

By: Representatives Lott, Carlton, Moore,
Staples, Wells-Smith

To: Education

HOUSE BILL NO. 953

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT SCHOOL BOARDS MAY AUTHORIZE THE TEACHING OF
3 CREATIONISM OR INTELLIGENT DESIGN; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 paragraph (v)(i) shall be construed to
181 mean any building or buildings used for classroom purposes in
182 connection with the operation of schools and shall include the
183 site therefor, necessary support facilities, and the equipment
184 thereof and appurtenances thereto such as heating facilities,
185 water supply, sewage disposal, landscaping, walks, drives and
186 playgrounds. The term "lease" as used in this paragraph (v)(i)
187 may include a 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 paragraph
194 (v)(i). All of the provisions of paragraph (v)(i) regarding the
195 term and amount of the lease contract shall apply to the school
196 boards of school districts acting jointly. Any lease contract
197 executed by two (2) or more school districts as joint lessees
198 shall set out the amount of the aggregate lease rental to be paid
199 by each, which may be agreed upon, but there shall be no right of
200 occupancy by any lessee unless the aggregate rental is paid as
201 stipulated in the lease contract. All rights of joint lessees
202 under the lease contract shall be in proportion to the amount of
203 lease rental paid 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 (tt) With respect to any lawful, written obligation of
408 a school district, including, but not limited to, leases
409 (excluding leases of sixteenth section public school trust land),
410 bonds, notes, or other agreement, to agree in writing with the
411 obligee that the State Tax Commission or any state agency,
412 department or commission created under state law may:

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

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

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

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

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

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

455 partial or other undivided interest in the property, as
456 specifically authorized and provided in Section 37-7-485,
457 Mississippi Code of 1972; and
458 (ww) To authorize the teaching of "creationism" or
459 "intelligent design" in the public schools. If the school's
460 curriculum requires the teaching of evolution, then the teaching
461 of "creationism" or "intelligent design" shall be required.

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