HOUSE BILL NO. 1297

AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972, TO REQUIRE THE SCHOOL BOARDS OF THE SCHOOL DISTRICTS SELECTED BY THE STATE BOARD OF EDUCATION FOR PARTICIPATION IN A PILOT PROGRAM TO PRESCRIBE A MANDATORY STUDENT UNIFORM; TO AMEND SECTION 37-7-335, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE SCHOOL DISTRICTS SELECTED BY THE STATE BOARD OF EDUCATION FOR PARTICIPATION IN A PILOT PROGRAM TO CHARGE FEES NOT EXCEEDING THE ACTUAL COST FOR STUDENT UNIFORMS; TO AMEND SECTION 37-11-55, MISSISSIPPI CODE OF 1972, TO REQUIRE THE SCHOOL DISTRICTS SELECTED BY THE STATE BOARD OF EDUCATION FOR PARTICIPATION IN A PILOT PROGRAM TO INCLUDE AN EXPLANATION OF STUDENTS' RESPONSIBILITIES REGARDING UNIFORMS IN THE CODE OF STUDENT CONDUCT; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

(d) To have responsibility for the erection, repairing and equipping of school facilities and the making of necessary school improvements;
(e) To suspend or to expel a pupil or to change the placement of a pupil to the school district's alternative school or home-bound program for misconduct in the school or on school property, as defined in Section 37-11-29, on the road to and from school, or at any school-related activity or event, or for conduct occurring on property other than school property or other than at a school-related activity or event when such conduct by a pupil, in the determination of the school superintendent or principal, renders that pupil's presence in the classroom a disruption to the educational environment of the school or a detriment to the best interest and welfare of the pupils and teacher of such class as a whole, and to delegate such authority to the appropriate officials of the school district;

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

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

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

(i) To require those vaccinations specified by the State Health Officer as provided in Section 41-23-37;

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

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

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

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

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

(o) To make orders directed to the superintendent of
schools for the issuance of pay certificates for lawful purposes
on any available funds of the district and to have full control of
the receipt, distribution, allotment and disbursement of all funds
provided for the support and operation of the schools of such
school district whether such funds be derived from state
appropriations, local ad valorem tax collections, or otherwise;

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

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

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

(s) To expend local school activity funds, or other
available school district funds, other than minimum education
program funds, for the purposes prescribed under this paragraph.
"Activity funds" shall mean all funds received by school officials
in all school districts paid or collected to participate in any
school activity, such activity being part of the school program
and partially financed with public funds or supplemented by public
funds. The term "activity funds" shall not include any funds raised and/or expended by any organization unless commingled in a bank account with existing activity funds, regardless of whether the funds were raised by school employees or received by school employees during school hours or using school facilities, and regardless of whether a school employee exercises influence over the expenditure or disposition of such funds. Organizations shall not be required to make any payment to any school for the use of any school facility if, in the discretion of the local school governing board, the organization's function shall be deemed to be beneficial to the official or extracurricular programs of the school. For the purposes of this provision, the term "organization" shall not include any organization subject to the control of the local school governing board. Activity funds may only be expended for any necessary expenses or travel costs, including advances, incurred by students and their chaperons in attending any in-state or out-of-state school-related programs, conventions or seminars and/or any commodities, equipment, travel expenses, purchased services or school supplies which the local school governing board, in its discretion, shall deem beneficial to the official or extracurricular programs of the district, including items which may subsequently become the personal property of individuals, including yearbooks, athletic apparel, book covers and trophies. Activity funds may be used to pay travel expenses of school district personnel. The local school governing board shall be authorized and empowered to promulgate rules and regulations specifically designating for what purposes school activity funds may be expended. The local school governing board shall provide (i) that such school activity funds shall be maintained and expended by the principal of the school generating the funds in individual bank accounts, or (ii) that such school activity funds shall be maintained and expended by the superintendent of schools in a central depository approved by the
The local school governing board shall provide that such school activity funds be audited as part of the annual audit required in Section 37-9-18. The State Auditor shall prescribe a uniform system of accounting and financial reporting for all school activity fund transactions;

