

## House Amendments to Senate Bill No. 2142

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

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

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

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

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

25           (e) To suspend or to expel a pupil or to change the  
26 placement of a pupil to the school district's alternative school  
27 or home-bound program for misconduct in the school or on school  
28 property, as defined in Section 37-11-29, on the road to and from  
29 school, or at any school-related activity or event, or for conduct  
30 occurring on property other than school property or other than at  
31 a school-related activity or event when such conduct by a pupil,  
32 in the determination of the school superintendent or principal,

renders that pupil's presence in the classroom a disruption to the educational environment of the school or a detriment to the best interest and welfare of the pupils and teacher of such class as a whole, and to delegate such authority to the appropriate officials of the school district;

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

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

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

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

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

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

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

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

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

(o) To make orders directed to the superintendent of schools for the issuance of pay certificates for lawful purposes on any available funds of the district and to have full control of the receipt, distribution, allotment and disbursement of all funds provided for the support and operation of the schools of such school district whether such funds be derived from state appropriations, local ad valorem tax collections, or otherwise.The local school board shall be authorized and empowered to promulgate rules and regulations that specify the types of claims and sets limits of the dollar amount for payment of claims by the superintendent of schools to be ratified by the board at the next regularly scheduled meeting after payment has been made;

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

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

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

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

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

(t) To contract, on a shared savings, lease or lease-purchase basis, for energy efficiency services and/or

equipment as provided for in Section 31-7-14, not to exceed ten (10) years;

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

(v) (i) To lease a school building from an individual, partnership, nonprofit corporation or a private for-profit corporation for the use of such school district, and to expend funds therefor as may be available from any nonminimum program sources. The school board of the school district desiring to lease a school building shall declare by resolution that a need exists for a school building and that the school district cannot provide the necessary funds to pay the cost or its proportionate share of the cost of a school building required to meet the present needs. The resolution so adopted by the school board shall be published once each week for three (3) consecutive weeks in a newspaper having a general circulation in the school district involved, with the first publication thereof to be made not less than thirty (30) days prior to the date upon which the school board is to act on the question of leasing a school building. If no petition requesting an election is filed prior to such meeting as hereinafter provided, then the school board may, by resolution spread upon its minutes, proceed to lease a school building. If at any time prior to said meeting a petition signed by not less than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the school district involved shall be filed with the school board requesting that an election be called on the question, then the school board shall, not later than the next regular meeting, adopt a resolution calling an election to be held within such school district upon the question of authorizing the school board to lease a school building. Such election shall be called and held, and notice thereof shall be given, in the same manner for elections upon the questions of the issuance of the bonds of school districts, and the results thereof shall be certified to the school board. If at least three-fifths (3/5) of the qualified electors of the school district who voted

173 in such election shall vote in favor of the leasing of a school  
174 building, then the school board shall proceed to lease a school  
175 building. The term of the lease contract shall not exceed twenty  
176 (20) years, and the total cost of such lease shall be either the  
177 amount of the lowest and best bid accepted by the school board  
178 after advertisement for bids or an amount not to exceed the  
179 current fair market value of the lease as determined by the  
180 averaging of at least two (2) appraisals by certified general  
181 appraisers licensed by the State of Mississippi. The term "school  
182 building" as used in this item (v) shall be construed to mean any  
183 building or buildings used for classroom purposes in connection  
184 with the operation of schools and shall include the site therefor,  
185 necessary support facilities, and the equipment thereof and  
186 appurtenances thereto such as heating facilities, water supply,  
187 sewage disposal, landscaping, walks, drives and playgrounds. The  
188 term "lease" as used in this item (v)(i) may include a  
189 lease/purchase contract;

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

206 (w) To employ all noninstructional and noncertificated  
207 employees and fix the duties and compensation of such personnel

deemed necessary pursuant to the recommendation of the  
superintendent of schools;

