

By: Senator(s) Dawkins, Chaney

To: Education; Environment
Prot, Cons and Water Res

SENATE BILL NO. 2725

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) representative 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.** (1) **Process for evaluating sites.** 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 Environmental Protection Agency
70 Toxic Release Inventory (TRI), waste treatment plants, landfills,
71 military sites, research facilities, and Department of Energy
72 sites.

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

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

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

96 (a) A statement that an environmental assessment of the
97 site has been completed;

98 (b) A brief statement describing the results of the
99 environmental assessment, such as a list of contaminants found in

100 excess of regulatory standards, prior uses of site that might
101 raise health and safety issues, proximity of site to environmental
102 hazards, waste disposal sites and point sources of air pollution;

103 (c) A brief summary of the conclusions of the
104 environmental assessment;

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

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

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

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

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

133 the environmental hazards at the site with a Preliminary
134 Endangerment Assessment. A Preliminary Endangerment Assessment
135 shall be required if environmental hazards were identified in the
136 environmental assessment or:

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

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

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

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

147 (iii) Agricultural land;

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

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

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

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

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

159 (ix) A railroad bed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

245 (e) An announcement of a thirty-day public comment
246 period, including an address where public comments should be sent.
247 A copy of this notice shall also be posted in a conspicuous place
248 in every school within the school district (in multiple languages
249 if there is a significant number of non-English speaking parents).
250 A copy shall also be delivered to each parent-teacher organization
251 within the school district, and each landowner within one thousand
252 (1,000) feet of the proposed site.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

313 (d) An announcement of a thirty-day public comment
314 period and the address of the Mississippi Department of
315 Environmental Quality where public comments should be sent. A
316 copy of this notice shall also be posted in a conspicuous place in
317 every school within the school district (in multiple languages if
318 there is a significant number of non-English speaking parents). A
319 copy shall also be delivered to each parent-teacher organization
320 within the school district, and each landowner within one thousand
321 (1,000) feet of the proposed site.

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

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

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

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

355 37-45-23. Subject to the provisions of any applicable
356 statute, including specifically the requirements of Senate Bill
357 No. 2725, 2007 Regular Session, relating to the environmental
358 evaluation of sites for school building construction or expansion,
359 the commission shall formulate policies and approve or disapprove
360 plans for the location and construction of all necessary
361 elementary and secondary school buildings.

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

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

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

390 In addition, the commission shall not approve any application
391 which has not complied specifically with the provisions of Senate
392 Bill No. 2725, 2007 Regular Session, relating to the environmental
393 evaluation of sites for school building construction or expansion.

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

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

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

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

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

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

411 (d) To have responsibility for the erection, repairing
412 and equipping of school facilities and the making of necessary
413 school improvements; provided, however, that the approval of any
414 site for school building construction or expansion shall comply
415 with the provisions of Senate Bill No. 2725, 2007 Regular Session,
416 relating to environmental evaluation by the Mississippi Department
417 of Environmental Quality and the appointment of a School Siting
418 Committee;

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

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

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

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

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

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

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 Department of Education

527 shall prescribe a uniform system of accounting and financial
528 reporting for all 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;

655 (ff) As part of their duties to prescribe the use of
656 textbooks, to provide that parents and legal guardians shall be
657 responsible for the textbooks and for the compensation to the
658 school district for any books which are not returned to the proper

659 schools upon the withdrawal of their dependent child. If a
660 textbook is lost or not returned by any student who drops out of
661 the public school district, the parent or legal guardian shall
662 also compensate the school district for the fair market value of
663 the textbooks;

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

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

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

678 (hh) To allow individual lessons for music, art and
679 other curriculum-related activities for academic credit or
680 nonacademic credit during school hours and using school equipment
681 and facilities, subject to uniform rules and regulations adopted
682 by the school board;

683 (ii) To charge reasonable fees for participating in an
684 extracurricular activity for academic or nonacademic credit for
685 necessary and required equipment such as safety equipment, band
686 instruments and uniforms;

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

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

692 (11) To expend funds for the services of nonprofit arts
693 organizations or other such nonprofit organizations who provide
694 performances or other services for the students of the school
695 district;

