

By: Representative Jennings

To: Education

HOUSE BILL NO. 1271

1 AN ACT TO AUTHORIZE PRIVATE CORPORATIONS AND OTHER ENTITIES
2 TO ESTABLISH TRUST FUNDS TO PROVIDE INCENTIVE PAY OR BONUSES FOR
3 CLASSROOM TEACHERS; TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF
4 1972, TO AUTHORIZE SCHOOL BOARDS TO RECEIVE FUNDS FROM PRIVATE
5 CORPORATIONS AND OTHER ENTITIES TO DISTRIBUTE TO CERTAIN TEACHERS;
6 AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** (1) (a) A private corporation or other entity
9 may establish a trust fund to provide incentive pay or bonuses for
10 classroom teachers. The corporation or other entity shall
11 establish standards for eligibility of teachers to receive a bonus
12 based on criteria that may include, but is not limited to the
13 following, teaching ability, classroom performance and other
14 similar criteria. The standards for eligibility of teachers
15 established by the corporation or other entity shall be uniform
16 for all school districts to which that corporation or other entity
17 provides incentive pay or bonuses.

18 (b) A school administrator shall not be eligible to
19 receive the incentive pay or bonuses provided in paragraph (a) of
20 this subsection.

21 (2) If a private corporation or other entity establishes a
22 trust fund as provided in subsection (1)(a) of this section, the
23 corporation or other entity shall not pay the teacher directly but
24 shall pay the local school district. The local school district
25 shall distribute the incentive pay or bonuses to the teachers
26 selected by the corporation or other entity.

27 **SECTION 2.** Section 37-7-301, Mississippi Code of 1972, is
28 amended as follows:

29 37-7-301. The school boards of all school districts shall
30 have the following powers, authority and duties in addition to all
31 others imposed or granted by law, to wit:

32 (a) To organize and operate the schools of the district
33 and to make such division between the high school grades and
34 elementary grades as, in their judgment, will serve the best
35 interests of the school;

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

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

42 (d) To have responsibility for the erection, repairing
43 and equipping of school facilities and the making of necessary
44 school improvements;

45 (e) To suspend or to expel a pupil or to change the
46 placement of a pupil to the school district's alternative school
47 or home-bound program for misconduct in the school or on school
48 property, as defined in Section 37-11-29, on the road to and from
49 school, or at any school-related activity or event, or for conduct
50 occurring on property other than school property or other than at
51 a school-related activity or event when such conduct by a pupil,
52 in the determination of the school superintendent or principal,
53 renders that pupil's presence in the classroom a disruption to the
54 educational environment of the school or a detriment to the best
55 interest and welfare of the pupils and teacher of such class as a
56 whole, and to delegate such authority to the appropriate officials
57 of the school district;

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

61 (g) To support, within reasonable limits, the
62 superintendent, principal and teachers where necessary for the
63 proper discipline of the school;

64 (h) To exclude from the schools students with what
65 appears to be infectious or contagious diseases; provided,
66 however, such student may be allowed to return to school upon
67 presenting a certificate from a public health officer, duly
68 licensed physician or nurse practitioner that the student is free
69 from such disease;

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

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

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

78 (l) To prescribe and enforce rules and regulations not
79 inconsistent with law or with the regulations of the State Board
80 of Education for their own government and for the government of
81 the schools, and to transact their business at regular and special
82 meetings called and held in the manner provided by law;

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

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

88 (o) To make orders directed to the superintendent of
89 schools for the issuance of pay certificates for lawful purposes
90 on any available funds of the district and to have full control of
91 the receipt, distribution, allotment and disbursement of all funds
92 provided for the support and operation of the schools of such

93 school district whether such funds be derived from state
94 appropriations, local ad valorem tax collections, or otherwise;

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

99 (q) To provide athletic programs and other school
100 activities and to regulate the establishment and operation of such
101 programs and activities;

102 (r) To join, in their discretion, any association of
103 school boards and other public school-related organizations, and
104 to pay from local funds other than minimum foundation funds, any
105 membership dues;

106 (s) To expend local school activity funds, or other
107 available school district funds, other than minimum education
108 program funds, for the purposes prescribed under this paragraph.
109 "Activity funds" shall mean all funds received by school officials
110 in all school districts paid or collected to participate in any
111 school activity, such activity being part of the school program
112 and partially financed with public funds or supplemented by public
113 funds. The term "activity funds" shall not include any funds
114 raised and/or expended by any organization unless commingled in a
115 bank account with existing activity funds, regardless of whether
116 the funds were raised by school employees or received by school
117 employees during school hours or using school facilities, and
118 regardless of whether a school employee exercises influence over
119 the expenditure or disposition of such funds. Organizations shall
120 not be required to make any payment to any school for the use of
121 any school facility if, in the discretion of the local school
122 governing board, the organization's function shall be deemed to be
123 beneficial to the official or extracurricular programs of the
124 school. For the purposes of this provision, the term
125 "organization" shall not include any organization subject to the