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

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

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

(aa) To acquire in its own name by purchase all real  
property which shall be necessary and desirable in connection with  
the construction, renovation or improvement of any public school  
building or structure. Whenever the purchase price for such real  
property is greater than Fifty Thousand Dollars (\$50,000.00), the  
school board shall not purchase the property for an amount  
exceeding the fair market value of such property as determined by  
the average of at least two (2) independent appraisals by  
certified general appraisers licensed by the State of Mississippi.  
If the board shall be unable to agree with the owner of any such  
real property in connection with any such project, the board shall  
have the power and authority to acquire any such real property by  
condemnation proceedings pursuant to Section 11-27-1 et seq.,  
Mississippi Code of 1972, and for such purpose, the right of  
eminent domain is hereby conferred upon and vested in said board.  
Provided further, that the local school board is authorized to  
grant an easement for ingress and egress over sixteenth section  
land or lieu land in exchange for a similar easement upon  
adjoining land where the exchange of easements affords substantial  
benefit to the sixteenth section land; provided, however, the  
exchange must be based upon values as determined by a competent  
appraiser, with any differential in value to be adjusted by cash  
payment. Any easement rights granted over sixteenth section land  
under such authority shall terminate when the easement ceases to

be used for its stated purpose. No sixteenth section or lieu land which is subject to an existing lease shall be burdened by any such easement except by consent of the lessee or unless the school district shall acquire the unexpired leasehold interest affected by the easement;

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

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

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

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

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



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

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

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

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

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

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

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

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

(mm) To expend federal No Child Left Behind Act funds, or any other available funds that are expressly designated and authorized for that use, to pay training, educational expenses,

312 salary incentives and salary supplements to employees of local  
313 school districts; except that incentives shall not be considered  
314 part of the local supplement as defined in Section 37-151-5(o),  
315 nor shall incentives be considered part of the local supplement  
316 paid to an individual teacher for the purposes of Section  
317 37-19-7(1). Mississippi Adequate Education Program funds or any  
318 other state funds may not be used for salary incentives or salary  
319 supplements as provided in this paragraph (mm);

320 (nn) To use any available funds, not appropriated or  
321 designated for any other purpose, for reimbursement to the  
322 state-licensed employees from both in-state and out-of-state, who  
323 enter into a contract for employment in a school district, for the  
324 expense of moving when the employment necessitates the relocation  
325 of the licensed employee to a different geographical area than  
326 that in which the licensed employee resides before entering into  
327 the contract. The reimbursement shall not exceed One Thousand  
328 Dollars (\$1,000.00) for the documented actual expenses incurred in  
329 the course of relocating, including the expense of any  
330 professional moving company or persons employed to assist with the  
331 move, rented moving vehicles or equipment, mileage in the amount  
332 authorized for county and municipal employees under Section  
333 25-3-41 if the licensed employee used his personal vehicle or  
334 vehicles for the move, meals and such other expenses associated  
335 with the relocation. No licensed employee may be reimbursed for  
336 moving expenses under this section on more than one (1) occasion  
337 by the same school district. Nothing in this section shall be  
338 construed to require the actual residence to which the licensed  
339 employee relocates to be within the boundaries of the school  
340 district that has executed a contract for employment in order for  
341 the licensed employee to be eligible for reimbursement for the  
342 moving expenses. However, the licensed employee must relocate  
343 within the boundaries of the State of Mississippi. Any individual  
344 receiving relocation assistance through the Critical Teacher  
345 Shortage Act as provided in Section 37-159-5 shall not be eligible

to receive additional relocation funds as authorized in this paragraph;

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

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

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

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

(iii) An assessment of revenue levels and sources;

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

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

(vi) An assessment of instructional and administrative technology;

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

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

(qq) To enter into agreements with other local school boards for the establishment of an educational service agency

(ESA) to provide for the cooperative needs of the region in which the school district is located, as provided in Section 37-7-345. This paragraph shall repeal on July 1, 2007;

