

By: Senator(s) Dawkins, Chaney, Harden,  
Albritton

To: Education; Environment  
Prot, Cons and Water Res

## SENATE BILL NO. 2605

1 AN ACT TO PRESCRIBE A PROCESS FOR THE EVALUATION OF A SITE  
2 FOR THE CONSTRUCTION OR EXPANSION OF A SCHOOL BUILDING OR  
3 FACILITY; TO REQUIRE LOCAL SCHOOL BOARDS TO ESTABLISH A SCHOOL  
4 SITING COMMITTEE TO EVALUATE AND MAKE RECOMMENDATIONS REGARDING  
5 PROPOSED SITES FOR SCHOOLS; TO PROVIDE THAT THE SCHOOL BOARD SHALL  
6 NOT PROCEED TO ACQUIRE OR PREPARE A SITE FOR CONSTRUCTION OR  
7 EXPANSION OF ANY SCHOOL UNTIL THE COMPLETION OF REQUIRED  
8 ENVIRONMENTAL EVALUATIONS APPROVED BY THE MISSISSIPPI DEPARTMENT  
9 OF ENVIRONMENTAL QUALITY; TO PROVIDE FOR AN ENVIRONMENTAL  
10 ASSESSMENT, A PRELIMINARY ENDANGERMENT ASSESSMENT (PEA) AND A SITE  
11 REMEDIATION PLAN AS REQUIRED COMPONENTS OF THE EVALUATION PROCESS;  
12 TO REQUIRE PUBLIC NOTICE AND COMMENT; TO AMEND SECTIONS 37-45-23,  
13 37-47-15 AND 37-7-301, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
14 THERETO; AND FOR RELATED PURPOSES.

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

16 **SECTION 1. School Siting Committee.** The local board of each  
17 school district shall establish a School Siting "Committee" to  
18 recommend to the school board sites for building new schools  
19 and/or expanding existing schools. The committee shall include at  
20 least one (1) representatives from the following constituencies:  
21 parents, teachers, school health officials (nurse or health  
22 director), community members, local public health professionals,  
23 environmental advocacy groups and age appropriate students. The  
24 committee will be involved throughout the site selection process  
25 up until final approval by the school board. The local school  
26 superintendent shall serve as chairman of the committee, and shall  
27 call any necessary meeting of the committee and shall organize the  
28 committee for business.

29 **SECTION 2. Categorical exclusions for school sites.** Under  
30 no circumstances shall a school be built on top of or within one  
31 thousand (1,000) feet of a hazardous waste disposal site, a  
32 garbage dump, or a site where construction and demolition  
33 materials were disposed of. To determine whether the proposed

34 school site has been used for these purposes, a series of  
35 environmental evaluations shall be undertaken: an initial  
36 Environmental Assessment and a more extensive Preliminary  
37 Endangerment Assessment (PEA). If either evaluation reveals that  
38 the site has been used for these purposes, or if the site is  
39 within one thousand (1,000) feet of any property used for these  
40 purposes, the site must be abandoned.

41 **SECTION 3. Process for evaluating sites.** (1) The school  
42 board shall not proceed to acquire the site or prepare the site  
43 for construction of any school, including the expansion of an  
44 existing school, until the school board completes the required  
45 environmental evaluations and the Mississippi Department of  
46 Environmental Quality approves the initial Environmental  
47 Assessment, any required more extensive Preliminary Endangerment  
48 Assessment (PEA), or the Site Remediation Plan submitted by the  
49 school board, as more specifically provided in this section.

50 (2) **Environmental Assessment.** Once a site is proposed, the  
51 school district must hire a licensed environmental assessor to  
52 conduct a three-part environmental assessment that is designed to  
53 collect information on current and past site uses and to conduct  
54 initial environmental sampling at the site. This assessment shall  
55 include:

56 (a) A site history by reviewing public and private  
57 records of current and past land uses, historical aerial  
58 photographs, environmental databases, federal, state and local  
59 regulatory agencies' files; a site visit; and interviews with  
60 persons familiar with the site's history.

61 (b) A small-scale grid sampling and analysis of soil,  
62 soil gases (if any) and groundwater. Air should be sampled if  
63 stationary sources of air pollution are near the proposed site,  
64 potentially exposing children to higher levels of pollution than  
65 found in their own communities. Any surface water should also be  
66 sampled.

67 (c) Identify any environmental hazards within two (2)  
68 miles of the site, including industrial sites, chemical storage  
69 facilities, facilities found in EPA's Toxic Release Inventory  
70 (TRI), waste treatment plants, landfills, military sites, research  
71 facilities, and Department of Energy sites.

