

By: Representative Pierce

To: Education

HOUSE BILL NO. 657

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,  
 2 TO AUTHORIZE LOCAL SCHOOL BOARDS TO EXPEND FEDERAL NO CHILD LEFT  
 3 BEHIND ACT FUNDS TO PAY FOR TRAINING, INCENTIVES AND SALARY  
 4 SUPPLEMENTS TO SCHOOL DISTRICT EMPLOYEES IN COMPLIANCE WITH  
 5 FEDERAL LAW; TO AUTHORIZE LOCAL SCHOOL BOARDS TO EXPEND LOCAL  
 6 FUNDS TO REIMBURSE LICENSED SCHOOL DISTRICT EMPLOYEES FOR  
 7 RELOCATION EXPENSES FOR MOVING INTO THE DISTRICT FOR EMPLOYMENT  
 8 PURPOSES; TO AUTHORIZE LOCAL SCHOOL BOARDS TO EXPEND LOCAL FUNDS  
 9 TO REIMBURSE LICENSED INDIVIDUALS FOR INTERVIEWING EXPENSES; TO  
 10 AUTHORIZE LOCAL SCHOOL DISTRICTS TO CONDUCT INDEPENDENT MANAGEMENT  
 11 AND EFFICIENCY REVIEWS; AND FOR RELATED PURPOSES.

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

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

15 37-7-301. The school boards of all school districts shall  
 16 have the following powers, authority and duties in addition to all  
 17 others imposed or granted by law, to wit:

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

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

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

28 (d) To have responsibility for the erection, repairing  
 29 and equipping of school facilities and the making of necessary  
 30 school improvements;

31           (e) To suspend or to expel a pupil or to change the  
32 placement of a pupil to the school district's alternative school  
33 or home-bound program for misconduct in the school or on school  
34 property, as defined in Section 37-11-29, on the road to and from  
35 school, or at any school-related activity or event, or for conduct  
36 occurring on property other than school property or other than at  
37 a school-related activity or event when such conduct by a pupil,  
38 in the determination of the school superintendent or principal,  
39 renders that pupil's presence in the classroom a disruption to the  
40 educational environment of the school or a detriment to the best  
41 interest and welfare of the pupils and teacher of such class as a  
42 whole, and to delegate such authority to the appropriate officials  
43 of the school district;

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

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

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

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

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

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

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

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

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

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

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

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

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

92           (s) To expend local school activity funds, or other  
93 available school district funds, other than minimum education  
94 program funds, for the purposes prescribed under this paragraph.  
95 "Activity funds" shall mean all funds received by school officials  
96 in all school districts paid or collected to participate in any

97 school activity, such activity being part of the school program  
98 and partially financed with public funds or supplemented by public  
99 funds. The term "activity funds" shall not include any funds  
100 raised and/or expended by any organization unless commingled in a  
101 bank account with existing activity funds, regardless of whether  
102 the funds were raised by school employees or received by school  
103 employees during school hours or using school facilities, and  
104 regardless of whether a school employee exercises influence over  
105 the expenditure or disposition of such funds. Organizations shall  
106 not be required to make any payment to any school for the use of  
107 any school facility if, in the discretion of the local school  
108 governing board, the organization's function shall be deemed to be  
109 beneficial to the official or extracurricular programs of the  
110 school. For the purposes of this provision, the term  
111 "organization" shall not include any organization subject to the  
112 control of the local school governing board. Activity funds may  
113 only be expended for any necessary expenses or travel costs,  
114 including advances, incurred by students and their chaperons in  
115 attending any in-state or out-of-state school-related programs,  
116 conventions or seminars and/or any commodities, equipment, travel  
117 expenses, purchased services or school supplies which the local  
118 school governing board, in its discretion, shall deem beneficial  
119 to the official or extracurricular programs of the district,  
120 including items which may subsequently become the personal  
121 property of individuals, including yearbooks, athletic apparel,  
122 book covers and trophies. Activity funds may be used to pay  
123 travel expenses of school district personnel. The local school  
124 governing board shall be authorized and empowered to promulgate  
125 rules and regulations specifically designating for what purposes  
126 school activity funds may be expended. The local school governing  
127 board shall provide (i) that such school activity funds shall be  
128 maintained and expended by the principal of the school generating  
129 the funds in individual bank accounts, or (ii) that such school

130 activity funds shall be maintained and expended by the  
131 superintendent of schools in a central depository approved by the  
132 board. The local school governing board shall provide that such  
133 school activity funds be audited as part of the annual audit  
134 required in Section 37-9-18. The State Auditor shall prescribe a  
135 uniform system of accounting and financial reporting for all  
136 school activity fund transactions;

