

By: Senator(s) Chaney, Wilemon, King

To: Education;
Appropriations

SENATE BILL NO. 2304

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 such 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 such contract. Such 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 which 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 House Bill No. 492, 2002 Regular
354 Session, local school boards are encouraged to conduct independent
355 reviews of the management and efficiency of schools and school
356 districts. Such management and efficiency reviews shall provide
357 state and 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.