72 The Environmental Assessment shall conclude that either (i)  
73 no recognized environmental hazards were identified; (ii) the site  
74 was previously used for either hazardous or garbage waste  
75 disposal, for disposal of construction and demolition materials,  
76 or is within one thousand (1,000) feet of any property used for  
77 these purposes; or (iii) a more extensive site assessment, a  
78 Preliminary Endangerment Assessment (PEA), is necessary. If no  
79 environmental hazards were identified at the property then the  
80 property is suitable for school site development. If the site was  
81 previously used for hazardous or garbage waste disposal, or for  
82 disposal of construction and demolition materials, or if it is  
83 within one thousand (1,000) feet of any property used for these  
84 purposes, the site must be abandoned.

85 The Mississippi Department of Environmental Quality must  
86 review the Environmental Assessment. Depending on the  
87 thoroughness of the assessment, the department must either give  
88 preliminary approval to the assessment, disapprove the assessment,  
89 or request more information from the school board.

90 When the Environmental Assessment is completed and has  
91 received preliminary approval by the Department of Environmental  
92 Quality, the school board shall publish a notice in newspapers of  
93 general circulation (in the school district) that includes the  
94 following information:

95 (a) A statement that an Environmental Assessment of the  
96 site has been completed;

97 (b) A brief statement describing the results of the  
98 Environmental Assessment, such as a list of contaminants found in  
99 excess of regulatory standards, prior uses of site that might

100 raise health and safety issues, proximity of site to environmental  
101 hazards, waste disposal sites and point sources of air pollution;

102 (c) A brief summary of the conclusions of the  
103 Environmental Assessment;

104 (d) The location where people can review a copy of the  
105 Environmental Assessment or an executive summary of the assessment  
106 written in the appropriate foreign language; and

107 (e) An announcement of a thirty-day public comment  
108 period on the Environmental Assessment, including an address where  
109 public comments should be sent.

110 A copy of this notice shall also be posted in a conspicuous  
111 place in every school within the school district (in multiple  
112 languages if there is a significant number of non-English speaking  
113 parents). A copy shall also be delivered to each parent-teacher  
114 organization within the school district and each landowner within  
115 one thousand (1,000) feet of the proposed site.

116 The Mississippi Department of Environmental Quality will  
117 review the Environmental Assessment and the public comments  
118 received on the assessment. The department will either accept or  
119 reject the conclusion of the assessment, determining whether the  
120 site can be used without further remediation or study, whether the  
121 site is categorically excluded for use as a school, or whether  
122 further study or remediation of the site through conducting a  
123 Preliminary Endangerment Assessment is required. The department  
124 shall explain in detail the reasons for accepting or rejecting the  
125 assessment.

126 (3) **Preliminary Endangerment Assessment (PEA).** After the  
127 Mississippi Department of Environmental Quality has approved the  
128 Environmental Assessment, the local School Siting Committee must  
129 also review the assessment and public comments received. The  
130 purpose of this review is for the School Siting Committee to make  
131 a recommendation to either abandon the site or continue evaluating  
132 the environmental hazards at the site with a Preliminary

133 Endangerment Assessment. A Preliminary Endangerment Assessment  
134 shall be required if environmental hazards were identified in the  
135 Environmental Assessment or:

136 (a) If the environmental sampling data collected as  
137 part of the Environmental Assessment indicate that contamination  
138 levels exceed regulatory safety standards; or

139 (b) If a proposed school site lies within one thousand  
140 (1,000) feet of one (1) of the following potential sources of  
141 contamination:

142 (i) A suspected hazardous, industrial waste, or  
143 municipal waste disposal site;

144 (ii) Refineries, mines, scrap yards, factories,  
145 dry cleaning, chemical spills and other contaminants;

146 (iii) Agricultural land;

147 (iv) Dust generators such as fertilizer, cement  
148 plants or saw mills;

149 (v) Leaked gasoline or other products from  
150 underground storage tanks;

151 (vi) Concentrated electrical magnetic fields from  
152 high intensity power lines and communication towers;

153 (vii) Areas of high concentrations of vehicular  
154 traffic such as freeways, highways, industrial plants and  
155 facilities;

156 (viii) A United States Environmental Protection  
157 Agency or state designated Brownfield site;

158 (ix) A railroad bed;

159 (x) An industry listed in Environmental Protection  
160 Agency Toxic Release Inventory (TRI).