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

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

(v) (i) To lease a school building from an individual, partnership, nonprofit corporation or a private for-profit corporation for the use of such school district, and to expend funds therefor as may be available from any nonminimum program sources. The school board of the school district desiring to lease a school building shall declare by resolution that a need exists for a school building and that the school district cannot provide the necessary funds to pay the cost or its proportionate share of the cost of a school building required to meet the present needs. The resolution so adopted by the school board shall be published once each week for three (3) consecutive weeks in a newspaper having a general circulation in the school district involved, with the first publication thereof to be made not less than thirty (30) days prior to the date upon which the school board is to act on the question of leasing a school building. If no petition requesting an election is filed prior to such meeting as hereinafter provided, then the school board may, by resolution spread upon its minutes, proceed to lease a school building. If at any time prior to said meeting a petition signed by not less than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the school district involved shall be filed with the school board requesting that an election
be called on the question, then the school board shall, not later than the next regular meeting, adopt a resolution calling an election to be held within such school district upon the question of authorizing the school board to lease a school building. Such election shall be called and held, and notice thereof shall be given, in the same manner for elections upon the questions of the issuance of the bonds of school districts, and the results thereof shall be certified to the school board. If at least three-fifths (3/5) of the qualified electors of the school district who voted in such election shall vote in favor of the leasing of a school building, then the school board shall proceed to lease a school building. The term of the lease contract shall not exceed twenty (20) years, and the total cost of such lease shall be either the amount of the lowest and best bid accepted by the school board after advertisement for bids or an amount not to exceed the current fair market value of the lease as determined by the averaging of at least two (2) appraisals by certified general appraisers licensed by the State of Mississippi. The term "school building" as used in this item (v) shall be construed to mean any building or buildings used for classroom purposes in connection with the operation of schools and shall include the site therefor, necessary support facilities, and the equipment thereof and appurtenances thereto such as heating facilities, water supply, sewage disposal, landscaping, walks, drives and playgrounds. The term "lease" as used in this item (v)(i) may include a lease/purchase contract;

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

   (w) To employ all noninstructional and noncertificated
employees and fix the duties and compensation of such personnel
deemed necessary pursuant to the recommendation of the
superintendent of schools;

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

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

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

   (aa) To acquire in its own name by purchase all real
property which shall be necessary and desirable in connection with
the construction, renovation or improvement of any public school
building or structure. Whenever the purchase price for such real
property is greater than Fifty Thousand Dollars ($50,000.00), the
school board shall not purchase the property for an amount
exceeding the fair market value of such property as determined by
the average of at least two (2) independent appraisals by
certified general appraisers licensed by the State of Mississippi.
If the board shall be unable to agree with the owner of any such
real property in connection with any such project, the board shall
have the power and authority to acquire any such real property by
condemnation proceedings pursuant to Section 11-27-1 et seq., and
for such purpose, the right of eminent domain is * * * conferred
upon and vested in the board. * * * The local school board is
authorized to grant an easement for ingress and egress over
sixteenth section land or lieu land in exchange for a similar
easement upon adjoining land where the exchange of easements
affords substantial benefit to the sixteenth section land; * * *
however, the exchange must be based upon values as determined by a
competent appraiser, with any differential in value to be adjusted
by cash payment. Any easement rights granted over sixteenth
section land under such authority shall terminate when the
easement ceases to be used for its stated purpose. No sixteenth
section or lieu land which is subject to an existing lease shall
be burdened by any such easement except by consent of the lessee
or unless the school district shall acquire the unexpired
leasehold interest affected by the easement;

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

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

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

(ee) To provide for in-service training for employees
of the district * * *

(ff) * * * To prescribe the use of textbooks, and in
the discretion of the school board, to provide that parents and
legal guardians shall be responsible for the textbooks and for the
compensation to the school district for any books which are not
returned to the proper schools upon the withdrawal of their
dependent child. If a textbook is lost or not returned by any
student who drops out of the public school district, the parent or
legal guardian shall also compensate the school district for the
fair market value of the textbooks;

   (gg) To conduct fund-raising activities on behalf of
the school district that the local school board, in its
discretion, deems appropriate or beneficial to the official or
extracurricular programs of the district; provided that:
   (i) Any proceeds of the fund-raising activities
shall be treated as "activity funds" and shall be accounted for as
are other activity funds under this section; and
   (ii) Fund-raising activities conducted or
authorized by the board for the sale of school pictures, the
rental of caps and gowns or the sale of graduation invitations for
which the school board receives a commission, rebate or fee shall
contain a disclosure statement advising that a portion of the
proceeds of the sales or rentals shall be contributed to the
student activity fund;

   (hh) To allow individual lessons for music, art and
other curriculum-related activities for academic credit or
nonacademic credit during school hours and using school equipment
and facilities, subject to uniform rules and regulations adopted
by the school board;
   (ii) To charge reasonable fees for participating in an
extracurricular activity for academic or nonacademic credit for
necessary and required equipment such as safety equipment, band
instruments and uniforms;
   (jj) To conduct or participate in any fund-raising
activities on behalf of or in connection with a tax-exempt
charitable organization;
(kk) To exercise such powers as may be reasonably necessary to carry out the provisions of this section; * * * 
(ll) To expend funds for the services of nonprofit arts organizations or other such nonprofit organizations who provide performances or other services for the students of the school district; and

(mm) The State Board of Education shall select districts for the pilot program having a high incidence of juvenile crime, sixty percent (60%) food stamp participation and a Level 3 or lower accreditation rating.