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

707 (nn) To use any available funds, not appropriated or
708 designated for any other purpose, for reimbursement to the
709 state-licensed employees from both in state and out of state, who
710 enter into a contract for employment in a school district, for the
711 expense of moving when the employment necessitates the relocation
712 of the licensed employee to a different geographical area than
713 that in which the licensed employee resides before entering into
714 the contract. The reimbursement shall not exceed One Thousand
715 Dollars (\$1,000.00) for the documented actual expenses incurred in
716 the course of relocating, including the expense of any
717 professional moving company or persons employed to assist with the
718 move, rented moving vehicles or equipment, mileage in the amount
719 authorized for county and municipal employees under Section
720 25-3-41 if the licensed employee used his personal vehicle or
721 vehicles for the move, meals and such other expenses associated
722 with the relocation. No licensed employee may be reimbursed for
723 moving expenses under this section on more than one (1) occasion
724 by the same school district. Nothing in this section shall be

725 construed to require the actual residence to which the licensed
726 employee relocates to be within the boundaries of the school
727 district that has executed a contract for employment in order for
728 the licensed employee to be eligible for reimbursement for the
729 moving expenses. However, the licensed employee must relocate
730 within the boundaries of the State of Mississippi. Any individual
731 receiving relocation assistance through the Critical Teacher
732 Shortage Act as provided in Section 37-159-5 shall not be eligible
733 to receive additional relocation funds as authorized in this
734 paragraph;

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

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

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

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

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

754 (iv) An assessment of facilities utilization,
755 planning and maintenance;

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

758 (vi) An assessment of instructional and
759 administrative technology;

760 (vii) A review of the instructional management and
761 the efficiency and effectiveness of existing instructional
762 programs; and

763 (viii) Recommended methods for increasing
764 efficiency and effectiveness in providing educational services to
765 the public;

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

771 (rr) To implement a financial literacy program for
772 students in Grades 10 and 11. The board may review the national
773 programs and obtain free literature from various nationally
774 recognized programs. After review of the different programs, the
775 board may certify a program that is most appropriate for the
776 school districts' needs. If a district implements a financial
777 literacy program, then any student in Grade 10 or 11 may
778 participate in the program. The financial literacy program shall
779 include, but is not limited to, instruction in the same areas of
780 personal business and finance as required under Section
781 37-1-3(2)(b). The school board may coordinate with volunteer
782 teachers from local community organizations, including, but not
783 limited to, the following: United States Department of
784 Agriculture Rural Development, United States Department of Housing
785 and Urban Development, Junior Achievement, bankers and other
786 nonprofit organizations. Nothing in this paragraph shall be
787 construed as to require school boards to implement a financial
788 literacy program;

789 (ss) To collaborate with the State Board of Education,
790 Community Action Agencies or the Department of Human Services to

791 develop and implement a voluntary program to provide services for
792 a full-day prekindergarten program that addresses the cognitive,
793 social, and emotional needs of four-year-old and three-year-old
794 children. The school board may utilize nonstate source special
795 funds, grants, donations or gifts to fund the voluntary program;

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

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

807 (ii) Pay the same over to any financial
808 institution, trustee or other obligee, as directed in writing by
809 the school board, to satisfy all or part of such obligation of the
810 school district.

811 The school board may make such written agreement to withhold
812 and transfer funds irrevocable for the term of the written
813 obligation and may include in the written agreement any other
814 terms and provisions acceptable to the school board. If the
815 school board files a copy of such written agreement with the State
816 Tax Commission, or any state agency, department or commission
817 created under state law then the State Tax Commission or any state
818 agency, department or commission created under state law shall
819 immediately make the withholdings provided in such agreement from
820 the amounts due the local school board and shall continue to pay
821 the same over to such financial institution, trustee or obligee
822 for the term of the agreement.

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

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

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

847 (ww) To delegate, privatize or otherwise enter into a
848 contract with private entities for the operation of any and all
849 functions of nonacademic school process, procedures and operations
850 including, but not limited to, cafeteria workers, janitorial
851 services, transportation, professional development, achievement
852 and instructional consulting services materials and products,
853 purchasing cooperatives, insurance, business manager services,
854 auditing and accounting services, school safety/risk prevention,
855 data processing and student records, and other staff services;

856 however, the authority under this paragraph does not apply to the
857 leasing, management or operation of sixteenth section lands.
858 Local school districts, working through their regional education
859 service agency, are encouraged to enter into buying consortia with
860 other member districts for the purposes of more efficient use of
861 state resources as described in Section 37-7-345;

862 (xx) To partner with entities, organizations and
863 corporations for the purpose of benefiting the school district;
864 and

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

867 **SECTION 7.** This act shall take effect and be in force from
868 and after July 1, 2007.