161 If a Preliminary Endangerment Assessment is required, the  
162 School Siting Committee shall recommend to the school board  
163 whether to abandon the site or proceed with a Preliminary  
164 Endangerment Assessment. Then, the school board shall decide, by

165 order entered upon its minutes, whether to abandon the site or  
166 proceed with a Preliminary Endangerment Assessment.

167         If a Preliminary Endangerment Assessment is to be conducted,  
168 the school board shall hire a licensed environmental assessor.  
169 The Mississippi Department of Environmental Quality shall oversee  
170 the Preliminary Endangerment Assessment process and issue  
171 regulations that prescribe the precise contents of the Preliminary  
172 Endangerment Assessment. The Preliminary Endangerment Assessment  
173 shall also be approved by the Mississippi Department of  
174 Environmental Quality. Before any work is done on the Preliminary  
175 Endangerment Assessment, the school board must develop a public  
176 participation plan that addresses the public participation  
177 activities that will be undertaken as part of the Preliminary  
178 Endangerment Assessment process. The plan shall indicate what  
179 mechanisms the school district will use to provide notice to the  
180 public about the use of the site as a school. Activities such as  
181 public meetings, workshops or fact-sheets may be appropriate ways  
182 to notify the public about the proposed Preliminary Endangerment  
183 Assessment investigation activities, including the taking of soil,  
184 groundwater and air samples. The Mississippi Department of  
185 Environmental Quality must approve the public participation plan  
186 before the school board can commence other Preliminary  
187 Endangerment Assessment-related activities.

188         The primary objective of the Preliminary Endangerment  
189 Assessment shall be to determine if there has been a release or if  
190 there is a potential for a release of a hazardous substance that  
191 could pose a health threat to children, staff, or community  
192 members. As part of the Preliminary Endangerment Assessment,  
193 full-scale grid sampling and analysis of soil, soil gases (if any)  
194 and groundwater shall be undertaken to accurately quantify the  
195 type and extent of hazardous material contamination present on the  
196 site. The Preliminary Endangerment Assessment shall also contain  
197 an evaluation of the risks of actual or potential contamination

198 posed to children's health, public health, or the environment  
199 based on the contamination found. The evaluation of risks shall  
200 include:

201 (a) A description of health consequences of long-term  
202 exposure to any hazardous substances found on site;

203 (b) A description of all possible pathways of exposure  
204 to those substances by children attending school on site; and

205 (c) The identification of which pathways would more  
206 likely result in children being exposed to those substances.

207 The Preliminary Endangerment Assessment shall conclude that  
208 (a) there are no environmental hazards at the site which must be  
209 abated through a cleanup plan; or (b) the site was previously used  
210 for hazardous or garbage waste disposal, for the disposal of  
211 construction and demolition materials, or is within one thousand  
212 (1,000) feet of any property used for these purposes, or (c) the  
213 site must be cleaned up if the site is to be used for a school.  
214 If the site was previously used for hazardous or garbage waste  
215 disposal, for the disposal of construction and demolition  
216 materials, or is within one thousand (1,000) feet of any property  
217 used for these purposes, the site must be abandoned. If the site  
218 must be cleaned up, the Preliminary Endangerment Assessment shall  
219 identify alternatives for cleaning the site to meet the applicable  
220 safety standards. The Mississippi Department of Environmental  
221 Quality shall review the Preliminary Endangerment Assessment.  
222 Depending on the thoroughness of the assessment, the department  
223 shall give preliminary approval to the assessment, disapprove the  
224 assessment, or request more information from the school board.

225 When the Preliminary Endangerment Assessment is completed and  
226 has received preliminary approval by the department, the school  
227 board shall publish a notice in newspapers of general circulation  
228 in the school district that includes the following information:

229 (a) A statement that a Preliminary Endangerment  
230 Assessment of the site has been completed;

231 (b) A brief statement describing the results of the  
232 Preliminary Endangerment Assessment, such as a list of  
233 contaminants found in excess of regulatory standards, prior uses  
234 of site that might raise health and safety issues, proximity of  
235 site to environmental hazards, including waste disposal sites and  
236 point sources of air pollution;

237 (c) A brief summary of the conclusions of the  
238 Preliminary Endangerment Assessment, including a list of  
239 alternative cleanup methods;

240 (d) The location where the public can review a copy of  
241 the Preliminary Endangerment Assessment or an executive summary of  
242 the Preliminary Endangerment Assessment written in the appropriate  
243 foreign language; and

244 (e) An announcement of a thirty-day public comment  
245 period, including an address where public comments should be sent.  
246 A copy of this notice shall also be posted in a conspicuous place  
247 in every school within the school district (in multiple languages  
248 if there is a significant number of non-English speaking parents).  
249 A copy shall also be delivered to each parent-teacher organization  
250 within the school district, and each landowner within one thousand  
251 (1,000) feet of the proposed site.

