

By: Senator(s) Nunnelee

To: Education

SENATE BILL NO. 2108

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

77 (q) To provide athletic programs and other school
78 activities and to regulate the establishment and operation of such
79 programs and activities;

80 (r) To join, in their discretion, any association of
81 school boards and other public school-related organizations, and
82 to pay from local funds other than minimum foundation funds, any
83 membership dues;

84 (s) To expend local school activity funds, or other
85 available school district funds, other than minimum education
86 program funds, for the purposes prescribed under this paragraph.
87 "Activity funds" shall mean all funds received by school officials
88 in all school districts paid or collected to participate in any
89 school activity, such activity being part of the school program
90 and partially financed with public funds or supplemented by public
91 funds. The term "activity funds" shall not include any funds
92 raised and/or expended by any organization unless commingled in a
93 bank account with existing activity funds, regardless of whether

94 the funds were raised by school employees or received by school
95 employees during school hours or using school facilities, and
96 regardless of whether a school employee exercises influence over
97 the expenditure or disposition of such funds. Organizations shall
98 not be required to make any payment to any school for the use of
99 any school facility if, in the discretion of the local school
100 governing board, the organization's function shall be deemed to be
101 beneficial to the official or extracurricular programs of the
102 school. For the purposes of this provision, the term
103 "organization" shall not include any organization subject to the
104 control of the local school governing board. Activity funds may
105 only be expended for any necessary expenses or travel costs,
106 including advances, incurred by students and their chaperons in
107 attending any in-state or out-of-state school-related programs,
108 conventions or seminars and/or any commodities, equipment, travel
109 expenses, purchased services or school supplies which the local
110 school governing board, in its discretion, shall deem beneficial
111 to the official or extracurricular programs of the district,
112 including items which may subsequently become the personal
113 property of individuals, including yearbooks, athletic apparel,
114 book covers and trophies. Activity funds may be used to pay
115 travel expenses of school district personnel. The local school
116 governing board shall be authorized and empowered to promulgate
117 rules and regulations specifically designating for what purposes
118 school activity funds may be expended. The local school governing
119 board shall provide (i) that such school activity funds shall be
120 maintained and expended by the principal of the school generating
121 the funds in individual bank accounts, or (ii) that such school
122 activity funds shall be maintained and expended by the
123 superintendent of schools in a central depository approved by the
124 board. The local school governing board shall provide that such
125 school activity funds be audited as part of the annual audit
126 required in Section 37-9-18. The State Auditor shall prescribe a

127 uniform system of accounting and financial reporting for all
128 school activity fund transactions;

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

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

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

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

183 (ii) If two (2) or more school districts propose
184 to enter into a lease contract jointly, then joint meetings of the
185 school boards having control may be held but no action taken shall
186 be binding on any such school district unless the question of
187 leasing a school building is approved in each participating school
188 district under the procedure hereinabove set forth in item (v)(i).
189 All of the provisions of item (v)(i) regarding the term and amount
190 of the lease contract shall apply to the school boards of school
191 districts acting jointly. Any lease contract executed by two (2)
192 or more school districts as joint lessees shall set out the amount

193 of the aggregate lease rental to be paid by each, which may be
194 agreed upon, but there shall be no right of occupancy by any
195 lessee unless the aggregate rental is paid as stipulated in the
196 lease contract. All rights of joint lessees under the lease
197 contract shall be in proportion to the amount of lease rental paid
198 by each;

199 (w) To employ all noninstructional and noncertificated
200 employees and fix the duties and compensation of such personnel
201 deemed necessary pursuant to the recommendation of the
202 superintendent of schools;

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

205 (y) Subject to rules and regulations of the State Board
206 of Education, to purchase, own and operate trucks, vans and other
207 motor vehicles, which shall bear the proper identification
208 required by law;

209 (z) To expend funds for the payment of substitute
210 teachers and to adopt reasonable regulations for the employment
211 and compensation of such substitute teachers;

212 (aa) To acquire in its own name by purchase all real
213 property which shall be necessary and desirable in connection with
214 the construction, renovation or improvement of any public school
215 building or structure. Whenever the purchase price for such real
216 property is greater than Fifty Thousand Dollars (\$50,000.00), the
217 school board shall not purchase the property for an amount
218 exceeding the fair market value of such property as determined by
219 the average of at least two (2) independent appraisals by
220 certified general appraisers licensed by the State of Mississippi.
221 If the board shall be unable to agree with the owner of any such
222 real property in connection with any such project, the board shall
223 have the power and authority to acquire any such real property by
224 condemnation proceedings pursuant to Section 11-27-1 et seq.,
225 Mississippi Code of 1972, and for such purpose, the right of

226 eminent domain is hereby conferred upon and vested in said board.
227 Provided further, that the local school board is authorized to
228 grant an easement for ingress and egress over sixteenth section
229 land or lieu land in exchange for a similar easement upon
230 adjoining land where the exchange of easements affords substantial
231 benefit to the sixteenth section land; provided, however, the
232 exchange must be based upon values as determined by a competent
233 appraiser, with any differential in value to be adjusted by cash
234 payment. Any easement rights granted over sixteenth section land
235 under such authority shall terminate when the easement ceases to
236 be used for its stated purpose. No sixteenth section or lieu land
237 which is subject to an existing lease shall be burdened by any
238 such easement except by consent of the lessee or unless the school
239 district shall acquire the unexpired leasehold interest affected
240 by the easement;

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

244 (cc) Subject to rules and regulations of the State
245 Board of Education, to purchase relocatable classrooms for the use
246 of such school district, in the manner prescribed in Section
247 37-1-13;

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

253 (ee) To provide for in-service training for employees
254 of the district. Until June 30, 1994, the school boards may
255 designate two (2) days of the minimum school term, as defined in
256 Section 37-19-1, for employee in-service training for
257 implementation of the new statewide testing system as developed by
258 the State Board of Education. Such designation shall be subject

259 to approval by the State Board of Education pursuant to uniform
260 rules and regulations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

371 (iv) An assessment of facilities utilization,
372 planning and maintenance;

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

375 (vi) An assessment of instructional and
376 administrative technology;

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

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

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

387 This paragraph shall repeal on July 1, 2007;

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

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

413 **SECTION 2.** This act shall take effect and be in force from
414 and after July 1, 2005.