

By: Representatives Sullivan, Montgomery

To: Education; Ways and Means

HOUSE BILL NO. 1170

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

256 (ee) To provide for in-service training for employees
257 of the district * * *;

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

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

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

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

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

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

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

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

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

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

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

323 25-3-41 if the licensed employee used his personal vehicle or
324 vehicles for the move, meals and such other expenses associated
325 with the relocation. No licensed employee may be reimbursed for
326 moving expenses under this section on more than one (1) occasion
327 by the same school district. Nothing in this section shall be
328 construed to require the actual residence to which the licensed
329 employee relocates to be within the boundaries of the school
330 district that has executed a contract for employment in order for
331 the licensed employee to be eligible for reimbursement for the
332 moving expenses. However, the licensed employee must relocate
333 within the boundaries of the State of Mississippi. Any individual
334 receiving relocation assistance through the Critical Teacher
335 Shortage Act as provided in Section 37-159-5 shall not be eligible
336 to receive additional relocation funds as authorized in this
337 paragraph;

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

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

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

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

356 (iii) An assessment of revenue levels and sources;
357 (iv) An assessment of facilities utilization,
358 planning and maintenance;
359 (v) An assessment of food services, transportation
360 and safety/security systems;
361 (vi) An assessment of instructional and
362 administrative technology;
363 (vii) A review of the instructional management and
364 the efficiency and effectiveness of existing instructional
365 programs; and
366 (viii) Recommended methods for increasing
367 efficiency and effectiveness in providing educational services to
368 the public;
369 (qq) To enter into agreements with other local school
370 boards for the establishment of an educational service agency
371 (ESA) to provide for the cooperative needs of the region in which
372 the school district is located, as provided in Section 37-7-345.
373 This paragraph shall repeal on July 1, 2007;
374 (rr) To implement a financial literacy program for
375 students in Grades 10 and 11. The board may review the national
376 programs and obtain free literature from various nationally
377 recognized programs. After review of the different programs, the
378 board may certify a program that is most appropriate for the
379 school districts' needs. If a district implements a financial
380 literacy program, then any student in Grade 10 or 11 may
381 participate in the program. The financial literacy program shall
382 include, but is not limited to, instruction in the same areas of
383 personal business and finance as required under Section
384 37-1-3(2)(b). The school board may coordinate with volunteer
385 teachers from local community organizations, including, but not
386 limited to, the following: United States Department of
387 Agriculture Rural Development; United States Department of Housing
388 and Urban Development; Junior Achievement; bankers; and other

389 nonprofit organizations. Nothing in this paragraph shall be
390 construed as to require school boards to implement a financial
391 literacy program;

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

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

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

410 (ii) Pay the same over to any financial
411 institution, trustee or other obligee, as directed in writing by
412 the school board, to satisfy all or part of such obligation of the
413 school district.

414 The school board may make such written agreement to withhold
415 and transfer funds irrevocable for the term of the written
416 obligation and may include in the written agreement any other
417 terms and provisions acceptable to the school board. If the
418 school board files a copy of such written agreement with the State
419 Tax Commission, or any state agency, department or commission
420 created under state law then the State Tax Commission or any state
421 agency, department or commission created under state law shall

422 immediately make the withholdings provided in such agreement from
423 the amounts due the local school board and shall continue to pay
424 the same over to such financial institution, trustee or obligee
425 for the term of the agreement.

426 This paragraph (tt) shall not grant any extra authority to a
427 school board to issue debt in any amount exceeding statutory
428 limitations on assessed value of taxable property within such
429 school district or the statutory limitations on debt maturities,
430 and shall not grant any extra authority to impose, levy or collect
431 a tax which is not otherwise expressly provided for, and shall not
432 be construed to apply to sixteenth section public school trust
433 land;

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

445 (vv) To utilize the alternate method for the conveyance
446 or exchange of unused school buildings and/or land, reserving a
447 partial or other undivided interest in the property, as
448 specifically authorized and provided in Section 37-7-485; and

449 (ww) To borrow funds from the Rural Economic
450 Development Authority for the maintenance of school buildings.

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