

By: Representative Whittington

To: Ways and Means

HOUSE BILL NO. 794

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

104 (q) To provide athletic programs and other school
105 activities and to regulate the establishment and operation of such
106 programs and activities;

107 (r) To join, in their discretion, any association of
108 school boards and other public school-related organizations, and
109 to pay from local funds other than minimum foundation funds, any
110 membership dues;

111 (s) To expend local school activity funds, or other
112 available school district funds, other than minimum education
113 program funds, for the purposes prescribed under this paragraph.
114 "Activity funds" shall mean all funds received by school officials
115 in all school districts paid or collected to participate in any
116 school activity, such activity being part of the school program
117 and partially financed with public funds or supplemented by public
118 funds. The term "activity funds" shall not include any funds
119 raised and/or expended by any organization unless commingled in a
120 bank account with existing activity funds, regardless of whether
121 the funds were raised by school employees or received by school
122 employees during school hours or using school facilities, and
123 regardless of whether a school employee exercises influence over
124 the expenditure or disposition of such funds. Organizations shall
125 not be required to make any payment to any school for the use of
126 any school facility if, in the discretion of the local school
127 governing board, the organization's function shall be deemed to be
128 beneficial to the official or extracurricular programs of the

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

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

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

162 (v) (i) To lease a school building from an individual,
163 partnership, nonprofit corporation or a private for-profit
164 corporation for the use of such school district, and to expend
165 funds therefor as may be available from any nonminimum program
166 sources. The school board of the school district desiring to
167 lease a school building shall declare by resolution that a need
168 exists for a school building and that the school district cannot
169 provide the necessary funds to pay the cost or its proportionate
170 share of the cost of a school building required to meet the
171 present needs. The resolution so adopted by the school board
172 shall be published once each week for three (3) consecutive weeks
173 in a newspaper having a general circulation in the school district
174 involved, with the first publication thereof to be made not less
175 than thirty (30) days prior to the date upon which the school
176 board is to act on the question of leasing a school building. If
177 no petition requesting an election is filed prior to such meeting
178 as hereinafter provided, then the school board may, by resolution
179 spread upon its minutes, proceed to lease a school building. If
180 at any time prior to said meeting a petition signed by not less
181 than twenty percent (20%) or fifteen hundred (1500), whichever is
182 less, of the qualified electors of the school district involved
183 shall be filed with the school board requesting that an election
184 be called on the question, then the school board shall, not later
185 than the next regular meeting, adopt a resolution calling an
186 election to be held within such school district upon the question
187 of authorizing the school board to lease a school building. Such
188 election shall be called and held, and notice thereof shall be
189 given, in the same manner for elections upon the questions of the
190 issuance of the bonds of school districts, and the results thereof
191 shall be certified to the school board. If at least three-fifths
192 (3/5) of the qualified electors of the school district who voted
193 in such election shall vote in favor of the leasing of a school
194 building, then the school board shall proceed to lease a school

195 building. The term of the lease contract shall not exceed twenty
196 (20) years, and the total cost of such lease shall be either the
197 amount of the lowest and best bid accepted by the school board
198 after advertisement for bids or an amount not to exceed the
199 current fair market value of the lease as determined by the
200 averaging of at least two (2) appraisals by certified general
201 appraisers licensed by the State of Mississippi. The term "school
202 building" as used in this item (v) shall be construed to mean any
203 building or buildings used for classroom purposes in connection
204 with the operation of schools and shall include the site therefor,
205 necessary support facilities, and the equipment thereof and
206 appurtenances thereto such as heating facilities, water supply,
207 sewage disposal, landscaping, walks, drives and playgrounds. The
208 term "lease" as used in this item (v)(i) may include a
209 lease/purchase contract;

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

226 (w) To employ all noninstructional and noncertificated
227 employees and fix the duties and compensation of such personnel

228 deemed necessary pursuant to the recommendation of the
229 superintendent of schools;

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

232 (y) Subject to rules and regulations of the State Board
233 of Education, to purchase, own and operate trucks, vans and other
234 motor vehicles, which shall bear the proper identification
235 required by law;

236 (z) To expend funds for the payment of substitute
237 teachers and to adopt reasonable regulations for the employment
238 and compensation of such substitute teachers;

239 (aa) To acquire in its own name by purchase all real
240 property which shall be necessary and desirable in connection with
241 the construction, renovation or improvement of any public school
242 building or structure. Whenever the purchase price for such real
243 property is greater than Fifty Thousand Dollars (\$50,000.00), the
244 school board shall not purchase the property for an amount
245 exceeding the fair market value of such property as determined by
246 the average of at least two (2) independent appraisals by
247 certified general appraisers licensed by the State of Mississippi.
248 If the board shall be unable to agree with the owner of any such
249 real property in connection with any such project, the board shall
250 have the power and authority to acquire any such real property by
251 condemnation proceedings pursuant to Section 11-27-1 et seq.,
252 Mississippi Code of 1972, and for such purpose, the right of
253 eminent domain is hereby conferred upon and vested in said board.
254 Provided further, that the local school board is authorized to
255 grant an easement for ingress and egress over sixteenth section
256 land or lieu land in exchange for a similar easement upon
257 adjoining land where the exchange of easements affords substantial
258 benefit to the sixteenth section land; provided, however, the
259 exchange must be based upon values as determined by a competent
260 appraiser, with any differential in value to be adjusted by cash

261 payment. Any easement rights granted over sixteenth section land
262 under such authority shall terminate when the easement ceases to
263 be used for its stated purpose. No sixteenth section or lieu land
264 which is subject to an existing lease shall be burdened by any
265 such easement except by consent of the lessee or unless the school
266 district shall acquire the unexpired leasehold interest affected
267 by the easement;