126 control of the local school governing board. Activity funds may
127 only be expended for any necessary expenses or travel costs,
128 including advances, incurred by students and their chaperons in
129 attending any in-state or out-of-state school-related programs,
130 conventions or seminars and/or any commodities, equipment, travel
131 expenses, purchased services or school supplies which the local
132 school governing board, in its discretion, shall deem beneficial
133 to the official or extracurricular programs of the district,
134 including items which may subsequently become the personal
135 property of individuals, including yearbooks, athletic apparel,
136 book covers and trophies. Activity funds may be used to pay
137 travel expenses of school district personnel. The local school
138 governing board shall be authorized and empowered to promulgate
139 rules and regulations specifically designating for what purposes
140 school activity funds may be expended. The local school governing
141 board shall provide (i) that such school activity funds shall be
142 maintained and expended by the principal of the school generating
143 the funds in individual bank accounts, or (ii) that such school
144 activity funds shall be maintained and expended by the
145 superintendent of schools in a central depository approved by the
146 board. The local school governing board shall provide that such
147 school activity funds be audited as part of the annual audit
148 required in Section 37-9-18. The State Auditor shall prescribe a
149 uniform system of accounting and financial reporting for all
150 school activity fund transactions;

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

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

157 (v) (i) To lease a school building from an individual,
158 partnership, nonprofit corporation or a private for-profit

159 corporation for the use of such school district, and to expend
160 funds therefor as may be available from any nonminimum program
161 sources. The school board of the school district desiring to
162 lease a school building shall declare by resolution that a need
163 exists for a school building and that the school district cannot
164 provide the necessary funds to pay the cost or its proportionate
165 share of the cost of a school building required to meet the
166 present needs. The resolution so adopted by the school board
167 shall be published once each week for three (3) consecutive weeks
168 in a newspaper having a general circulation in the school district
169 involved, with the first publication thereof to be made not less
170 than thirty (30) days prior to the date upon which the school
171 board is to act on the question of leasing a school building. If
172 no petition requesting an election is filed prior to such meeting
173 as hereinafter provided, then the school board may, by resolution
174 spread upon its minutes, proceed to lease a school building. If
175 at any time prior to said meeting a petition signed by not less
176 than twenty percent (20%) or fifteen hundred (1500), whichever is
177 less, of the qualified electors of the school district involved
178 shall be filed with the school board requesting that an election
179 be called on the question, then the school board shall, not later
180 than the next regular meeting, adopt a resolution calling an
181 election to be held within such school district upon the question
182 of authorizing the school board to lease a school building. Such
183 election shall be called and held, and notice thereof shall be
184 given, in the same manner for elections upon the questions of the
185 issuance of the bonds of school districts, and the results thereof
186 shall be certified to the school board. If at least three-fifths
187 (3/5) of the qualified electors of the school district who voted
188 in such election shall vote in favor of the leasing of a school
189 building, then the school board shall proceed to lease a school
190 building. The term of the lease contract shall not exceed twenty
191 (20) years, and the total cost of such lease shall be either the

192 amount of the lowest and best bid accepted by the school board
193 after advertisement for bids or an amount not to exceed the
194 current fair market value of the lease as determined by the
195 averaging of at least two (2) appraisals by certified general
196 appraisers licensed by the State of Mississippi. The term "school
197 building" as used in this item (v) shall be construed to mean any
198 building or buildings used for classroom purposes in connection
199 with the operation of schools and shall include the site therefor,
200 necessary support facilities, and the equipment thereof and
201 appurtenances thereto such as heating facilities, water supply,
202 sewage disposal, landscaping, walks, drives and playgrounds. The
203 term "lease" as used in this item (v)(i) may include a
204 lease/purchase contract;

