

By: Representative Pierce

To: Education

HOUSE BILL NO. 1396  
(As Passed the House)

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE SCHOOL BOARDS TO ENTER INTO CONTRACTS WITH A THIRD  
3 PARTY FOR THE PURPOSE OF CONSOLIDATING CENTRAL OFFICE  
4 ADMINISTRATIVE FUNCTIONS; TO REQUIRE THE DEPARTMENT OF FINANCE AND  
5 ADMINISTRATION TO PROMULGATE RULES AND REGULATIONS REGARDING THOSE  
6 CONTRACTS; TO REQUIRE THE DEPARTMENT OF EDUCATION TO REPORT TO THE  
7 LEGISLATURE AND GOVERNOR THE IMPACT OF THOSE CONTRACTS; TO REPEAL  
8 THIS PROVISION OF LAW ON JUNE 30, 2007; AND FOR RELATED PURPOSES.

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

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

12 37-7-301. The school boards of all school districts shall  
13 have the following powers, authority and duties in addition to all  
14 others imposed or granted by law, to wit:

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

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

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

25 (d) To have responsibility for the erection, repairing  
26 and equipping of school facilities and the making of necessary  
27 school improvements;

28 (e) To suspend or to expel a pupil or to change the  
29 placement of a pupil to the school district's alternative school  
30 or home-bound program for misconduct in the school or on school

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

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

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

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

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

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

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

61 (l) To prescribe and enforce rules and regulations not  
62 inconsistent with law or with the regulations of the State Board  
63 of Education for their own government and for the government of

64 the schools, and to transact their business at regular and special  
65 meetings called and held in the manner provided by law;

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

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

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

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

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

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

89 (s) To expend local school activity funds, or other  
90 available school district funds, other than minimum education  
91 program funds, for the purposes prescribed under this paragraph.  
92 "Activity funds" shall mean all funds received by school officials  
93 in all school districts paid or collected to participate in any  
94 school activity, such activity being part of the school program  
95 and partially financed with public funds or supplemented by public  
96 funds. The term "activity funds" shall not include any funds

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

130 school activity funds be audited as part of the annual audit  
131 required in Section 37-9-18. The State Auditor shall prescribe a  
132 uniform system of accounting and financial reporting for all  
133 school activity fund transactions;

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

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

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

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

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

196 districts acting jointly. Any lease contract executed by two (2)  
197 or more school districts as joint lessees shall set out the amount  
198 of the aggregate lease rental to be paid by each, which may be  
199 agreed upon, but there shall be no right of occupancy by any  
200 lessee unless the aggregate rental is paid as stipulated in the  
201 lease contract. All rights of joint lessees under the lease  
202 contract shall be in proportion to the amount of lease rental paid  
203 by each;

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

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

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

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

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

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

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

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

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

258 (ee) To provide for in-service training for employees  
259 of the district. Until June 30, 1994, the school boards may  
260 designate two (2) days of the minimum school term, as defined in  
261 Section 37-19-1, for employee in-service training for



262 implementation of the new statewide testing system as developed by  
263 the State Board of Education. Such designation shall be subject  
264 to approval by the State Board of Education pursuant to uniform  
265 rules and regulations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

362 (ii) An assessment of the school district's  
363 financial and personnel management;

364 (iii) An assessment of revenue levels and sources;

365 (iv) An assessment of facilities utilization,  
366 planning and maintenance;

367 (v) An assessment of food services, transportation  
368 and safety/security systems;

369 (vi) An assessment of instructional and  
370 administrative technology;

371 (vii) A review of the instructional management and  
372 the efficiency and effectiveness of existing instructional  
373 programs; and

374 (viii) Recommended methods for increasing  
375 efficiency and effectiveness in providing educational services to  
376 the public;

377 (qq) To enter into agreements with other local school  
378 boards for the establishment of an educational service agency  
379 (ESA) to provide for the cooperative needs of the region in which  
380 the school district is located, as provided in Section 37-7-345.  
381 This paragraph shall repeal on July 1, 2007;

382 (rr) To implement a financial literacy program for  
383 students in Grades 10 and 11. The board may review the national  
384 programs and obtain free literature from various nationally  
385 recognized programs. After review of the different programs, the  
386 board may certify a program that is most appropriate for the  
387 school districts' needs. If a district implements a financial  
388 literacy program, then any student in Grade 10 or 11 may  
389 participate in the program. The financial literacy program shall  
390 include, but is not limited to, instruction in the same areas of  
391 personal business and finance as required under Section  
392 37-1-3(2)(b). The school board may coordinate with volunteer

393 teachers from local community organizations, including, but not  
394 limited to, the following: United States Department of  
395 Agriculture Rural Development, United States Department of Housing  
396 and Urban Development, Junior Achievement, bankers and other  
397 nonprofit organizations. Nothing in this paragraph shall be  
398 construed as to require school boards to implement a financial  
399 literacy program;

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

408 (tt) To enter into contracts with a third party for the  
409 purpose of consolidating central office administrative functions  
410 including, but not limited to, school business such as budgeting,  
411 accounting and purchasing, special education administration,  
412 federal programs administration, school food service, school  
413 transportation, professional development and test coordination.  
414 No person involved in any contract for the purpose of  
415 consolidating central office functions shall be related by  
416 consanguinity or affinity within the third degree to any member of  
417 the school board or the superintendent or any assistant  
418 superintendent of the school district, nor shall any such person  
419 or entity have an interest in any business or have an economic  
420 relationship with any member of the school board or the  
421 superintendent or any assistant superintendent. The Department of  
422 Finance and Administration shall promulgate rules and regulations  
423 regarding these types of third party contracts including, but not  
424 limited to, requiring the school board to conduct an objective  
425 cost/benefit analysis as to whether the contract shall maximize

426 the interest of the taxpayers. After such cost/benefit analysis,  
427 the board shall enter into a contract only if it maximizes the  
428 interest of the taxpayers. The State Department of Education  
429 shall report to the Legislature and the Governor the impact on our  
430 schools and school districts regarding these types of third party  
431 contracts by January 1, 2007. This paragraph (tt) shall stand  
432 repealed on June 30, 2007.

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