

By: Senator(s) Jordan, Jackson (11th)

To: Education;  
Appropriations

SENATE BILL NO. 2459

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,  
2 TO ESTABLISH A PILOT PROGRAM FOR A MANDATORY PREKINDERGARTEN  
3 PROGRAM IN UNDER-PERFORMING SCHOOL DISTRICTS LOCATED IN THE  
4 MISSISSIPPI DELTA; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

56 (l) To prescribe and enforce rules and regulations not  
57 inconsistent with law or with the regulations of the State Board  
58 of Education for their own government and for the government of  
59 the schools, and to transact their business at regular and special  
60 meetings called and held in the manner provided by law;



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

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

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

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

82 (q) To provide athletic programs and other school  
83 activities and to regulate the establishment and operation of such  
84 programs and activities;

85 (r) To join, in their discretion, any association of  
86 school boards and other public school-related organizations, and  
87 to pay from local funds other than minimum foundation funds, any  
88 membership dues;

89 (s) To expend local school activity funds, or other  
90 available school district funds, other than minimum education  
91 program funds, for the purposes prescribed under this paragraph.  
92 "Activity funds" shall mean all funds received by school officials  
93 in all school districts paid or collected to participate in any



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



127 activity funds shall be maintained and expended by the  
128 superintendent of schools in a central depository approved by the  
129 board. The local school governing board shall provide that such  
130 school activity funds be audited as part of the annual audit  
131 required in Section 37-9-18. The State Department of Education  
132 shall prescribe a uniform system of accounting and financial  
133 reporting for all school activity fund transactions;

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

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

140 (v) (i) To lease a school building from an individual,  
141 partnership, nonprofit corporation or a private for-profit  
142 corporation for the use of such school district, and to expend  
143 funds therefor as may be available from any nonminimum program  
144 sources. The school board of the school district desiring to  
145 lease a school building shall declare by resolution that a need  
146 exists for a school building and that the school district cannot  
147 provide the necessary funds to pay the cost or its proportionate  
148 share of the cost of a school building required to meet the  
149 present needs. The resolution so adopted by the school board  
150 shall be published once each week for three (3) consecutive weeks  
151 in a newspaper having a general circulation in the school district  
152 involved, with the first publication thereof to be made not less  
153 than thirty (30) days prior to the date upon which the school  
154 board is to act on the question of leasing a school building. If  
155 no petition requesting an election is filed prior to such meeting  
156 as hereinafter provided, then the school board may, by resolution  
157 spread upon its minutes, proceed to lease a school building. If  
158 at any time prior to said meeting a petition signed by not less  
159 than twenty percent (20%) or fifteen hundred (1500), whichever is



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

188 (ii) If two (2) or more school districts propose  
189 to enter into a lease contract jointly, then joint meetings of the  
190 school boards having control may be held but no action taken shall  
191 be binding on any such school district unless the question of  
192 leasing a school building is approved in each participating school



193 district under the procedure hereinabove set forth in paragraph  
194 (v) (i). All of the provisions of paragraph (v) (i) regarding the  
195 term and amount of the lease contract shall apply to the school  
196 boards of school districts acting jointly. Any lease contract  
197 executed by two (2) or more school districts as joint lessees  
198 shall set out the amount of the aggregate lease rental to be paid  
199 by each, which may be agreed upon, but there shall be no right of  
200 occupancy by any lessee unless the aggregate rental is paid as  
201 stipulated in the lease contract. All rights of joint lessees  
202 under the lease contract shall be in proportion to the amount of  
203 lease rental paid by each;

204 (w) To employ all noninstructional and noncertificated  
205 employees and fix the duties and compensation of such personnel  
206 deemed necessary pursuant to the recommendation of the  
207 superintendent of schools;

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

210 (y) Subject to rules and regulations of the State Board  
211 of Education, to purchase, own and operate trucks, vans and other  
212 motor vehicles, which shall bear the proper identification  
213 required by law;

214 (z) To expend funds for the payment of substitute  
215 teachers and to adopt reasonable regulations for the employment  
216 and compensation of such substitute teachers;

217 (aa) To acquire in its own name by purchase all real  
218 property which shall be necessary and desirable in connection with  
219 the construction, renovation or improvement of any public school  
220 building or structure. Whenever the purchase price for such real  
221 property is greater than Fifty Thousand Dollars (\$50,000.00), the  
222 school board shall not purchase the property for an amount  
223 exceeding the fair market value of such property as determined by  
224 the average of at least two (2) independent appraisals by  
225 certified general appraisers licensed by the State of Mississippi.



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

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

249 (cc) Subject to rules and regulations of the State  
250 Board of Education, to purchase relocatable classrooms for the use  
251 of such school district, in the manner prescribed in Section  
252 37-1-13;

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





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

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

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

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

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

283           (hh) To allow individual lessons for music, art and  
284 other curriculum-related activities for academic credit or  
285 nonacademic credit during school hours and using school equipment  
286 and facilities, subject to uniform rules and regulations adopted  
287 by the school board;

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



290 necessary and required equipment such as safety equipment, band  
291 instruments and uniforms;

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

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

297 (ll) To expend funds for the services of nonprofit arts  
298 organizations or other such nonprofit organizations who provide  
299 performances or other services for the students of the school  
300 district;