205 (ii) If two (2) or more school districts propose
206 to enter into a lease contract jointly, then joint meetings of the
207 school boards having control may be held but no action taken shall
208 be binding on any such school district unless the question of
209 leasing a school building is approved in each participating school
210 district under the procedure hereinabove set forth in item (v)(i).
211 All of the provisions of item (v)(i) regarding the term and amount
212 of the lease contract shall apply to the school boards of school
213 districts acting jointly. Any lease contract executed by two (2)
214 or more school districts as joint lessees shall set out the amount
215 of the aggregate lease rental to be paid by each, which may be
216 agreed upon, but there shall be no right of occupancy by any
217 lessee unless the aggregate rental is paid as stipulated in the
218 lease contract. All rights of joint lessees under the lease
219 contract shall be in proportion to the amount of lease rental paid
220 by each;

221 (w) To employ all noninstructional and noncertificated
222 employees and fix the duties and compensation of such personnel
223 deemed necessary pursuant to the recommendation of the
224 superintendent of schools;

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

227 (y) Subject to rules and regulations of the State Board
228 of Education, to purchase, own and operate trucks, vans and other
229 motor vehicles, which shall bear the proper identification
230 required by law;

231 (z) To expend funds for the payment of substitute
232 teachers and to adopt reasonable regulations for the employment
233 and compensation of such substitute teachers;

234 (aa) To acquire in its own name by purchase all real
235 property which shall be necessary and desirable in connection with
236 the construction, renovation or improvement of any public school
237 building or structure. Whenever the purchase price for such real
238 property is greater than Fifty Thousand Dollars (\$50,000.00), the
239 school board shall not purchase the property for an amount
240 exceeding the fair market value of such property as determined by
241 the average of at least two (2) independent appraisals by
242 certified general appraisers licensed by the State of Mississippi.
243 If the board shall be unable to agree with the owner of any such
244 real property in connection with any such project, the board shall
245 have the power and authority to acquire any such real property by
246 condemnation proceedings pursuant to Section 11-27-1 et seq.,
247 Mississippi Code of 1972, and for such purpose, the right of
248 eminent domain is hereby conferred upon and vested in said board.
249 Provided further, that the local school board is authorized to
250 grant an easement for ingress and egress over sixteenth section
251 land or lieu land in exchange for a similar easement upon
252 adjoining land where the exchange of easements affords substantial
253 benefit to the sixteenth section land; provided, however, the
254 exchange must be based upon values as determined by a competent
255 appraiser, with any differential in value to be adjusted by cash
256 payment. Any easement rights granted over sixteenth section land
257 under such authority shall terminate when the easement ceases to

258 be used for its stated purpose. No sixteenth section or lieu land
259 which is subject to an existing lease shall be burdened by any
260 such easement except by consent of the lessee or unless the school
261 district shall acquire the unexpired leasehold interest affected
262 by the easement;

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

266 (cc) Subject to rules and regulations of the State
267 Board of Education, to purchase relocatable classrooms for the use
268 of such school district, in the manner prescribed in Section
269 37-1-13;

270 (dd) Enter into contracts or agreements with other
271 school districts, political subdivisions or governmental entities
272 to carry out one or more of the powers or duties of the school
273 board, or to allow more efficient utilization of limited resources
274 for providing services to the public;

275 (ee) To provide for in-service training for employees
276 of the district. Until June 30, 1994, the school boards may
277 designate two (2) days of the minimum school term, as defined in
278 Section 37-19-1, for employee in-service training for
279 implementation of the new statewide testing system as developed by
280 the State Board of Education. Such designation shall be subject
281 to approval by the State Board of Education pursuant to uniform
282 rules and regulations;

283 (ff) As part of their duties to prescribe the use of
284 textbooks, to provide that parents and legal guardians shall be
285 responsible for the textbooks and for the compensation to the
286 school district for any books which are not returned to the proper
287 schools upon the withdrawal of their dependent child. If a
288 textbook is lost or not returned by any student who drops out of
289 the public school district, the parent or legal guardian shall

290 also compensate the school district for the fair market value of
291 the textbooks;

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

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

299 (ii) Fund-raising activities conducted or
300 authorized by the board for the sale of school pictures, the
301 rental of caps and gowns or the sale of graduation invitations for
302 which the school board receives a commission, rebate or fee shall
303 contain a disclosure statement advising that a portion of the
304 proceeds of the sales or rentals shall be contributed to the
305 student activity fund;

306 (hh) To allow individual lessons for music, art and
307 other curriculum-related activities for academic credit or
308 nonacademic credit during school hours and using school equipment
309 and facilities, subject to uniform rules and regulations adopted
310 by the school board;

311 (ii) To charge reasonable fees for participating in an
312 extracurricular activity for academic or nonacademic credit for
313 necessary and required equipment such as safety equipment, band
314 instruments and uniforms;