252 The Mississippi Department of Environmental Quality shall  
253 review the Preliminary Endangerment Assessment and the public  
254 comments received on the Preliminary Endangerment Assessment. The  
255 department shall either accept or reject the conclusion of the  
256 Preliminary Endangerment Assessment, determining whether the site  
257 can be used without further remediation or study, whether the site  
258 is categorically excluded for use as a school, or whether a Site  
259 Remediation Plan is required. The department shall explain in  
260 detail the reasons for accepting or rejecting the Preliminary  
261 Endangerment Assessment.

262 (3) **Site Remediation Plan.** If the Preliminary Endangerment  
263 Assessment indicates that the site has a significant hazardous



264 materials contamination problem, the school board shall either  
265 abandon the site or fund a cleanup plan that would reduce  
266 contaminant levels to the applicable safety standard for each  
267 contaminant. The school board shall abandon the site if the site  
268 was previously used for hazardous or garbage waste disposal, for  
269 disposal of construction and demolition materials, or is within  
270 one thousand (1,000) feet of any property used for these purposes.

271 If the Preliminary Endangerment Assessment approved by the  
272 Mississippi Department of Environmental Quality determines that  
273 site remediation is necessary, the School Siting Committee shall  
274 recommend to the school board whether to abandon the site or  
275 proceed with the development of a remediation plan. Then, the  
276 school board shall determine, by order entered upon its minutes,  
277 whether to abandon the site or proceed with developing a  
278 remediation plan.

279 If the school board chooses to prepare a Site Remediation  
280 Plan, the plan must:

281 (a) Identify alternative methods for cleaning the site  
282 to contamination levels that meet the applicable safety standards;

283 (b) Contain a financial analysis that estimates and  
284 compares soil cleanup costs for the identified alternative cleanup  
285 methods that will bring the site into compliance with applicable  
286 safety standards;

287 (c) Recommend a cleanup plan from the alternatives  
288 identified;

289 (d) Explain how the recommended cleanup alternative  
290 will prevent children from being exposed to the hazardous  
291 substances found at the site; and

292 (e) Evaluate the suitability of the site in light of  
293 recommended alternative sites and alternative cleanup plans.

294 The school board shall submit the Site Remediation Plan to  
295 the Mississippi Department of Environmental Quality for approval.  
296 Before submitting the plan for approval, a draft remediation plan

297 shall be given to the School Siting Committee for review and  
298 comment. Once the remediation plan is submitted to the department  
299 for approval, the school board shall publish a notice in  
300 newspapers of general circulation in the school district that  
301 includes the following information:

302 (a) A statement that a site remediation plan has been  
303 submitted to the Mississippi Department of Environmental Quality  
304 for approval;

305 (b) A brief statement describing the Site Remediation  
306 Plan, including a list of contaminants found in excess of  
307 regulatory standards and a description of how the plan will reduce  
308 the level of contamination to meet those regulatory standards;

309 (c) The location where people can review a copy of the  
310 remediation plan or an executive summary of the remediation plan  
311 written in the appropriate foreign language; and

312 (d) An announcement of a thirty-day public comment  
313 period and the address of the Mississippi Department of  
314 Environmental Quality where public comments should be sent. A  
315 copy of this notice shall also be posted in a conspicuous place in  
316 every school within the school district (in multiple languages if  
317 there is a significant number of non-English speaking parents). A  
318 copy shall also be delivered to each Parent-Teacher Organization  
319 within the school district, and each landowner within one thousand  
320 (1,000) feet of the proposed site.

321 At least thirty (30) days after the conclusion of the public  
322 comment period, the Mississippi Department of Environmental  
323 Quality shall conduct a public hearing on the remediation plan in  
324 the neighborhood or school district where the proposed site is  
325 located. The department in the school district shall publish a  
326 notice of the hearing in newspapers of general circulation stating  
327 the date, time and location of the hearing. The department shall  
328 provide translators at the public hearing if the school district  
329 has a sizable number of non-English speaking parents.

330 After the public hearing and after reviewing any comments  
331 received during the public comment period, the Mississippi  
332 Department of Environmental Quality shall either approve or  
333 disapprove the Site Remediation Plan, or request additional  
334 information from the school board. If the department requires  
335 additional information, a copy of the letter requesting additional  
336 information shall be sent to the School Siting Committee. Any  
337 additional information submitted by the school board to the  
338 department shall also be given to the School Siting Committee.  
339 After reviewing any additional information, the department shall  
340 approve or reject the Site Remediation Plan. The department shall  
341 explain in detail the reasons for accepting or rejecting the Site  
342 Remediation Plan.