(rr) To implement a financial literacy program for students in Grades 10 and 11. The board may review the national programs and obtain free literature from various nationally recognized programs. After review of the different programs, the board may certify a program that is most appropriate for the school districts' needs. If a district implements a financial literacy program, then any student in Grade 10 or 11 may participate in the program. The financial literacy program shall include, but is not limited to, instruction in the same areas of personal business and finance as required under Section 37-1-3(2)(b). The school board may coordinate with volunteer teachers from local community organizations, including, but not limited to, the following: United States Department of Agriculture Rural Development, United States Department of Housing and Urban Development, Junior Achievement, bankers and other nonprofit organizations. Nothing in this paragraph shall be construed as to require school boards to implement a financial literacy program;

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

**SECTION 2.** Section 37-9-14, Mississippi Code of 1972, is amended as follows:

37-9-14. (1) It shall be the duty of the superintendent of schools to administer the schools within his district and to implement the decisions of the school board.

414           (2) In addition to all other powers, authority and duties  
415 imposed or granted by law, the superintendent of schools shall  
416 have the following powers, authority and duties:

417           (a) To enter into contracts in the manner provided by  
418 law with each assistant superintendent, principal and teacher of  
419 the public schools under his supervision, after such assistant  
420 superintendent, principal and teachers have been selected and  
421 approved in the manner provided by law.

422           (b) To enforce in the public schools of the school  
423 district the courses of study provided by law or the rules and  
424 regulations of the State Board of Education, and to comply with  
425 the law with reference to the use and distribution of free  
426 textbooks.

427           (c) To administer oaths in all cases to persons  
428 testifying before him relative to disputes relating to the schools  
429 submitted to him for determination, and to take testimony in such  
430 cases as provided by law.

431           (d) To examine the monthly and annual reports submitted  
432 to him by principals and teachers for the purpose of determining  
433 and verifying the accuracy thereof.

434           (e) To preserve all reports of superintendents,  
435 principals, teachers and other school officers, and to deliver to  
436 his successor or clerk of the board of supervisors all money,  
437 property, books, effects and papers.

438           (f) To prepare and keep in his office a map or maps  
439 showing the territory embraced in his school district, to furnish  
440 the county assessor with a copy of such map or maps, and to revise  
441 and correct same from time to time as changes in or alterations of  
442 school districts may necessitate.

443           (g) To keep an accurate record of the names of all of  
444 the members of the school board showing the districts for which  
445 each was elected or appointed, the post office address of each,  
446 and the date of the expiration of his term of office. All  
447 official correspondence shall be addressed to the school board,  
448 and notice to such members shall be regarded as notice to the

residents of the district, and it shall be the duty of the members to notify such residents.

(h) To deliver in proper time to the assistant superintendents, principals, teachers and board members such forms, records and other supplies which will be needed during the school year as provided by law or any applicable rules and regulations, and to give to such individuals such information with regard to their duties as may be required.

(i) To make to the school board reports for each scholastic month in such form as the school board may require.

(j) To distribute promptly all reports, letters, forms, circulars and instructions which he may receive for the use of school officials.

(k) To keep on file and preserve in his office all appropriate information concerning the affairs of the school district.

(l) To visit the schools of his school district in his discretion, and to require the assistant superintendents, principals and teachers thereof to perform their duties as prescribed by law.

(m) To observe such instructions and regulations as the school board and other public officials may prescribe, and to make special reports to these officers whenever required.

(n) To keep his office open for the transaction of business upon the days and during the hours to be designated by the school board.

(o) To make such reports as are required by the State Board of Education.

(p) To make an enumeration of educable children in his school district as prescribed by law.

(q) To keep in his office and carefully preserve the public school record provided, to enter therein the proceedings of the school board and his decision upon cases and his other official acts, to record therein the data required from the

483 monthly and term reports of principals and teachers, and from the  
484 summaries of records thus kept.

485 (r) To delegate student disciplinary matters to  
486 appropriate school personnel.

487 (s) To make assignments to the various schools in the  
488 district of all noninstructional and nonlicensed employees and all  
489 licensed employees, as provided in Sections 37-9-15 and 37-9-17,  
490 and to make reassignments of such employees from time to time;  
491 however, a reassignment of a licensed employee may only be to an  
492 area in which the employee has a valid license issued by the State  
493 Department of Education. Upon request from any employee  
494 transferred, such assignment shall be subject to review by the  
495 school board.

