

By: Senator(s) Nunnelee

To: Education

SENATE BILL NO. 2088

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE CERTAIN RESTRICTIONS ON SCHOOL-RELATED FUND-RAISING  
3 ACTIVITIES BY STUDENTS; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 37-7-301, Mississippi Code of 1972, is  
6 amended as follows:

7 37-7-301. The school boards of all school districts shall  
8 have the following powers, authority and duties in addition to all  
9 others imposed or granted by law, to wit:

10 (a) To organize and operate the schools of the district  
11 and to make such division between the high school grades and  
12 elementary grades as, in their judgment, will serve the best  
13 interests of the school;

14 (b) To introduce public school music, art, manual  
15 training and other special subjects into either the elementary or  
16 high school grades, as the board shall deem proper;

17 (c) To be the custodians of real and personal school  
18 property and to manage, control and care for same, both during the  
19 school term and during vacation;

20 (d) To have responsibility for the erection, repairing  
21 and equipping of school facilities and the making of necessary  
22 school improvements;

23 (e) To suspend or to expel a pupil for misconduct in  
24 the school, upon school buses, on the road to and from school,  
25 during recess or upon the school playgrounds, and to delegate such  
26 authority to the appropriate officials of the school district;

27           (f) To visit schools in the district, in their  
28 discretion, in a body for the purpose of determining what can be  
29 done for the improvement of the school in a general way;

30           (g) To support, within reasonable limits, the  
31 superintendent, administrative superintendent, principal and  
32 teachers where necessary for the proper discipline of the school;

33           (h) To exclude from the schools students with what  
34 appears to be infectious or contagious diseases; provided,  
35 however, such student may be allowed to return to school upon  
36 presenting a certificate from a public health officer, duly  
37 licensed physician or nurse practitioner that the student is free  
38 from such disease;

39           (i) To require those vaccinations specified by the  
40 State Health Officer as provided in Section 41-23-37, Mississippi  
41 Code of 1972;

42           (j) To see that all necessary utilities and services  
43 are provided in the schools at all times when same are needed;

44           (k) To authorize the use of the school buildings and  
45 grounds for the holding of public meetings and gatherings of the  
46 people under such regulations as may be prescribed by said board;

47           (l) To prescribe and enforce rules and regulations not  
48 inconsistent with law or with the regulations of the State Board  
49 of Education for their own government and for the government of  
50 the schools, and to transact their business at regular and special  
51 meetings called and held in the manner provided by law;

52           (m) To maintain and operate all of the schools under  
53 their control for such length of time during the year as may be  
54 required;

55           (n) To enforce in the schools the courses of study and  
56 the use of the textbooks prescribed by the proper authorities;

57           (o) To make orders directed to the superintendent of  
58 schools or administrative superintendent for the issuance of pay  
59 certificates for lawful purposes on any available funds of the

60 district and to have full control of the receipt, distribution,  
61 allotment and disbursement of all funds provided for the support  
62 and operation of the schools of such school district whether such  
63 funds be derived from state appropriations, local ad valorem tax  
64 collections, or otherwise;

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

69 (q) To provide athletic programs and other school  
70 activities and to regulate the establishment and operation of such  
71 programs and activities;

72 (r) To join, in their discretion, any association of  
73 school boards and other public school-related organizations, and  
74 to pay from local funds other than minimum foundation funds, any  
75 membership dues;

76 (s) To expend local school activity funds, or other  
77 available school district funds, other than minimum education  
78 program funds, for the purposes prescribed under this paragraph.  
79 "Activity funds" shall mean all funds received by school officials  
80 in all school districts paid or collected to participate in any  
81 school activity, such activity being part of the school program  
82 and partially financed with public funds or supplemented by public  
83 funds. The term "activity funds" shall not include any funds  
84 raised and/or expended by any organization unless commingled in a  
85 bank account with existing activity funds, regardless of whether  
86 the funds were raised by school employees or received by school  
87 employees during school hours or using school facilities, and  
88 regardless of whether a school employee exercises influence over  
89 the expenditure or disposition of such funds. Organizations shall  
90 not be required to make any payment to any school for the use of  
91 any school facility if, in the discretion of the local school  
92 governing board, the organization's function shall be deemed to be