343 Once the department approves the Site Remediation Plan, the  
344 School Siting Committee shall recommend to the school board  
345 whether to abandon the site or proceed with acquiring the site and  
346 implementing the remediation plan. Then, the school board shall  
347 determine, by order entered upon its minutes, whether to abandon  
348 the site or to acquire the site and implement the remediation  
349 plan. Only upon voting to acquire the site and implement the  
350 remediation plan may the school board take any action to acquire  
351 the site and prepare the site for construction of a school.

352 **SECTION 4.** Section 37-45-23, Mississippi Code of 1972, is  
353 amended as follows:

354 37-45-23. Subject to the provisions of any applicable  
355 statute, including specifically the requirements of Senate Bill  
356 No. 2605, 2006 Regular Session, relating to the environmental  
357 evaluation of sites for school building construction or expansion,  
358 the commission shall formulate policies and approve or disapprove  
359 plans for the location and construction of all necessary  
360 elementary and secondary school buildings.

361 **SECTION 5.** Section 37-47-15, Mississippi Code of 1972, is  
362 amended as follows:

363           37-47-15. No grants accruing to any school district shall be  
364 expended for any purpose unless such expenditure has been approved  
365 by the commission. In order to guide the commission in passing  
366 upon requests for the use of grants, the school boards of the  
367 respective school districts are directed to prepare a survey of  
368 necessary capital improvements and/or a plan for tax relief on  
369 school indebtedness within each school district. Such surveys  
370 shall show existing facilities, desirable consolidations, the new  
371 construction and new facilities necessary and desirable for the  
372 efficient operation of the public schools of the school districts,  
373 proper compliance with state energy conservation standards, and  
374 the plan of tax reduction in the school districts by use of such  
375 funds in retiring any outstanding indebtedness for school  
376 facilities. The commission shall not approve any application for  
377 the use of funds of the said public school building fund from the  
378 school board of any school district until such time as an  
379 acceptable and reasonably satisfactory plan, looking particularly  
380 to efficiency through consolidations of school attendance centers,  
381 has been submitted by the school board.

382           Furthermore, the commission shall not approve any application  
383 for the use of funds of the public school building fund until such  
384 time as an acceptable plan has been submitted by the appropriate  
385 board which complies with improved design, heating, cooling,  
386 ventilation, lighting, insulation and architectural standards  
387 provided by the State of Mississippi to promote maximum energy  
388 conservation in new and existing public buildings.

389           In addition, the commission shall not approve any application  
390 which has not complied specifically with the provisions of Senate  
391 Bill No. 2605, 2006 Regular Session, relating to the environmental  
392 evaluation of sites for school building construction or expansion.

393           All applications from school districts shall conform to the  
394 plan of the school board.

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

397           37-7-301. The school boards of all school districts shall  
398 have the following powers, authority and duties in addition to all  
399 others imposed or granted by law, to wit:

400           (a) To organize and operate the schools of the district  
401 and to make such division between the high school grades and  
402 elementary grades as, in their judgment, will serve the best  
403 interests of the school;

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

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

410           (d) To have responsibility for the erection, repairing  
411 and equipping of school facilities and the making of necessary  
412 school improvements; provided, however, that the approval of any  
413 site for school building construction or expansion shall comply  
414 with the provisions of Senate Bill No. 2605, 2006 Regular Session,  
415 relating to environmental evaluation by the Mississippi Department  
416 of Environmental Quality and the appointment of a school siting  
417 committee;

418           (e) To suspend or to expel a pupil or to change the  
419 placement of a pupil to the school district's alternative school  
420 or home-bound program for misconduct in the school or on school  
421 property, as defined in Section 37-11-29, on the road to and from  
422 school, or at any school-related activity or event, or for conduct  
423 occurring on property other than school property or other than at  
424 a school-related activity or event when such conduct by a pupil,  
425 in the determination of the school superintendent or principal,  
426 renders that pupil's presence in the classroom a disruption to the  
427 educational environment of the school or a detriment to the best

428 interest and welfare of the pupils and teacher of such class as a  
429 whole, and to delegate such authority to the appropriate officials  
430 of the school district;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

