

By: Representatives Sullivan, Gunn,  
Montgomery, Rotenberry, Ward

To: Education

HOUSE BILL NO. 829

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE SCHOOL BOARDS TO BORROW FUNDS FROM THE RURAL ECONOMIC  
3 DEVELOPMENT AUTHORITY FOR THE MAINTENANCE OF EXISTING SCHOOL  
4 BUILDINGS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

24 (e) To suspend or to expel a pupil or to change the  
25 placement of a pupil to the school district's alternative school  
26 or home-bound program for misconduct in the school or on school  
27 property, as defined in Section 37-11-29, on the road to and from  
28 school, or at any school-related activity or event, or for conduct

29 occurring on property other than school property or other than at  
30 a school-related activity or event when such conduct by a pupil,  
31 in the determination of the school superintendent or principal,  
32 renders that pupil's presence in the classroom a disruption to the  
33 educational environment of the school or a detriment to the best  
34 interest and welfare of the pupils and teacher of such class as a  
35 whole, and to delegate such authority to the appropriate officials  
36 of the school district;

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

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

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

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

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

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

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

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

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

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

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

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

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

85 (s) To expend local school activity funds, or other  
86 available school district funds, other than minimum education  
87 program funds, for the purposes prescribed under this paragraph.  
88 "Activity funds" shall mean all funds received by school officials  
89 in all school districts paid or collected to participate in any  
90 school activity, such activity being part of the school program  
91 and partially financed with public funds or supplemented by public  
92 funds. The term "activity funds" shall not include any funds  
93 raised and/or expended by any organization unless commingled in a  
94 bank account with existing activity funds, regardless of whether

95 the funds were raised by school employees or received by school  
96 employees during school hours or using school facilities, and  
97 regardless of whether a school employee exercises influence over  
98 the expenditure or disposition of such funds. Organizations shall  
99 not be required to make any payment to any school for the use of  
100 any school facility if, in the discretion of the local school  
101 governing board, the organization's function shall be deemed to be  
102 beneficial to the official or extracurricular programs of the  
103 school. For the purposes of this provision, the term  
104 "organization" shall not include any organization subject to the  
105 control of the local school governing board. Activity funds may  
106 only be expended for any necessary expenses or travel costs,  
107 including advances, incurred by students and their chaperons in  
108 attending any in-state or out-of-state school-related programs,  
109 conventions or seminars and/or any commodities, equipment, travel  
110 expenses, purchased services or school supplies which the local  
111 school governing board, in its discretion, shall deem beneficial  
112 to the official or extracurricular programs of the district,  
113 including items which may subsequently become the personal  
114 property of individuals, including yearbooks, athletic apparel,  
115 book covers and trophies. Activity funds may be used to pay  
116 travel expenses of school district personnel. The local school  
117 governing board shall be authorized and empowered to promulgate  
118 rules and regulations specifically designating for what purposes  
119 school activity funds may be expended. The local school governing  
120 board shall provide (i) that such school activity funds shall be  
121 maintained and expended by the principal of the school generating  
122 the funds in individual bank accounts, or (ii) that such school  
123 activity funds shall be maintained and expended by the  
124 superintendent of schools in a central depository approved by the  
125 board. The local school governing board shall provide that such  
126 school activity funds be audited as part of the annual audit  
127 required in Section 37-9-18. The State Auditor shall prescribe a

128 uniform system of accounting and financial reporting for all  
129 school activity fund transactions;

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

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

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

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

184 (ii) If two (2) or more school districts propose  
185 to enter into a lease contract jointly, then joint meetings of the  
186 school boards having control may be held but no action taken shall  
187 be binding on any such school district unless the question of  
188 leasing a school building is approved in each participating school  
189 district under the procedure hereinabove set forth in item (v)(i).  
190 All of the provisions of item (v)(i) regarding the term and amount  
191 of the lease contract shall apply to the school boards of school  
192 districts acting jointly. Any lease contract executed by two (2)  
193 or more school districts as joint lessees shall set out the amount

194 of the aggregate lease rental to be paid by each, which may be  
195 agreed upon, but there shall be no right of occupancy by any  
196 lessee unless the aggregate rental is paid as stipulated in the  
197 lease contract. All rights of joint lessees under the lease  
198 contract shall be in proportion to the amount of lease rental paid  
199 by each;

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

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

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

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

213 (aa) To acquire in its own name by purchase all real  
214 property which shall be necessary and desirable in connection with  
215 the construction, renovation or improvement of any public school  
216 building or structure. Whenever the purchase price for such real  
217 property is greater than Fifty Thousand Dollars (\$50,000.00), the  
218 school board shall not purchase the property for an amount  
219 exceeding the fair market value of such property as determined by  
220 the average of at least two (2) independent appraisals by  
221 certified general appraisers licensed by the State of Mississippi.  
222 If the board shall be unable to agree with the owner of any such  
223 real property in connection with any such project, the board shall  
224 have the power and authority to acquire any such real property by  
225 condemnation proceedings pursuant to Section 11-27-1 et seq.,  
226 Mississippi Code of 1972, and for such purpose, the right of