93 beneficial to the official or extracurricular programs of the  
94 school. For the purposes of this provision, the term  
95 "organization" shall not include any organization subject to the  
96 control of the local school governing board. Activity funds may  
97 only be expended for any necessary expenses or travel costs,  
98 including advances, incurred by students and their chaperons in  
99 attending any in-state or out-of-state school-related programs,  
100 conventions or seminars and/or any commodities, equipment, travel  
101 expenses, purchased services or school supplies which the local  
102 school governing board, in its discretion, shall deem beneficial  
103 to the official or extracurricular programs of the district,  
104 including items which may subsequently become the personal  
105 property of individuals, including yearbooks, athletic apparel,  
106 book covers and trophies. Activity funds may be used to pay  
107 travel expenses of school district personnel. The local school  
108 governing board shall be authorized and empowered to promulgate  
109 rules and regulations specifically designating for what purposes  
110 school activity funds may be expended. The local school governing  
111 board shall provide (a) that such school activity funds shall be  
112 maintained and expended by the principal of the school generating  
113 the funds in individual bank accounts, or (b) that such school  
114 activity funds shall be maintained and expended by the  
115 superintendent of schools in a central depository approved by the  
116 board. The local school governing board shall provide that such  
117 school activity funds be audited as part of the annual audit  
118 required in Section 37-9-18. The State Auditor shall prescribe a  
119 uniform system of accounting and financial reporting for all  
120 school activity fund transactions;

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

125 (u) To maintain accounts and issue pay certificates on

126 school food service bank accounts;

127           (v) (i) To lease a school building from an individual,  
128 partnership, nonprofit corporation or a private for-profit  
129 corporation for the use of such school district, and to expend  
130 funds therefor as may be available from any nonminimum program  
131 sources. The school board of the school district desiring to  
132 lease a school building shall declare by resolution that a need  
133 exists for a school building and that the school district cannot  
134 provide the necessary funds to pay the cost or its proportionate  
135 share of the cost of a school building required to meet the  
136 present needs. The resolution so adopted by the school board  
137 shall be published once each week for three (3) consecutive weeks  
138 in a newspaper having a general circulation in the school district  
139 involved, with the first publication thereof to be made not less  
140 than thirty (30) days prior to the date upon which the school  
141 board is to act on the question of leasing a school building. If  
142 no petition requesting an election is filed prior to such meeting  
143 as hereinafter provided, then the school board may, by resolution  
144 spread upon its minutes, proceed to lease a school building. If  
145 at any time prior to said meeting a petition signed by not less  
146 than twenty percent (20%) or fifteen hundred (1500), whichever is  
147 less, of the qualified electors of the school district involved  
148 shall be filed with the school board requesting that an election  
149 be called on the question, then the school board shall, not later  
150 than the next regular meeting, adopt a resolution calling an  
151 election to be held within such school district upon the question  
152 of authorizing the school board to lease a school building. Such  
153 election shall be called and held, and notice thereof shall be  
154 given, in the same manner for elections upon the questions of the  
155 issuance of the bonds of school districts, and the results thereof  
156 shall be certified to the school board. If at least three-fifths  
157 (3/5) of the qualified electors of the school district who voted  
158 in such election shall vote in favor of the leasing of a school

159 building, then the school board shall proceed to lease a school  
160 building. The term of the lease contract shall not exceed twenty  
161 (20) years, and the total cost of such lease shall be either the  
162 amount of the lowest and best bid accepted by the school board  
163 after advertisement for bids or an amount not to exceed the  
164 current fair market value of the lease as determined by the  
165 averaging of at least two (2) appraisals by members of the  
166 American Institute of Real Estate Appraisers or the Society of  
167 Real Estate Appraisers. The term "school building" as used in  
168 this item (v) shall be construed to mean any building or buildings  
169 used for classroom purposes in connection with the operation of  
170 schools and shall include the site therefor, necessary support  
171 facilities, and the equipment thereof and appurtenances thereto  
172 such as heating facilities, water supply, sewage disposal,  
173 landscaping, walks, drives and playgrounds. The term "lease" as  
174 used in this item (v)(i) may include a lease/purchase contract;

175 (ii) If two (2) or more school districts propose  
176 to enter into a lease contract jointly, then joint meetings of the  
177 school boards having control may be held but no action taken shall  
178 be binding on any such school district unless the question of  
179 leasing a school building is approved in each participating school  
180 district under the procedure hereinabove set forth in item (v)(i).  
181 All of the provisions of item (v)(i) regarding the term and amount  
182 of the lease contract shall apply to the school boards of school  
183 districts acting jointly. Any lease contract executed by two (2)  
184 or more school districts as joint lessees shall set out the amount  
185 of the aggregate lease rental to be paid by each, which may be  
186 agreed upon, but there shall be no right of occupancy by any  
187 lessee unless the aggregate rental is paid as stipulated in the  
188 lease contract. All rights of joint lessees under the lease  
189 contract shall be in proportion to the amount of lease rental paid  
190 by each;

191 (w) To employ all noninstructional and noncertificated

192 employees and fix the duties and compensation of such personnel  
193 deemed necessary pursuant to the recommendation of the  
194 superintendent of schools or the administrative superintendent;

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

197           (y) Subject to rules and regulations of the State Board  
198 of Education, to purchase, own and operate trucks, vans and other  
199 motor vehicles, which shall bear the proper identification  
200 required by law;