494 the funds were raised by school employees or received by school  
495 employees during school hours or using school facilities, and  
496 regardless of whether a school employee exercises influence over  
497 the expenditure or disposition of such funds. Organizations shall  
498 not be required to make any payment to any school for the use of  
499 any school facility if, in the discretion of the local school  
500 governing board, the organization's function shall be deemed to be  
501 beneficial to the official or extracurricular programs of the  
502 school. For the purposes of this provision, the term  
503 "organization" shall not include any organization subject to the  
504 control of the local school governing board. Activity funds may  
505 only be expended for any necessary expenses or travel costs,  
506 including advances, incurred by students and their chaperons in  
507 attending any in-state or out-of-state school-related programs,  
508 conventions or seminars and/or any commodities, equipment, travel  
509 expenses, purchased services or school supplies which the local  
510 school governing board, in its discretion, shall deem beneficial  
511 to the official or extracurricular programs of the district,  
512 including items which may subsequently become the personal  
513 property of individuals, including yearbooks, athletic apparel,  
514 book covers and trophies. Activity funds may be used to pay  
515 travel expenses of school district personnel. The local school  
516 governing board shall be authorized and empowered to promulgate  
517 rules and regulations specifically designating for what purposes  
518 school activity funds may be expended. The local school governing  
519 board shall provide (i) that such school activity funds shall be  
520 maintained and expended by the principal of the school generating  
521 the funds in individual bank accounts, or (ii) that such school  
522 activity funds shall be maintained and expended by the  
523 superintendent of schools in a central depository approved by the  
524 board. The local school governing board shall provide that such  
525 school activity funds be audited as part of the annual audit  
526 required in Section 37-9-18. The State Auditor shall prescribe a



527 uniform system of accounting and financial reporting for all  
528 school activity fund transactions;

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

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

535 (v) (i) To lease a school building from an individual,  
536 partnership, nonprofit corporation or a private for-profit  
537 corporation for the use of such school district, and to expend  
538 funds therefor as may be available from any nonminimum program  
539 sources. The school board of the school district desiring to  
540 lease a school building shall declare by resolution that a need  
541 exists for a school building and that the school district cannot  
542 provide the necessary funds to pay the cost or its proportionate  
543 share of the cost of a school building required to meet the  
544 present needs. The resolution so adopted by the school board  
545 shall be published once each week for three (3) consecutive weeks  
546 in a newspaper having a general circulation in the school district  
547 involved, with the first publication thereof to be made not less  
548 than thirty (30) days prior to the date upon which the school  
549 board is to act on the question of leasing a school building. If  
550 no petition requesting an election is filed prior to such meeting  
551 as hereinafter provided, then the school board may, by resolution  
552 spread upon its minutes, proceed to lease a school building. If  
553 at any time prior to said meeting a petition signed by not less  
554 than twenty percent (20%) or fifteen hundred (1500), whichever is  
555 less, of the qualified electors of the school district involved  
556 shall be filed with the school board requesting that an election  
557 be called on the question, then the school board shall, not later  
558 than the next regular meeting, adopt a resolution calling an  
559 election to be held within such school district upon the question

560 of authorizing the school board to lease a school building. Such  
561 election shall be called and held, and notice thereof shall be  
562 given, in the same manner for elections upon the questions of the  
563 issuance of the bonds of school districts, and the results thereof  
564 shall be certified to the school board. If at least three-fifths  
565 (3/5) of the qualified electors of the school district who voted  
566 in such election shall vote in favor of the leasing of a school  
567 building, then the school board shall proceed to lease a school  
568 building. The term of the lease contract shall not exceed twenty  
569 (20) years, and the total cost of such lease shall be either the  
570 amount of the lowest and best bid accepted by the school board  
571 after advertisement for bids or an amount not to exceed the  
572 current fair market value of the lease as determined by the  
573 averaging of at least two (2) appraisals by certified general  
574 appraisers licensed by the State of Mississippi. The term "school  
575 building" as used in this paragraph (v)(i) shall be construed to  
576 mean any building or buildings used for classroom purposes in  
577 connection with the operation of schools and shall include the  
578 site therefor, necessary support facilities, and the equipment  
579 thereof and appurtenances thereto such as heating facilities,  
580 water supply, sewage disposal, landscaping, walks, drives and  
581 playgrounds. The term "lease" as used in this paragraph (v)(i)  
582 may include a lease/purchase contract;

583 (ii) If two (2) or more school districts propose  
584 to enter into a lease contract jointly, then joint meetings of the  
585 school boards having control may be held but no action taken shall  
586 be binding on any such school district unless the question of  
587 leasing a school building is approved in each participating school  
588 district under the procedure hereinabove set forth in paragraph  
589 (v)(i). All of the provisions of paragraph (v)(i) regarding the  
590 term and amount of the lease contract shall apply to the school  
591 boards of school districts acting jointly. Any lease contract  
592 executed by two (2) or more school districts as joint lessees

