any  
130 tax that is not otherwise expressly provided for by law.

131           (8) If a school board exercises its option to enter into a  
132 development agreement or other contract under this act or to  
133 transfer any property or interest therein to a third party for  
134 purposes of future development, the following conditions shall  
135 apply:

136           (a) The board shall have the express authority to  
137 retain a deed of trust or such other security interest in the  
138 property in an amount equal at least to the value of the property  
139 at the time of such transfer, less any consideration paid by the  
140 developer or other parties;

141           (b) The liability of the school board and the school  
142 district under any such development agreement shall be limited to  
143 the value of any retained property interest in the development  
144 agreement or the property that is the subject of the development  
145 agreement. Neither the school board nor the district shall be  
146 liable to any party nor shall it indemnify or hold harmless any  
147 party for any liabilities, obligations, losses, damages,  
148 penalties, settlements, claims, actions, suits, proceedings or  
149 judgments of any kind and nature, costs, expenses, or attorney's  
150 fees incurred by such party or parties for any act or action  
151 arising out of, or in connection with any development agreement  
152 entered into by the school board, other than the value of the  
153 retained ownership interest in the property that was conveyed  
154 under such development agreement.

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

162           (10) [Deleted]

163           **SECTION 2.** Section 3, Chapter 65, Laws of 1935, which  
164 provides that the title to certain real property dedicated to the  
165 City of Jackson for school purposes will revert to the state if  
166 the property ceases to be used for school purposes, is repealed.  
167 The State of Mississippi expressly releases and waives its  
168 reversionary interest and any and all other interests it may have  
169 in certain real property formerly dedicated to the City of  
170 Jackson, and later to the Jackson Public School District, under  
171 Chapter 65, Laws of 1935.

172           **SECTION 3.** This act shall take effect and be in force from  
173 and after its 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 REPEAL SECTION 3, CHAPTER 65, LAWS OF 1935, WHICH PROVIDES THAT  
11 THE TITLE TO CERTAIN REAL PROPERTY DEDICATED TO THE CITY OF  
12 JACKSON FOR SCHOOL PURPOSES WILL REVERT TO THE STATE IF THE  
13 PROPERTY CEASES TO BE USED FOR SCHOOL PURPOSES; AND FOR RELATED  
14 PURPOSES.