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

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

320 (ll) To expend funds for the services of nonprofit arts
321 organizations or other such nonprofit organizations who provide

322 performances or other services for the students of the school
323 district;

324 (mm) To expend federal No Child Left Behind Act funds,
325 or any other available funds that are expressly designated and
326 authorized for that use, to pay training, educational expenses,
327 salary incentives and salary supplements to employees of local
328 school districts; except that incentives shall not be considered
329 part of the local supplement as defined in Section 37-151-5(o),
330 nor shall incentives be considered part of the local supplement
331 paid to an individual teacher for the purposes of Section
332 37-19-7(1). Mississippi Adequate Education Program funds or any
333 other state funds may not be used for salary incentives or salary
334 supplements as provided in this paragraph (mm);

335 (nn) To use any available funds, not appropriated or
336 designated for any other purpose, for reimbursement to the
337 state-licensed employees from both in-state and out-of-state, who
338 enter into a contract for employment in a school district, for the
339 expense of moving when the employment necessitates the relocation
340 of the licensed employee to a different geographical area than
341 that in which the licensed employee resides before entering into
342 the contract. The reimbursement shall not exceed One Thousand
343 Dollars (\$1,000.00) for the documented actual expenses incurred in
344 the course of relocating, including the expense of any
345 professional moving company or persons employed to assist with the
346 move, rented moving vehicles or equipment, mileage in the amount
347 authorized for county and municipal employees under Section
348 25-3-41 if the licensed employee used his personal vehicle or
349 vehicles for the move, meals and such other expenses associated
350 with the relocation. No licensed employee may be reimbursed for
351 moving expenses under this section on more than one (1) occasion
352 by the same school district. Nothing in this section shall be
353 construed to require the actual residence to which the licensed
354 employee relocates to be within the boundaries of the school

355 district that has executed a contract for employment in order for
356 the licensed employee to be eligible for reimbursement for the
357 moving expenses. However, the licensed employee must relocate
358 within the boundaries of the State of Mississippi. Any individual
359 receiving relocation assistance through the Critical Teacher
360 Shortage Act as provided in Section 37-159-5 shall not be eligible
361 to receive additional relocation funds as authorized in this
362 paragraph;

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

369 (pp) Consistent with the report of the Task Force to
370 Conduct a Best Financial Management Practices Review, to improve
371 school district management and use of resources and identify cost
372 savings as established in Section 8 of Chapter 610, Laws of 2002,
373 local school boards are encouraged to conduct independent reviews
374 of the management and efficiency of schools and school districts.
375 Such management and efficiency reviews shall provide state and
376 local officials and the public with the following:

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

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

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

382 (iv) An assessment of facilities utilization,
383 planning and maintenance;

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

386 (vi) An assessment of instructional and
387 administrative technology;

388 (vii) A review of the instructional management and
389 the efficiency and effectiveness of existing instructional
390 programs; and

391 (viii) Recommended methods for increasing
392 efficiency and effectiveness in providing educational services to
393 the public;

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

399 (rr) To implement a financial literacy program for
400 students in Grades 10 and 11. The board may review the national
401 programs and obtain free literature from various nationally
402 recognized programs. After review of the different programs, the
403 board may certify a program that is most appropriate for the
404 school districts' needs. If a district implements a financial
405 literacy program, then any student in Grade 10 or 11 may
406 participate in the program. The financial literacy program shall
407 include, but is not limited to, instruction in the same areas of
408 personal business and finance as required under Section
409 37-1-3(2)(b). The school board may coordinate with volunteer
410 teachers from local community organizations, including, but not
411 limited to, the following: United States Department of
412 Agriculture Rural Development, United States Department of Housing
413 and Urban Development, Junior Achievement, bankers and other
414 nonprofit organizations. Nothing in this paragraph shall be
415 construed as to require school boards to implement a financial
416 literacy program;

417 (ss) To collaborate with the State Board of Education,
418 Community Action Agencies or the Department of Human Services to
419 develop and implement a voluntary program to provide services for
420 a full day prekindergarten program that addresses the cognitive,

421 social, and emotional needs of four-year-old and three-year-old
422 children. The school board may utilize nonstate source special
423 funds, grants, donations or gifts to fund the voluntary program;
424 and

425 (tt) To receive funds from corporations or other
426 entities that have established trust funds to give classroom
427 teachers incentive pay or bonuses as provided in Section 1 of this
428 act. The board shall keep records of the contributions and
429 disbursements of the additional compensation provided to teachers.

430 **SECTION 3.** This act shall take effect and be in force from
431 and after July 1, 2005.