593 shall set out the amount of the aggregate lease rental to be paid  
594 by each, which may be agreed upon, but there shall be no right of  
595 occupancy by any lessee unless the aggregate rental is paid as  
596 stipulated in the lease contract. All rights of joint lessees  
597 under the lease contract shall be in proportion to the amount of  
598 lease rental paid by each;

599 (w) To employ all noninstructional and noncertificated  
600 employees and fix the duties and compensation of such personnel  
601 deemed necessary pursuant to the recommendation of the  
602 superintendent of schools;

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

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

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

612 (aa) To acquire in its own name by purchase all real  
613 property which shall be necessary and desirable in connection with  
614 the construction, renovation or improvement of any public school  
615 building or structure. Whenever the purchase price for such real  
616 property is greater than Fifty Thousand Dollars (\$50,000.00), the  
617 school board shall not purchase the property for an amount  
618 exceeding the fair market value of such property as determined by  
619 the average of at least two (2) independent appraisals by  
620 certified general appraisers licensed by the State of Mississippi.  
621 If the board shall be unable to agree with the owner of any such  
622 real property in connection with any such project, the board shall  
623 have the power and authority to acquire any such real property by  
624 condemnation proceedings pursuant to Section 11-27-1 et seq.,  
625 Mississippi Code of 1972, and for such purpose, the right of

626 eminent domain is hereby conferred upon and vested in said board.  
627 Provided further, that the local school board is authorized to  
628 grant an easement for ingress and egress over sixteenth section  
629 land or lieu land in exchange for a similar easement upon  
630 adjoining land where the exchange of easements affords substantial  
631 benefit to the sixteenth section land; provided, however, the  
632 exchange must be based upon values as determined by a competent  
633 appraiser, with any differential in value to be adjusted by cash  
634 payment. Any easement rights granted over sixteenth section land  
635 under such authority shall terminate when the easement ceases to  
636 be used for its stated purpose. No sixteenth section or lieu land  
637 which is subject to an existing lease shall be burdened by any  
638 such easement except by consent of the lessee or unless the school  
639 district shall acquire the unexpired leasehold interest affected  
640 by the easement;

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

644 (cc) Subject to rules and regulations of the State  
645 Board of Education, to purchase relocatable classrooms for the use  
646 of such school district, in the manner prescribed in Section  
647 37-1-13;

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

653 (ee) To provide for in-service training for employees  
654 of the district. Until June 30, 1994, the school boards may  
655 designate two (2) days of the minimum school term, as defined in  
656 Section 37-19-1, for employee in-service training for  
657 implementation of the new statewide testing system as developed by  
658 the State Board of Education. Such designation shall be subject

659 to approval by the State Board of Education pursuant to uniform  
660 rules and regulations;

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

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

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

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

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

689 (ii) To charge reasonable fees for participating in an  
690 extracurricular activity for academic or nonacademic credit for

691 necessary and required equipment such as safety equipment, band  
692 instruments and uniforms;

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

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

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

702 (mm) To expend federal No Child Left Behind Act funds,  
703 or any other available funds that are expressly designated and  
704 authorized for that use, to pay training, educational expenses,  
705 salary incentives and salary supplements to employees of local  
706 school districts; except that incentives shall not be considered  
707 part of the local supplement as defined in Section 37-151-5(o),  
708 nor shall incentives be considered part of the local supplement  
709 paid to an individual teacher for the purposes of Section  
710 37-19-7(1). Mississippi Adequate Education Program funds or any  
711 other state funds may not be used for salary incentives or salary  
712 supplements as provided in this paragraph (mm);

713 (nn) To use any available funds, not appropriated or  
714 designated for any other purpose, for reimbursement to the  
715 state-licensed employees from both in-state and out-of-state, who  
716 enter into a contract for employment in a school district, for the  
717 expense of moving when the employment necessitates the relocation  
718 of the licensed employee to a different geographical area than  
719 that in which the licensed employee resides before entering into  
720 the contract. The reimbursement shall not exceed One Thousand  
721 Dollars (\$1,000.00) for the documented actual expenses incurred in  
722 the course of relocating, including the expense of any  
723 professional moving company or persons employed to assist with the