201           (z) To expend funds for the payment of substitute  
202 teachers and to adopt reasonable regulations for the employment  
203 and compensation of such substitute teachers;

204           (aa) To acquire in its own name by purchase all real  
205 property which shall be necessary and desirable in connection with  
206 the construction, renovation or improvement of any public school  
207 building or structure. If the board shall be unable to agree with  
208 the owner of any such real property in connection with any such  
209 project, the board shall have the power and authority to acquire  
210 any such real property by condemnation proceedings pursuant to  
211 Section 11-27-1 et seq., Mississippi Code of 1972, and for such  
212 purpose, the right of eminent domain is hereby conferred upon and  
213 vested in said board. Provided further, that the local school  
214 board is authorized to grant an easement for ingress and egress  
215 over sixteenth section land or lieu land in exchange for a similar  
216 easement upon adjoining land where the exchange of easements  
217 affords substantial benefit to the sixteenth section land;  
218 provided, however, the exchange must be based upon values as  
219 determined by a competent appraiser, with any differential in  
220 value to be adjusted by cash payment. Any easement rights granted  
221 over sixteenth section land under such authority shall terminate  
222 when the easement ceases to be used for its stated purpose. No  
223 sixteenth section or lieu land which is subject to an existing  
224 lease shall be burdened by any such easement except by consent of

225 the lessee or unless the school district shall acquire the  
226 unexpired leasehold interest affected by the easement;

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

230 (cc) Subject to rules and regulations of the State  
231 Board of Education, to purchase relocatable classrooms for the use  
232 of such school district, in the manner prescribed in Section  
233 37-1-13;

234 (dd) Enter into contracts or agreements with other  
235 school districts, political subdivisions or governmental entities  
236 to carry out one or more of the powers or duties of the school  
237 board, or to allow more efficient utilization of limited resources  
238 for providing services to the public;

239 (ee) To provide for in-service training for employees  
240 of the district. Until June 30, 1994, the school boards may  
241 designate two (2) days of the minimum school term, as defined in  
242 Section 37-19-1, for employee in-service training for  
243 implementation of the new statewide testing system as developed by  
244 the State Board of Education. Such designation shall be subject  
245 to approval by the State Board of Education pursuant to uniform  
246 rules and regulations;

247 (ff) The school boards of all school districts, as part  
248 of their duties to prescribe the use of textbooks, may provide  
249 that parents and legal guardians shall be responsible for the  
250 textbooks and for the compensation to the school district for any  
251 books which are not returned to the proper schools upon the  
252 withdrawal of their dependent child. If a textbook is lost or not  
253 returned by any student who drops out of the public school  
254 district, the parent or legal guardian shall also compensate the  
255 school district for the fair market value of the textbooks;

256 (gg) To conduct fund-raising activities on behalf of  
257 the school district that the local school board, in its



258 discretion, deems appropriate or beneficial to the official or  
259 extracurricular programs of the district; provided that:

260 (i) Any proceeds of the fund-raising activities  
261 shall be treated as "activity funds" and shall be accounted for as  
262 are other activity funds under this section; \* \* \*

263 (ii) Fund-raising activities conducted or  
264 authorized by the board for the sale of school pictures, the  
265 rental of caps and gowns or the sale of graduation invitations for  
266 which the school board receives a commission, rebate or fee shall  
267 contain a disclosure statement advising that a portion of the  
268 proceeds of the sales or rentals shall be contributed to the  
269 student activity fund; and

270 (iii) No local school governing board shall allow  
271 any student under its jurisdiction to participate in  
272 school-related fund-raising activities that offer incentives,  
273 prizes or awards based upon the amount of money that such student  
274 raises. The local school board of any school district shall  
275 require appropriate adult supervision of any student involved in  
276 such fund-raising activities. The State Board of Education, in  
277 conjunction with the State Auditor, shall prescribe uniform  
278 regulations for school districts to follow relating to  
279 fund-raising activities which are consistent with the foregoing  
280 provisions;

281 (hh) To allow individual lessons for music, art and  
282 other curriculum-related activities for academic credit or  
283 nonacademic credit during school hours and using school equipment  
284 and facilities, subject to uniform rules and regulations adopted  
285 by the school board;

286 (ii) To charge reasonable fees for participating in an  
287 extracurricular activity for academic or nonacademic credit for  
288 necessary and required equipment such as safety equipment, band  
289 instruments and uniforms;

290 (jj) To conduct or participate in any fund-raising

291 activities on behalf of or in connection with a tax-exempt  
292 charitable organization;

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

295           (ll) To expend funds for the services of nonprofit arts  
296 organizations or other such nonprofit organizations who provide  
297 performances or other services for the students of the school  
298 district.

299           SECTION 2. This act shall take effect and be in force from  
300 and after July 1, 1999.