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

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

143 (v) (i) To lease a school building from an individual,  
144 partnership, nonprofit corporation or a private for-profit  
145 corporation for the use of such school district, and to expend  
146 funds therefor as may be available from any nonminimum program  
147 sources. The school board of the school district desiring to  
148 lease a school building shall declare by resolution that a need  
149 exists for a school building and that the school district cannot  
150 provide the necessary funds to pay the cost or its proportionate  
151 share of the cost of a school building required to meet the  
152 present needs. The resolution so adopted by the school board  
153 shall be published once each week for three (3) consecutive weeks  
154 in a newspaper having a general circulation in the school district  
155 involved, with the first publication thereof to be made not less  
156 than thirty (30) days prior to the date upon which the school  
157 board is to act on the question of leasing a school building. If  
158 no petition requesting an election is filed prior to such meeting  
159 as hereinafter provided, then the school board may, by resolution  
160 spread upon its minutes, proceed to lease a school building. If  
161 at any time prior to said meeting a petition signed by not less  
162 than twenty percent (20%) or fifteen hundred (1500), whichever is

163 less, of the qualified electors of the school district involved  
164 shall be filed with the school board requesting that an election  
165 be called on the question, then the school board shall, not later  
166 than the next regular meeting, adopt a resolution calling an  
167 election to be held within such school district upon the question  
168 of authorizing the school board to lease a school building. Such  
169 election shall be called and held, and notice thereof shall be  
170 given, in the same manner for elections upon the questions of the  
171 issuance of the bonds of school districts, and the results thereof  
172 shall be certified to the school board. If at least three-fifths  
173 (3/5) of the qualified electors of the school district who voted  
174 in such election shall vote in favor of the leasing of a school  
175 building, then the school board shall proceed to lease a school  
176 building. The term of the lease contract shall not exceed twenty  
177 (20) years, and the total cost of such lease shall be either the  
178 amount of the lowest and best bid accepted by the school board  
179 after advertisement for bids or an amount not to exceed the  
180 current fair market value of the lease as determined by the  
181 averaging of at least two (2) appraisals by certified general  
182 appraisers licensed by the State of Mississippi. The term "school  
183 building" as used in this item (v) shall be construed to mean any  
184 building or buildings used for classroom purposes in connection  
185 with the operation of schools and shall include the site therefor,  
186 necessary support facilities, and the equipment thereof and  
187 appurtenances thereto such as heating facilities, water supply,  
188 sewage disposal, landscaping, walks, drives and playgrounds. The  
189 term "lease" as used in this item (v)(i) may include a  
190 lease/purchase contract;

191 (ii) If two (2) or more school districts propose  
192 to enter into a lease contract jointly, then joint meetings of the  
193 school boards having control may be held but no action taken shall  
194 be binding on any such school district unless the question of  
195 leasing a school building is approved in each participating school

196 district under the procedure hereinabove set forth in item (v)(i).  
197 All of the provisions of item (v)(i) regarding the term and amount  
198 of the lease contract shall apply to the school boards of school  
199 districts acting jointly. Any lease contract executed by two (2)  
200 or more school districts as joint lessees shall set out the amount  
201 of the aggregate lease rental to be paid by each, which may be  
202 agreed upon, but there shall be no right of occupancy by any  
203 lessee unless the aggregate rental is paid as stipulated in the  
204 lease contract. All rights of joint lessees under the lease  
205 contract shall be in proportion to the amount of lease rental paid  
206 by each;

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

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

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

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

220           (aa) To acquire in its own name by purchase all real  
221 property which shall be necessary and desirable in connection with  
222 the construction, renovation or improvement of any public school  
223 building or structure. Whenever the purchase price for such real  
224 property is greater than Fifty Thousand Dollars (\$50,000.00), the  
225 school board shall not purchase the property for an amount  
226 exceeding the fair market value of such property as determined by  
227 the average of at least two (2) independent appraisals by  
228 certified general appraisers licensed by the State of Mississippi.

229 If the board shall be unable to agree with the owner of any such  
230 real property in connection with any such project, the board shall  
231 have the power and authority to acquire any such real property by  
232 condemnation proceedings pursuant to Section 11-27-1 et seq.,  
233 Mississippi Code of 1972, and for such purpose, the right of  
234 eminent domain is hereby conferred upon and vested in said board.  
235 Provided further, that the local school board is authorized to  
236 grant an easement for ingress and egress over sixteenth section  
237 land or lieu land in exchange for a similar easement upon  
238 adjoining land where the exchange of easements affords substantial  
239 benefit to the sixteenth section land; provided, however, the  
240 exchange must be based upon values as determined by a competent  
241 appraiser, with any differential in value to be adjusted by cash  
242 payment. Any easement rights granted over sixteenth section land  
243 under such authority shall terminate when the easement ceases to  
244 be used for its stated purpose. No sixteenth section or lieu land  
245 which is subject to an existing lease shall be burdened by any  
246 such easement except by consent of the lessee or unless the school  
247 district shall acquire the unexpired leasehold interest affected  
248 by the easement;

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

252 (cc) Subject to rules and regulations of the State  
253 Board of Education, to purchase relocatable classrooms for the use  
254 of such school district, in the manner prescribed in Section  
255 37-1-13;