724 move, rented moving vehicles or equipment, mileage in the amount  
725 authorized for county and municipal employees under Section  
726 25-3-41 if the licensed employee used his personal vehicle or  
727 vehicles for the move, meals and such other expenses associated  
728 with the relocation. No licensed employee may be reimbursed for  
729 moving expenses under this section on more than one (1) occasion  
730 by the same school district. Nothing in this section shall be  
731 construed to require the actual residence to which the licensed  
732 employee relocates to be within the boundaries of the school  
733 district that has executed a contract for employment in order for  
734 the licensed employee to be eligible for reimbursement for the  
735 moving expenses. However, the licensed employee must relocate  
736 within the boundaries of the State of Mississippi. Any individual  
737 receiving relocation assistance through the Critical Teacher  
738 Shortage Act as provided in Section 37-159-5 shall not be eligible  
739 to receive additional relocation funds as authorized in this  
740 paragraph;

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

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

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

757                   (ii) An assessment of the school district's  
758 financial and personnel management;  
759                   (iii) An assessment of revenue levels and sources;  
760                   (iv) An assessment of facilities utilization,  
761 planning and maintenance;  
762                   (v) An assessment of food services, transportation  
763 and safety/security systems;  
764                   (vi) An assessment of instructional and  
765 administrative technology;  
766                   (vii) A review of the instructional management and  
767 the efficiency and effectiveness of existing instructional  
768 programs; and  
769                   (viii) Recommended methods for increasing  
770 efficiency and effectiveness in providing educational services to  
771 the public;  
772                   (qq) To enter into agreements with other local school  
773 boards for the establishment of an educational service agency  
774 (ESA) to provide for the cooperative needs of the region in which  
775 the school district is located, as provided in Section 37-7-345.  
776 This paragraph shall repeal on July 1, 2007;  
777                   (rr) To implement a financial literacy program for  
778 students in Grades 10 and 11. The board may review the national  
779 programs and obtain free literature from various nationally  
780 recognized programs. After review of the different programs, the  
781 board may certify a program that is most appropriate for the  
782 school districts' needs. If a district implements a financial  
783 literacy program, then any student in Grade 10 or 11 may  
784 participate in the program. The financial literacy program shall  
785 include, but is not limited to, instruction in the same areas of  
786 personal business and finance as required under Section  
787 37-1-3(2)(b). The school board may coordinate with volunteer  
788 teachers from local community organizations, including, but not  
789 limited to, the following: United States Department of



790 Agriculture Rural Development, United States Department of Housing  
791 and Urban Development, Junior Achievement, bankers and other  
792 nonprofit organizations. Nothing in this paragraph shall be  
793 construed as to require school boards to implement a financial  
794 literacy program;

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

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

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

813           (ii) Pay the same over to any financial  
814 institution, trustee or other obligee, as directed in writing by  
815 the school board, to satisfy all or part of such obligation of the  
816 school district.

817           The school board may make such written agreement to withhold  
818 and transfer funds irrevocable for the term of the written  
819 obligation and may include in the written agreement any other  
820 terms and provisions acceptable to the school board. If the  
821 school board files a copy of such written agreement with the State  
822 Tax Commission, or any state agency, department or commission

823 created under state law then the State Tax Commission or any state  
824 agency, department or commission created under state law shall  
825 immediately make the withholdings provided in such agreement from  
826 the amounts due the local school board and shall continue to pay  
827 the same over to such financial institution, trustee or obligee  
828 for the term of the agreement.

829 This paragraph (tt) shall not grant any extra authority to a  
830 school board to issue debt in any amount exceeding statutory  
831 limitations on assessed value of taxable property within such  
832 school district or the statutory limitations on debt maturities,  
833 and shall not grant any extra authority to impose, levy or collect  
834 a tax which is not otherwise expressly provided for, and shall not  
835 be construed to apply to sixteenth section public school trust  
836 land;

837 (uu) With respect to any matter or transaction that is  
838 competitively bid by a school district, to accept from any bidder  
839 as a good faith deposit or bid bond or bid surety, the same type  
840 of good faith deposit or bid bond or bid surety that may be  
841 accepted by the state or any other political subdivision on  
842 similar competitively bid matters or transactions. This paragraph  
843 (uu) shall not be construed to apply to sixteenth section public  
844 school trust land. The school board may authorize the investment  
845 of any school district funds in the same kind and manner of  
846 investments, including pooled investments, as any other political  
847 subdivision, including community hospitals; and

848 (vv) To utilize the alternate method for the conveyance  
849 or exchange of unused school buildings and/or land, reserving a  
850 partial or other undivided interest in the property, as  
851 specifically authorized and provided in Section 37-7-485,  
852 Mississippi Code of 1972.

853 **SECTION 7.** This act shall take effect and be in force from  
854 and after July 1, 2006.