

By: Representative Clark

To: Education;
Appropriations

HOUSE BILL NO. 1246

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE SCHOOL BOARDS TO EMPLOY AND FIX THE COMPENSATION OF
3 LICENSED SOCIAL WORKERS AND LICENSED PSYCHOLOGISTS TO PROVIDE
4 SERVICES TO THE STUDENTS IN THE SCHOOLS OF THE SCHOOL DISTRICT; TO
5 PROVIDE THAT ANY SCHOOL DISTRICT THAT HAS EMPLOYED AT LEAST ONE
6 SOCIAL WORKER OR PSYCHOLOGIST FOR EVERY ONE THOUSAND STUDENTS
7 ENROLLED IN THE SCHOOLS OF THE DISTRICT SHALL BE ELIGIBLE FOR
8 REIMBURSEMENT FOR FIFTY PERCENT OF THE COST OF THE SALARY OF EACH
9 SUCH SOCIAL WORKER OR PSYCHOLOGIST FROM THE STATE DEPARTMENT OF
10 EDUCATION; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

30 (e) To suspend or to expel a pupil or to change the
31 placement of a pupil to the school district's alternative school

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

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

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

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

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

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

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

63 (l) To prescribe and enforce rules and regulations not
64 inconsistent with law or with the regulations of the State Board

65 of Education for their own government and for the government of
66 the schools, and to transact their business at regular and special
67 meetings called and held in the manner provided by law;

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

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

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

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

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

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

96 (s) To expend local school activity funds, or other
97 available school district funds, other than minimum education

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

131 board shall provide (i) that such school activity funds shall be
132 maintained and expended by the principal of the school generating
133 the funds in individual bank accounts, or (ii) that such school
134 activity funds shall be maintained and expended by the
135 superintendent of schools in a central depository approved by the
136 board. The local school governing board shall provide that such
137 school activity funds be audited as part of the annual audit
138 required in Section 37-9-18. The State Auditor shall prescribe a
139 uniform system of accounting and financial reporting for all
140 school activity fund transactions;

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

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

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

164 spread upon its minutes, proceed to lease a school building. If
165 at any time prior to said meeting a petition signed by not less
166 than twenty percent (20%) or fifteen hundred (1500), whichever is
167 less, of the qualified electors of the school district involved
168 shall be filed with the school board requesting that an election
169 be called on the question, then the school board shall, not later
170 than the next regular meeting, adopt a resolution calling an
171 election to be held within such school district upon the question
172 of authorizing the school board to lease a school building. Such
173 election shall be called and held, and notice thereof shall be
174 given, in the same manner for elections upon the questions of the
175 issuance of the bonds of school districts, and the results thereof
176 shall be certified to the school board. If at least three-fifths
177 (3/5) of the qualified electors of the school district who voted
178 in such election shall vote in favor of the leasing of a school
179 building, then the school board shall proceed to lease a school
180 building. The term of the lease contract shall not exceed twenty
181 (20) years, and the total cost of such lease shall be either the
182 amount of the lowest and best bid accepted by the school board
183 after advertisement for bids or an amount not to exceed the
184 current fair market value of the lease as determined by the
185 averaging of at least two (2) appraisals by certified general
186 appraisers licensed by the State of Mississippi. The term "school
187 building" as used in this paragraph (v)(i) shall be construed to
188 mean any building or buildings used for classroom purposes in
189 connection with the operation of schools and shall include the
190 site therefor, necessary support facilities, and the equipment
191 thereof and appurtenances thereto such as heating facilities,
192 water supply, sewage disposal, landscaping, walks, drives and
193 playgrounds. The term "lease" as used in this paragraph (v)(i)
194 may include a lease/purchase contract;

195 (ii) If two (2) or more school districts propose
196 to enter into a lease contract jointly, then joint meetings of the

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

211 (w) To employ all noninstructional and noncertificated
212 employees and fix the duties and compensation of such personnel
213 deemed necessary pursuant to the recommendation of the
214 superintendent of schools;

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

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

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

224 (aa) To acquire in its own name by purchase all real
225 property which shall be necessary and desirable in connection with
226 the construction, renovation or improvement of any public school
227 building or structure. Whenever the purchase price for such real
228 property is greater than Fifty Thousand Dollars (\$50,000.00), the
229 school board shall not purchase the property for an amount