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



261           (ee) To provide for in-service training for employees  
262 of the district. Until June 30, 1994, the school boards may  
263 designate two (2) days of the minimum school term, as defined in  
264 Section 37-19-1, for employee in-service training for  
265 implementation of the new statewide testing system as developed by  
266 the State Board of Education. Such designation shall be subject  
267 to approval by the State Board of Education pursuant to uniform  
268 rules and regulations;

269           (ff) As part of their duties to prescribe the use of  
270 textbooks, to provide that parents and legal guardians shall be  
271 responsible for the textbooks and for the compensation to the  
272 school district for any books which are not returned to the proper  
273 schools upon the withdrawal of their dependent child. If a  
274 textbook is lost or not returned by any student who drops out of  
275 the public school district, the parent or legal guardian shall  
276 also compensate the school district for the fair market value of  
277 the textbooks;

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

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

285                   (ii) Fund-raising activities conducted or  
286 authorized by the board for the sale of school pictures, the  
287 rental of caps and gowns or the sale of graduation invitations for  
288 which the school board receives a commission, rebate or fee shall  
289 contain a disclosure statement advising that a portion of the  
290 proceeds of the sales or rentals shall be contributed to the  
291 student activity fund;

292           (hh) To allow individual lessons for music, art and  
293 other curriculum-related activities for academic credit or

294 nonacademic credit during school hours and using school equipment  
295 and facilities, subject to uniform rules and regulations adopted  
296 by the school board;

297 (ii) To charge reasonable fees for participating in an  
298 extracurricular activity for academic or nonacademic credit for  
299 necessary and required equipment such as safety equipment, band  
300 instruments and uniforms;

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

304 (kk) To exercise such powers as may be reasonably  
305 necessary to carry out the provisions of this section; \* \* \*

306 (ll) To expend funds for the services of nonprofit arts  
307 organizations or other such nonprofit organizations who provide  
308 performances or other services for the students of the school  
309 district;

310 (mm) To expend federal No Child Left Behind Act funds,  
311 or any other available funds that are expressly designated and  
312 authorized for that use, to pay training, educational expenses,  
313 incentives and salary supplements to employees of local school  
314 districts; except that incentives shall not be considered part of  
315 the local supplement as defined in Section 37-151-5(o), nor shall  
316 incentives be considered part of the local supplement paid to an  
317 individual teacher for the purposes of Section 37-19-7(1);

318 (nn) To use any available funds for reimbursement to  
319 the state-licensed employees from both in state and out of state,  
320 who enter into a contract for employment in a school district, for  
321 the expense of moving when the employment necessitates the  
322 relocation of the licensed employee to a different geographical  
323 area than that in which the licensed employee resides before  
324 entering into the contract. The reimbursement shall not exceed  
325 One Thousand Dollars (\$1,000.00) for the documented actual  
326 expenses incurred in the course of relocating, including the

327 expense of any professional moving company or persons employed to  
328 assist with the move, rented moving vehicles or equipment, mileage  
329 in the amount authorized for county and municipal employees under  
330 Section 25-3-41 if the licensed employee used his personal vehicle  
331 or vehicles for the move, meals and such other expenses associated  
332 with the relocation. No licensed employee may be reimbursed for  
333 moving expenses under this section on more than one (1) occasion  
334 by the same school district. Nothing in this section shall be  
335 construed to require the actual residence to which the licensed  
336 employee relocates to be within the boundaries of the school  
337 district that has executed a contract for employment in order for  
338 the licensed employee to be eligible for reimbursement for the  
339 moving expenses. However, the licensed employee must relocate  
340 within the boundaries of the State of Mississippi. Any individual  
341 receiving relocation assistance through the Critical Teacher  
342 Shortage Act as provided in Section 37-159-5 shall not be eligible  
343 to receive additional relocation funds as authorized in this  
344 paragraph; and

345 (oo) To use any available funds to reimburse persons  
346 who interview for employment as a licensed employee with the  
347 district for the mileage and other actual expenses incurred in the  
348 course of travel to and from the interview at the rate authorized  
349 for county and municipal employees under Section 25-3-41.

350 (pp) Consistent with the report of the Task Force to  
351 Conduct a Best Financial Management Practices Review, to improve  
352 school district management and use of resources and identify cost  
353 savings as established in Section 8 of Chapter 610, Laws of 2002,  
354 local school boards are encouraged to conduct independent reviews  
355 of the management and efficiency of schools and school districts.  
356 Such management and efficiency reviews shall provide state and  
357 local officials and the public with the following:

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

- 360                   (ii) An assessment of the school district's  
361 financial and personnel management;
- 362                   (iii) An assessment of revenue levels and sources;
- 363                   (iv) An assessment of facilities utilization,  
364 planning and maintenance;
- 365                   (v) An assessment of food services, transportation  
366 and safety/security systems;
- 367                   (vi) An assessment of instructional and  
368 administrative technology;
- 369                   (vii) A review of the instructional management and  
370 the efficiency and effectiveness of existing instructional  
371 programs; and
- 372                   (viii) Recommended methods for increasing  
373 efficiency and effectiveness in providing educational services to  
374 the public.

375           **SECTION 2.** This act shall take effect and be in force from  
376 and after July 1, 2004.