301 (mm) To expend federal No Child Left Behind Act funds,  
302 or any other available funds that are expressly designated and  
303 authorized for that use, to pay training, educational expenses,  
304 salary incentives and salary supplements to employees of local  
305 school districts; except that incentives shall not be considered  
306 part of the local supplement as defined in Section 37-151-5(o),  
307 nor shall incentives be considered part of the local supplement  
308 paid to an individual teacher for the purposes of Section  
309 37-19-7(1). Mississippi Adequate Education Program funds or any  
310 other state funds may not be used for salary incentives or salary  
311 supplements as provided in this paragraph (mm);

312 (nn) To use any available funds, not appropriated or  
313 designated for any other purpose, for reimbursement to the  
314 state-licensed employees from both in state and out of state, who  
315 enter into a contract for employment in a school district, for the  
316 expense of moving when the employment necessitates the relocation  
317 of the licensed employee to a different geographical area than  
318 that in which the licensed employee resides before entering into  
319 the contract. The reimbursement shall not exceed One Thousand  
320 Dollars (\$1,000.00) for the documented actual expenses incurred in  
321 the course of relocating, including the expense of any  
322 professional moving company or persons employed to assist with the



323 move, rented moving vehicles or equipment, mileage in the amount  
324 authorized for county and municipal employees under Section  
325 25-3-41 if the licensed employee used his personal vehicle or  
326 vehicles for the move, meals and such other expenses associated  
327 with the relocation. No licensed employee may be reimbursed for  
328 moving expenses under this section on more than one (1) occasion  
329 by the same school district. Nothing in this section shall be  
330 construed to require the actual residence to which the licensed  
331 employee relocates to be within the boundaries of the school  
332 district that has executed a contract for employment in order for  
333 the licensed employee to be eligible for reimbursement for the  
334 moving expenses. However, the licensed employee must relocate  
335 within the boundaries of the State of Mississippi. Any individual  
336 receiving relocation assistance through the Critical Teacher  
337 Shortage Act as provided in Section 37-159-5 shall not be eligible  
338 to receive additional relocation funds as authorized in this  
339 paragraph;

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

346           (pp) Consistent with the report of the Task Force to  
347 Conduct a Best Financial Management Practices Review, to improve  
348 school district management and use of resources and identify cost  
349 savings as established in Section 8 of Chapter 610, Laws of 2002,  
350 local school boards are encouraged to conduct independent reviews  
351 of the management and efficiency of schools and school districts.  
352 Such management and efficiency reviews shall provide state and  
353 local officials and the public with the following:

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



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

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

359 (iv) An assessment of facilities utilization,  
360 planning and maintenance;

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

363 (vi) An assessment of instructional and  
364 administrative technology;

365 (vii) A review of the instructional management and  
366 the efficiency and effectiveness of existing instructional  
367 programs; and

368 (viii) Recommended methods for increasing  
369 efficiency and effectiveness in providing educational services to  
370 the public;

371 (qq) To enter into agreements with other local school  
372 boards for the establishment of an educational service agency  
373 (ESA) to provide for the cooperative needs of the region in which  
374 the school district is located, as provided in Section 37-7-345.  
375 This paragraph shall repeal on July 1, 2010;

376 (rr) To implement a financial literacy program for  
377 students in Grades 10 and 11. The board may review the national  
378 programs and obtain free literature from various nationally  
379 recognized programs. After review of the different programs, the  
380 board may certify a program that is most appropriate for the  
381 school districts' needs. If a district implements a financial  
382 literacy program, then any student in Grade 10 or 11 may  
383 participate in the program. The financial literacy program shall  
384 include, but is not limited to, instruction in the same areas of  
385 personal business and finance as required under Section  
386 37-1-3(2) (b). The school board may coordinate with volunteer  
387 teachers from local community organizations, including, but not  
388 limited to, the following: United States Department of



389 Agriculture Rural Development, United States Department of Housing  
390 and Urban Development, Junior Achievement, bankers and other  
391 nonprofit organizations. Nothing in this paragraph shall be  
392 construed as to require school boards to implement a financial  
393 literacy program;

394 (ss) To collaborate with the State Board of Education,  
395 Community Action Agencies or the Department of Human Services to  
396 develop and implement a voluntary program to provide services for  
397 a prekindergarten program that addresses the cognitive, social,  
398 and emotional needs of four-year-old and three-year-old children.  
399 The school board may utilize any source of available revenue to  
400 fund the voluntary program. Effective in the 2010-2011 school  
401 year, there is established a pilot program in the eighteen (18)  
402 Delta counties, as identified in House Bill No. 1034, 2006 Regular  
403 Session, which will require local school boards to implement a  
404 full-day prekindergarten program if the school district has a  
405 low-performing, or At-Risk of Failing or Failing school for two  
406 (2) consecutive years and shall utilize state source funds,  
407 subject to appropriations, to fund the program;

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

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

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



421 the school board, to satisfy all or part of such obligation of the  
422 school district.

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

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

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



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

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

474 (xx) To partner with entities, organizations and  
475 corporations for the purpose of benefiting the school district;

476 (yy) To borrow funds from the Rural Economic  
477 Development Authority for the maintenance of school buildings; and

478 (zz) To fund and operate voluntary early childhood  
479 education programs, defined as programs for children less than  
480 five (5) years of age on or before September 1, and to use any  
481 source of revenue for such early childhood education programs.  
482 Such programs shall not conflict with the Early Learning  
483 Collaborative Act of 2007.

484 **SECTION 2.** This act shall take effect and be in force from  
485 and after July 1, 2010.

