

By: Representatives Lott, Staples, Wells-Smith

To: Education

HOUSE BILL NO. 944
(As Passed the House)

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE SCHOOL BOARDS TO PARTNER WITH ENTITIES, ORGANIZATIONS
3 AND CORPORATIONS FOR THE PURPOSE OF BENEFITING THE SCHOOL
4 DISTRICT; 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 The local school board shall be authorized and empowered to
75 promulgate rules and regulations that specify the types of claims
76 and set limits of the dollar amount for payment of claims by the
77 superintendent of schools to be ratified by the board at the next
78 regularly scheduled meeting after payment has been made;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

319 (nn) To use any available funds, not appropriated or
320 designated for any other purpose, for reimbursement to the
321 state-licensed employees from both in-state and out-of-state, who
322 enter into a contract for employment in a school district, for the
323 expense of moving when the employment necessitates the relocation
324 of the licensed employee to a different geographical area than

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

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

353 (pp) Consistent with the report of the Task Force to
354 Conduct a Best Financial Management Practices Review, to improve
355 school district management and use of resources and identify cost
356 savings as established in Section 8 of Chapter 610, Laws of 2002,
357 local school boards are encouraged to conduct independent reviews

358 of the management and efficiency of schools and school districts.
359 Such management and efficiency reviews shall provide state and
360 local officials and the public with the following:

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

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

383 (rr) To implement a financial literacy program for
384 students in Grades 10 and 11. The board may review the national
385 programs and obtain free literature from various nationally
386 recognized programs. After review of the different programs, the
387 board may certify a program that is most appropriate for the
388 school districts' needs. If a district implements a financial
389 literacy program, then any student in Grade 10 or 11 may
390 participate in the program. The financial literacy program shall

391 include, but is not limited to, instruction in the same areas of
392 personal business and finance as required under Section
393 37-1-3(2)(b). The school board may coordinate with volunteer
394 teachers from local community organizations, including, but not
395 limited to, the following: United States Department of
396 Agriculture Rural Development, United States Department of Housing
397 and Urban Development, Junior Achievement, bankers and other
398 nonprofit organizations. Nothing in this paragraph shall be
399 construed as to require school boards to implement a financial
400 literacy program;

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

408 (tt) With respect to any lawful, written obligation of
409 a school district, including, but not limited to, leases
410 (excluding leases of sixteenth section public school trust land),
411 bonds, notes, or other agreement, to agree in writing with the
412 obligee that the State Tax Commission or any state agency,
413 department or commission created under state law may:

414 (i) Withhold all or any part (as agreed by the
415 school board) of any monies which such local school board is
416 entitled to receive from time to time under any law and which is
417 in the possession of the State Tax Commission, or any state
418 agency, department or commission created under state law; and

419 (ii) Pay the same over to any financial
420 institution, trustee or other obligee, as directed in writing by
421 the school board, to satisfy all or part of such obligation of the
422 school district.

423 The school board may make such written agreement to withhold
424 and transfer funds irrevocable for the term of the written
425 obligation and may include in the written agreement any other
426 terms and provisions acceptable to the school board. If the
427 school board files a copy of such written agreement with the State
428 Tax Commission, or any state agency, department or commission
429 created under state law then the State Tax Commission or any state
430 agency, department or commission created under state law shall
431 immediately make the withholdings provided in such agreement from
432 the amounts due the local school board and shall continue to pay
433 the same over to such financial institution, trustee or obligee
434 for the term of the agreement.

435 This paragraph (tt) shall not grant any extra authority to a
436 school board to issue debt in any amount exceeding statutory
437 limitations on assessed value of taxable property within such
438 school district or the statutory limitations on debt maturities,
439 and shall not grant any extra authority to impose, levy or collect
440 a tax which is not otherwise expressly provided for, and shall not
441 be construed to apply to sixteenth section public school trust
442 land;

443 (uu) With respect to any matter or transaction that is
444 competitively bid by a school district, to accept from any bidder
445 as a good faith deposit or bid bond or bid surety, the same type
446 of good faith deposit or bid bond or bid surety that may be
447 accepted by the state or any other political subdivision on
448 similar competitively bid matters or transactions. This paragraph
449 (uu) shall not be construed to apply to sixteenth section public
450 school trust land. The school board may authorize the investment
451 of any school district funds in the same kind and manner of
452 investments, including pooled investments, as any other political
453 subdivision, including community hospitals; * * *

454 (vv) To utilize the alternate method for the conveyance
455 or exchange of unused school buildings and/or land, reserving a

456 partial or other undivided interest in the property, as
457 specifically authorized and provided in Section 37-7-485,
458 Mississippi Code of 1972;

459 (ww) To partner with entities, organizations and
460 corporations for the purpose of benefiting the school district;
461 and

462 (xx) To borrow funds from the Rural Economic
463 Development Authority for the maintenance of school buildings.

464 **SECTION 2.** This act shall take effect and be in force from
465 and after July 1, 2006.