SECTION 2. Section 37-7-335, Mississippi Code of 1972, is amended as follows:

37-7-335. (1) The school board of each school district may charge reasonable fees, but not more than the actual cost, for the following:

(a) Supplemental instructional materials and supplies, excluding textbooks;

(b) Any other fees designated by the local school board as fees related to a valid curriculum educational objective, including school uniforms in those districts selected for participation in a pilot program under Section 37-7-301 and transportation; and

(c) Extracurricular activities and any other educational activities of the school district which are not designated by the local school board as valid curriculum educational objectives, such as band trips and athletic events.

(2) (a) All fees authorized to be charged under this section, except those fees authorized under subsection (1)(c) of this section, shall be charged only upon the condition that the school board of each school district shall adopt a financial hardship waiver policy that shall be kept in the strictest of confidence with all files and personal disclosures restricted from review by the general public. The board shall insure that a pupil...
eligible to have any such fees waived as a result of an inability
to pay for said fees, shall not be discriminated against nor shall
there be any overt identification of any pupil who has received a
financial hardship waiver by use of special tokens or tickets,
announcements, posting or publication of names, physical
separation, choice of materials or by any other means. In no case
shall any school district's procedures expose any pupil receiving
a hardship waiver to any type of stigma or ridicule by other
pupils or school district personnel.

(b) The confidentiality of the financial hardship
waiver policy adopted by such school board shall apply to any
students who have an inability to pay any fees authorized under
subsection (1)(c) of this section.

(3) In no case shall the inability to pay the assessment of
fees authorized under * * * this section result in a pupil being
denied or deprived of any academic awards or standards, any class
selection, grade, diploma, transcript or the right to participate
in any activity related to educational enhancement.

SECTION 3. Section 37-11-55, Mississippi Code of 1972, is
amended as follows:
37-11-55. The local school board shall adopt and make
available to all teachers, school personnel, students and parents
or guardians, at the beginning of each school year, a code of
student conduct developed in consultation with teachers, school
personnel, students and parents or guardians. The code shall be
based on the rules governing student conduct and discipline
adopted by the school board and shall be made available at the
school level in the student handbook or similar publication. The
code shall include, but not be limited to:

(a) Specific grounds for disciplinary action under the
school district's discipline plan;
(b) Procedures to be followed for acts requiring discipline, including suspensions and expulsion, which comply with due process requirements;

(c) An explanation of the responsibilities and rights of students with regard to: attendance; proper attire in conformity with the school uniform in those districts selected for participation in a pilot program under Section 37-7-301; respect for persons and property; knowledge and observation of rules of conduct; free speech and student publications; assembly; privacy; and participation in school programs and activities;

(d) Policies and procedures recognizing the teacher as the authority in classroom matters, and supporting that teacher in any decision in compliance with the written discipline code of conduct. Such recognition shall include the right of the teacher to remove from the classroom any student who, in the professional judgment of the teacher, is disrupting the learning environment, to the office of the principal or assistant principal. The principal or assistant principal shall determine the proper placement for the student, who may not be returned to the classroom until a conference of some kind has been held with the parent, guardian or custodian during which the disrupting behavior is discussed and agreements are reached that no further disruption will be tolerated. If the principal does not approve of the determination of the teacher to remove the student from the classroom, the student may not be removed from the classroom, and the principal, upon request from the teacher, must provide justification for his disapproval. This paragraph (d) shall be repealed on July 1, 2004;

(e) Policies and procedures for dealing with a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities;

(f) Procedures for the development of behavior modification plans by the school principal, reporting teacher and
student’s parent for a student who causes a disruption in the
classroom, on school property or vehicles, or at school-related
activities for a second time during the school year; and

(g) Policies and procedures specifically concerning
gang-related activities in the school, on school property or
vehicles, or at school-related activities.

SECTION 4. This act shall take effect and be in force from
and after July 1, 2003.