230 exceeding the fair market value of such property as determined by
231 the average of at least two (2) independent appraisals by
232 certified general appraisers licensed by the State of Mississippi.
233 If the board shall be unable to agree with the owner of any such
234 real property in connection with any such project, the board shall
235 have the power and authority to acquire any such real property by
236 condemnation proceedings pursuant to Section 11-27-1 et seq.,
237 Mississippi Code of 1972, and for such purpose, the right of
238 eminent domain is hereby conferred upon and vested in said board.
239 Provided further, that the local school board is authorized to
240 grant an easement for ingress and egress over sixteenth section
241 land or lieu land in exchange for a similar easement upon
242 adjoining land where the exchange of easements affords substantial
243 benefit to the sixteenth section land; provided, however, the
244 exchange must be based upon values as determined by a competent
245 appraiser, with any differential in value to be adjusted by cash
246 payment. Any easement rights granted over sixteenth section land
247 under such authority shall terminate when the easement ceases to
248 be used for its stated purpose. No sixteenth section or lieu land
249 which is subject to an existing lease shall be burdened by any
250 such easement except by consent of the lessee or unless the school
251 district shall acquire the unexpired leasehold interest affected
252 by the easement;

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

256 (cc) Subject to rules and regulations of the State
257 Board of Education, to purchase relocatable classrooms for the use
258 of such school district, in the manner prescribed in Section
259 37-1-13;

260 (dd) Enter into contracts or agreements with other
261 school districts, political subdivisions or governmental entities
262 to carry out one or more of the powers or duties of the school

263 board, or to allow more efficient utilization of limited resources
264 for providing services to the public;

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

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

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

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

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

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

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

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

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

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

314 (mm) To expend federal No Child Left Behind Act funds,
315 or any other available funds that are expressly designated and
316 authorized for that use, to pay training, educational expenses,
317 salary incentives and salary supplements to employees of local
318 school districts; except that incentives shall not be considered
319 part of the local supplement as defined in Section 37-151-5(o),
320 nor shall incentives be considered part of the local supplement
321 paid to an individual teacher for the purposes of Section
322 37-19-7(1). Mississippi Adequate Education Program funds or any
323 other state funds may not be used for salary incentives or salary
324 supplements as provided in this paragraph (mm);

325 (nn) To use any available funds, not appropriated or
326 designated for any other purpose, for reimbursement to the
327 state-licensed employees from both in-state and out-of-state, who
328 enter into a contract for employment in a school district, for the

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

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

359 (pp) Consistent with the report of the Task Force to
360 Conduct a Best Financial Management Practices Review, to improve
361 school district management and use of resources and identify cost

362 savings as established in Section 8 of Chapter 610, Laws of 2002,
363 local school boards are encouraged to conduct independent reviews
364 of the management and efficiency of schools and school districts.
365 Such management and efficiency reviews shall provide state and
366 local officials and the public with the following:

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

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

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

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

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

376 (vi) An assessment of instructional and
377 administrative technology;

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

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

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

389 (rr) To implement a financial literacy program for
390 students in Grades 10 and 11. The board may review the national
391 programs and obtain free literature from various nationally
392 recognized programs. After review of the different programs, the
393 board may certify a program that is most appropriate for the
394 school districts' needs. If a district implements a financial

395 literacy program, then any student in Grade 10 or 11 may
396 participate in the program. The financial literacy program shall
397 include, but is not limited to, instruction in the same areas of
398 personal business and finance as required under Section
399 37-1-3(2)(b). The school board may coordinate with volunteer
400 teachers from local community organizations, including, but not
401 limited to, the following: United States Department of
402 Agriculture Rural Development, United States Department of Housing
403 and Urban Development, Junior Achievement, bankers and other
404 nonprofit organizations. Nothing in this paragraph shall be
405 construed as to require school boards to implement a financial
406 literacy program;

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

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

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

425 (ii) Pay the same over to any financial
426 institution, trustee or other obligee, as directed in writing by

427 the school board, to satisfy all or part of such obligation of the
428 school district.

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

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

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

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

464 (ww) To employ and fix the compensation of licensed
465 social workers and licensed psychologists to provide services to
466 the students in the schools of the school district as determined
467 by the superintendent of the district.

468 **SECTION 2.** Any school district that has employed at least
469 one (1) social worker or psychologist for every one thousand
470 (1,000) students enrolled in the schools of the district shall be
471 eligible for reimbursement for fifty percent (50%) of the cost of
472 the salary of each such social worker or psychologist from the
473 State Department of Education, as provided in this section. The
474 superintendent of any school district that is eligible for the
475 reimbursement under this section shall apply to the State
476 Department of Education for that reimbursement, providing such
477 information as required by the department. After receipt of an
478 application for reimbursement from a school district under this
479 section, the department, using funds made available for that
480 purpose, shall reimburse the school district for fifty percent
481 (50%) of the cost of the salary of each such social worker or
482 psychologist.

483 **SECTION 3.** This act shall take effect and be in force from
484 and after July 1, 2006.