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

271 (cc) Subject to rules and regulations of the State
272 Board of Education, to purchase relocatable classrooms for the use
273 of such school district, in the manner prescribed in Section
274 37-1-13;

275 (dd) Enter into contracts or agreements with other
276 school districts, political subdivisions or governmental entities
277 to carry out one or more of the powers or duties of the school
278 board, or to allow more efficient utilization of limited resources
279 for providing services to the public;

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

288 (ff) As part of their duties to prescribe the use of
289 textbooks, to provide that parents and legal guardians shall be
290 responsible for the textbooks and for the compensation to the
291 school district for any books which are not returned to the proper
292 schools upon the withdrawal of their dependent child. If a
293 textbook is lost or not returned by any student who drops out of

294 the public school district, the parent or legal guardian shall
295 also compensate the school district for the fair market value of
296 the textbooks;

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

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

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

311 (hh) To allow individual lessons for music, art and
312 other curriculum-related activities for academic credit or
313 nonacademic credit during school hours and using school equipment
314 and facilities, subject to uniform rules and regulations adopted
315 by the school board;

316 (ii) To charge reasonable fees for participating in an
317 extracurricular activity for academic or nonacademic credit for
318 necessary and required equipment such as safety equipment, band
319 instruments and uniforms;

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

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

325 (ll) To expend funds for the services of nonprofit arts
326 organizations or other such nonprofit organizations who provide

327 performances or other services for the students of the school
328 district;

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

340 (nn) To use any available funds, not appropriated or
341 designated for any other purpose, for reimbursement to the
342 state-licensed employees from both in-state and out-of-state, who
343 enter into a contract for employment in a school district, for the
344 expense of moving when the employment necessitates the relocation
345 of the licensed employee to a different geographical area than
346 that in which the licensed employee resides before entering into
347 the contract. The reimbursement shall not exceed One Thousand
348 Dollars (\$1,000.00) for the documented actual expenses incurred in
349 the course of relocating, including the expense of any
350 professional moving company or persons employed to assist with the
351 move, rented moving vehicles or equipment, mileage in the amount
352 authorized for county and municipal employees under Section
353 25-3-41 if the licensed employee used his personal vehicle or
354 vehicles for the move, meals and such other expenses associated
355 with the relocation. No licensed employee may be reimbursed for
356 moving expenses under this section on more than one (1) occasion
357 by the same school district. Nothing in this section shall be
358 construed to require the actual residence to which the licensed
359 employee relocates to be within the boundaries of the school

360 district that has executed a contract for employment in order for
361 the licensed employee to be eligible for reimbursement for the
362 moving expenses. However, the licensed employee must relocate
363 within the boundaries of the State of Mississippi. Any individual
364 receiving relocation assistance through the Critical Teacher
365 Shortage Act as provided in Section 37-159-5 shall not be eligible
366 to receive additional relocation funds as authorized in this
367 paragraph;

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

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

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

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

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

387 (iv) An assessment of facilities utilization,
388 planning and maintenance;

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

391 (vi) An assessment of instructional and
392 administrative technology;

393 (vii) A review of the instructional management and
394 the efficiency and effectiveness of existing instructional
395 programs; and

396 (viii) Recommended methods for increasing
397 efficiency and effectiveness in providing educational services to
398 the public;

399 (qq) To enter into agreements with other local school
400 boards for the establishment of an educational service agency
401 (ESA) to provide for the cooperative needs of the region in which
402 the school district is located, as provided in Section 1 of
403 Chapter 408, Laws of 2004. This paragraph shall repeal on July 1,
404 2007;

405 (rr) To implement a financial literacy program for
406 students in Grades 10 and 11. The board may review the national
407 programs and obtain free literature from various nationally
408 recognized programs. After review of the different programs, the
409 board may certify a program that is most appropriate for the
410 school districts' needs. If a district implements a financial
411 literacy program, then any student in Grade 10 or 11 may
412 participate in the program. The financial literacy program shall
413 include, but is not limited to, instruction in the same areas of
414 personal business and finance as required under Section
415 37-1-3(2)(b). The school board may coordinate with volunteer
416 teachers from local community organizations, including, but not
417 limited to, the following: United States Department of
418 Agriculture Rural Development, United States Department of Housing
419 and Urban Development, Junior Achievement, bankers and other
420 nonprofit organizations. Nothing in this paragraph shall be
421 construed as to require school boards to implement a financial
422 literacy program;

423 (ss) To collaborate with the State Board of Education,
424 Community Action Agencies or the Department of Human Services to
425 develop and implement a voluntary program to provide services for

426 a full day prekindergarten program that addresses the cognitive,
427 social, and emotional needs of four-year-old and three-year-old
428 children. The school board may utilize nonstate source special
429 funds, grants, donations or gifts to fund the voluntary program;
430 and

431 (tt) To accept any monetary contribution or other form
432 of financial assistance.

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

435 **SECTION 4.** Nothing in this act shall affect or defeat any
436 claim, assessment, appeal, suit, right or cause of action for
437 taxes due or accrued under the income tax laws before the date on
438 which this act becomes effective, whether such claims,
439 assessments, appeals, suits or actions have been begun before the
440 date on which this act becomes effective or are begun thereafter;
441 and the provisions of the income tax laws are expressly continued
442 in full force, effect and operation for the purpose of the
443 assessment, collection and enrollment of liens for any taxes due
444 or accrued and the execution of any warrant under such laws before
445 the date on which this act becomes effective, and for the
446 imposition of any penalties, forfeitures or claims for failure to
447 comply with such laws.

448 **SECTION 5.** This act shall take effect and be in force from
449 and after January 1, 2005.