

By: Senator(s) Nunnelee

To: Education

SENATE BILL NO. 2205

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE CERTAIN RESTRICTIONS ON SCHOOL-RELATED FUND-RAISING  
3 ACTIVITIES BY STUDENTS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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 said 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 minimum 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 Department of Education  
131 shall prescribe a uniform system of accounting and financial  
132 reporting for all 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 nonminimum program  
143 sources. The school board of the school district desiring to  
144 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.,  
229 Mississippi Code of 1972, and for such purpose, the right of  
230 eminent domain is hereby conferred upon and vested in said board.  
231 Provided further, that the local school board is authorized to  
232 grant an easement for ingress and egress over sixteenth section  
233 land or lieu land in exchange for a similar easement upon  
234 adjoining land where the exchange of easements affords substantial  
235 benefit to the sixteenth section land; provided, however, the  
236 exchange must be based upon values as determined by a competent  
237 appraiser, with any differential in value to be adjusted by cash  
238 payment. Any easement rights granted over sixteenth section land  
239 under such authority shall terminate when the easement ceases to  
240 be used for its stated purpose. No sixteenth section or lieu land  
241 which is subject to an existing lease shall be burdened by any  
242 such easement except by consent of the lessee or unless the school  
243 district shall acquire the unexpired leasehold interest affected  
244 by the easement;

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

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

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



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

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

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

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

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

282 (iii) No local school governing board shall allow  
283 any student under its jurisdiction to participate in  
284 school-related fund-raising activities that offer incentives,  
285 prizes or awards based upon the amount of money that such student  
286 raises. The local school board of any school district shall  
287 require appropriate adult supervision of any student involved in  
288 such fund-raising activities. The State Board of Education, in  
289 conjunction with the State Auditor, shall prescribe uniform

290 regulations for school districts to follow relating to  
291 fund-raising activities which are consistent with the foregoing  
292 provisions;

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

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

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

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

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

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

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

350           (oo) To use any available funds, not appropriated or  
351 designated for any other purpose, to reimburse persons who  
352 interview for employment as a licensed employee with the district  
353 for the mileage and other actual expenses incurred in the course

354 of travel to and from the interview at the rate authorized for  
355 county and municipal employees under Section 25-3-41;

356 (pp) Consistent with the report of the Task Force to  
357 Conduct a Best Financial Management Practices Review, to improve  
358 school district management and use of resources and identify cost  
359 savings as established in Section 8 of Chapter 610, Laws of 2002,  
360 local school boards are encouraged to conduct independent reviews  
361 of the management and efficiency of schools and school districts.  
362 Such management and efficiency reviews shall provide state and  
363 local officials and the public with the following:

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

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

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

369 (iv) An assessment of facilities utilization,  
370 planning and maintenance;

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

373 (vi) An assessment of instructional and  
374 administrative technology;

375 (vii) A review of the instructional management and  
376 the efficiency and effectiveness of existing instructional  
377 programs; and

378 (viii) Recommended methods for increasing  
379 efficiency and effectiveness in providing educational services to  
380 the public;

381 (qq) To enter into agreements with other local school  
382 boards for the establishment of an educational service agency  
383 (ESA) to provide for the cooperative needs of the region in which  
384 the school district is located, as provided in Section 37-7-345.

385 This paragraph shall repeal on July 1, 2007;

386           (rr) To implement a financial literacy program for  
387 students in Grades 10 and 11. The board may review the national  
388 programs and obtain free literature from various nationally  
389 recognized programs. After review of the different programs, the  
390 board may certify a program that is most appropriate for the  
391 school districts' needs. If a district implements a financial  
392 literacy program, then any student in Grade 10 or 11 may  
393 participate in the program. The financial literacy program shall  
394 include, but is not limited to, instruction in the same areas of  
395 personal business and finance as required under Section  
396 37-1-3(2)(b). The school board may coordinate with volunteer  
397 teachers from local community organizations, including, but not  
398 limited to, the following: United States Department of  
399 Agriculture Rural Development, United States Department of Housing  
400 and Urban Development, Junior Achievement, bankers and other  
401 nonprofit organizations. Nothing in this paragraph shall be  
402 construed as to require school boards to implement a financial  
403 literacy program;

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

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

417           (i) Withhold all or any part (as agreed by the  
418 school board) of any monies which such local school board is

419 entitled to receive from time to time under any law and which is  
420 in the possession of the State Tax Commission, or any state  
421 agency, department or commission created under state law; and

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

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

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

446                   (uu) With respect to any matter or transaction that is  
447 competitively bid by a school district, to accept from any bidder  
448 as a good faith deposit or bid bond or bid surety, the same type  
449 of good faith deposit or bid bond or bid surety that may be  
450 accepted by the state or any other political subdivision on  
451 similar competitively bid matters or transactions. This paragraph

452 (uu) shall not be construed to apply to sixteenth section public  
453 school trust land. The school board may authorize the investment  
454 of any school district funds in the same kind and manner of  
455 investments, including pooled investments, as any other political  
456 subdivision, including community hospitals;

457 (vv) To utilize the alternate method for the conveyance  
458 or exchange of unused school buildings and/or land, reserving a  
459 partial or other undivided interest in the property, as  
460 specifically authorized and provided in Section 37-7-485,  
461 Mississippi Code of 1972;

462 (ww) To delegate, privatize or otherwise enter into a  
463 contract with private entities for the operation of any and all  
464 functions of nonacademic school process, procedures and operations  
465 including, but not limited to, cafeteria workers, janitorial  
466 services, transportation, professional development, achievement  
467 and instructional consulting services materials and products,  
468 purchasing cooperatives, insurance, business manager services,  
469 auditing and accounting services, school safety/risk prevention,  
470 data processing and student records, and other staff services;  
471 however, the authority under this paragraph does not apply to the  
472 leasing, management or operation of sixteenth section lands.  
473 Local school districts, working through their regional education  
474 service agency, are encouraged to enter into buying consortia with  
475 other member districts for the purposes of more efficient use of  
476 state resources as described in Section 37-7-345;

477 (xx) To partner with entities, organizations and  
478 corporations for the purpose of benefiting the school district;  
479 and

480 (yy) To borrow funds from the Rural Economic  
481 Development Authority for the maintenance of school buildings.

482 **SECTION 2.** This act shall take effect and be in force from  
483 and after July 1, 2007.