227 eminent domain is hereby conferred upon and vested in said board.  
228 Provided further, that the local school board is authorized to  
229 grant an easement for ingress and egress over sixteenth section  
230 land or lieu land in exchange for a similar easement upon  
231 adjoining land where the exchange of easements affords substantial  
232 benefit to the sixteenth section land; provided, however, the  
233 exchange must be based upon values as determined by a competent  
234 appraiser, with any differential in value to be adjusted by cash  
235 payment. Any easement rights granted over sixteenth section land  
236 under such authority shall terminate when the easement ceases to  
237 be used for its stated purpose. No sixteenth section or lieu land  
238 which is subject to an existing lease shall be burdened by any  
239 such easement except by consent of the lessee or unless the school  
240 district shall acquire the unexpired leasehold interest affected  
241 by the easement;

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

245 (cc) Subject to rules and regulations of the State  
246 Board of Education, to purchase relocatable classrooms for the use  
247 of such school district, in the manner prescribed in Section  
248 37-1-13;

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

254 (ee) To provide for in-service training for employees  
255 of the district. Until June 30, 1994, the school boards may  
256 designate two (2) days of the minimum school term, as defined in  
257 Section 37-19-1, for employee in-service training for  
258 implementation of the new statewide testing system as developed by  
259 the State Board of Education. Such designation shall be subject

260 to approval by the State Board of Education pursuant to uniform  
261 rules and regulations;

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

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

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

278 (ii) Fund-raising activities conducted or  
279 authorized by the board for the sale of school pictures, the  
280 rental of caps and gowns or the sale of graduation invitations for  
281 which the school board receives a commission, rebate or fee shall  
282 contain a disclosure statement advising that a portion of the  
283 proceeds of the sales or rentals shall be contributed to the  
284 student activity fund;

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

290 (ii) To charge reasonable fees for participating in an  
291 extracurricular activity for academic or nonacademic credit for

292 necessary and required equipment such as safety equipment, band  
293 instruments and uniforms;

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

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

299 (ll) To expend funds for the services of nonprofit arts  
300 organizations or other such nonprofit organizations who provide  
301 performances or other services for the students of the school  
302 district;

303 (mm) To expend federal No Child Left Behind Act funds,  
304 or any other available funds that are expressly designated and  
305 authorized for that use, to pay training, educational expenses,  
306 salary incentives and salary supplements to employees of local  
307 school districts; except that incentives shall not be considered  
308 part of the local supplement as defined in Section 37-151-5(o),  
309 nor shall incentives be considered part of the local supplement  
310 paid to an individual teacher for the purposes of Section  
311 37-19-7(1). Mississippi Adequate Education Program funds or any  
312 other state funds may not be used for salary incentives or salary  
313 supplements as provided in this paragraph (mm);

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

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

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

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

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

358                   (ii) An assessment of the school district's  
359 financial and personnel management;  
360                   (iii) An assessment of revenue levels and sources;  
361                   (iv) An assessment of facilities utilization,  
362 planning and maintenance;  
363                   (v) An assessment of food services, transportation  
364 and safety/security systems;  
365                   (vi) An assessment of instructional and  
366 administrative technology;  
367                   (vii) A review of the instructional management and  
368 the efficiency and effectiveness of existing instructional  
369 programs; and  
370                   (viii) Recommended methods for increasing  
371 efficiency and effectiveness in providing educational services to  
372 the public;  
373                   (qq) To enter into agreements with other local school  
374 boards for the establishment of an educational service agency  
375 (ESA) to provide for the cooperative needs of the region in which  
376 the school district is located, as provided in Section 37-7-345 of  
377 Senate Bill No. 3016, 2004 Regular Session. This paragraph shall  
378 repeal on July 1, 2007;  
379                   (rr) To implement a financial literacy program for  
380 students in Grades 10 and 11. The board may review the national  
381 programs and obtain free literature from various nationally  
382 recognized programs. After review of the different programs, the  
383 board may certify a program that is most appropriate for the  
384 school districts' needs. If a district implements a financial  
385 literacy program, then any student in Grade 10 or 11 may  
386 participate in the program. The financial literacy program shall  
387 include, but is not limited to, instruction in the same areas of  
388 personal business and finance as required under Section  
389 37-1-3(2)(b). The school board may coordinate with volunteer  
390 teachers from local community organizations, including, but not

391 limited to, the following: United States Department of  
392 Agriculture Rural Development, United States Department of Housing  
393 and Urban Development, Junior Achievement, bankers and other  
394 nonprofit organizations. Nothing in this paragraph shall be  
395 construed as to require school boards to implement a financial  
396 literacy program;

397           (ss) To collaborate with the State Board of Education,  
398 Community Action Agencies or the Department of Human Services to  
399 develop and implement a voluntary program to provide services for  
400 a full day prekindergarten program that addresses the cognitive,  
401 social, and emotional needs of four-year-old and three-year-old  
402 children. The school board may utilize nonstate source special  
403 funds, grants, donations or gifts to fund the voluntary program;  
404 and

405           (tt) To borrow funds from the Rural Economic  
406 Development Authority for the maintenance of existing school  
407 buildings.

408           **SECTION 2.** This act shall take effect and be in force from  
409 and after July 1, 2005.