

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.