496 (t) To employ substitutes for licensed employees,  
497 regardless of whether or not such substitute holds the proper  
498 license, subject to such reasonable rules and regulations as may  
499 be adopted by the State Board of Education.

500 (u) To comply in a timely manner with the compulsory  
501 education reporting requirements prescribed in Section  
502 37-13-91(6).

503 (v) To perform such other duties as may be required of  
504 him by law.

505 (w) To notify, in writing, the parent, guardian or  
506 custodian, the youth court and local law enforcement of any  
507 expulsion of a student for criminal activity as defined in Section  
508 37-11-92.

509 (x) To notify the youth court and local law enforcement  
510 agencies, by affidavit, of the occurrence of any crime committed  
511 by a student or students upon school property or during any  
512 school-related activity, regardless of location and the identity  
513 of the student or students committing the crime.

514 (y) To employ and dismiss noninstructional and  
515 nonlicensed employees as provided by law.

516 (3) All funds to the credit of a school district shall be  
517 paid out on pay certificates issued by the superintendent upon

order of the school board of the school district properly entered upon the minutes thereof, and all such orders shall be supported by properly itemized invoices from the vendors covering the materials and supplies purchased. All such orders and the itemized invoices supporting same shall be filed as a public record in the office of the superintendent for a period of five (5) years. The superintendent shall be liable upon his official bond for the amount of any pay certificate issued in violation of the provisions of this section. The school board shall have the power and authority to direct and cause warrants to be issued against such district funds for the purpose of refunding any amount of taxes erroneously or illegally paid into such fund when such refund has been approved in the manner provided by law.

(4) The superintendent of schools shall be special accounting officer and treasurer with respect to any and all district school funds for his school district. He or his designee shall issue all warrants without the necessity of registration thereof by the chancery clerk. Transactions with the depositories and with the various tax collecting agencies which involve school funds for such school district shall be with the superintendent of schools, or his designee.

(5) The superintendent of schools will have no responsibility with regard to agricultural high school and junior college funds.

All agricultural high school and junior college funds shall be handled and expended in the manner provided for in Sections 37-29-31 through 37-29-39.

(6) It shall be the duty of the superintendent of schools to keep and preserve the minutes of the proceedings of the school board.

(7) The superintendent of schools shall maintain as a record in his office a book or a computer printout in which he shall enter all demands, claims and accounts paid from any funds of the school district. The record shall be in a form to be prescribed by the State Auditor. All demands, claims and accounts filed



553 shall be preserved by the superintendent of schools as a public  
554 record for a period of five (5) years. All claims found by the  
555 school board to be illegal shall be rejected or disallowed. To  
556 the extent allowed by board policy, all claims which are found to  
557 be legal and proper may be paid and then ratified by the school  
558 board at the next regularly scheduled board meeting, as paid by  
559 the superintendent of schools. All claims as to which a  
560 continuance is requested by the claimant and those found to be  
561 defective but which may be perfected by amendment shall be  
562 continued. The superintendent of schools shall issue a pay  
563 certificate against any legal and proper fund of the school  
564 district in favor of the claimant in payment of claims. The  
565 provisions of this section, however, shall not be applicable to  
566 the payment of \* \* \* salaries and applicable benefits, \* \* \*  
567 travel advances, amounts due private contractors or other  
568 obligations where the amount thereof has been previously approved  
569 by a contract or by an order of the school board entered upon its  
570 minutes, or paid by board policy, or by inclusion in the current  
571 fiscal year budget, and all such amounts may be paid by the  
572 superintendent of schools by pay certificates issued by him  
573 against the legal and proper fund without allowance of a specific  
574 claim therefor as provided in this section, provided that the  
575 payment thereof is otherwise in conformity with law.

576       **SECTION 3.** This act shall take effect and be in force from  
577 and after July 1, 2005.

HR03\SB2142A.J

Don Richardson  
Clerk of the House of Representatives