

By: Representatives Turner, Reed

To: Education;
Appropriations

HOUSE BILL NO. 1088

1 AN ACT TO REQUIRE THE STATE DEPARTMENT OF EDUCATION, SUBJECT
2 TO THE APPROVAL OF THE STATE BOARD OF EDUCATION, TO DEVELOP A
3 SELECTION PROCESS OF ARCHITECTURAL PLANS FOR THE CONSTRUCTION OF
4 NEW SCHOOL INSTRUCTIONAL BUILDINGS OR FACILITIES; TO PROVIDE THAT
5 THE DEPARTMENT SHALL MAKE THESE PLANS AVAILABLE TO SCHOOL
6 DISTRICTS; TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972, TO
7 REQUIRE SCHOOL BOARDS TO CHOOSE FROM THE PLANS FOR NEW
8 CONSTRUCTION OF SCHOOL INSTRUCTIONAL FACILITIES; TO PROVIDE THAT
9 IF A LOCAL BOARD ELECTS TO ADD ADDITIONAL AMENITIES OR FEATURES,
10 THEN THE BOARD MAY USE ONLY PRIVATE FUNDS, CONTRIBUTIONS OR
11 DONATIONS TO PAY FOR THE ADDITIONAL AMENITIES OR FEATURES; AND FOR
12 RELATED PURPOSES.

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

14 **SECTION 1.** The State Department of Education, subject to the
15 approval of the State Board of Education, shall develop a
16 selection process for five (5) different architectural plans that
17 provide for basic floor plans for the new construction of school
18 instructional buildings or facilities. The five (5) different
19 architectural plans must be made available to school districts no
20 later than July 1, 2007.

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

23 37-7-301. The school boards of all school districts shall
24 have the following powers, authority and duties in addition to all
25 others imposed or granted by law, to wit:

26 (a) To organize and operate the schools of the district
27 and to make such division between the high school grades and
28 elementary grades as, in their judgment, will serve the best
29 interests of the school;

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

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

36 (d) To have responsibility for the erection, repairing
37 and equipping of school facilities and the making of necessary
38 school improvements. The school board must choose from one (1) of
39 five (5) different architectural plans made available to districts
40 by the State Department of Education which provide basic floor
41 plans for the construction of new school instructional buildings
42 or facilities. If the school board elects to add specific
43 amenities or additional features that are not part of the basic
44 plan, the expense of the additional amenity or feature must be
45 paid for with private funds, contributions or donations. The
46 school board may not use state or local funds to pay for any
47 additional amenity or feature;

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

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

64 (g) To support, within reasonable limits, the
65 superintendent, principal and teachers where necessary for the
66 proper discipline of the school;

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

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

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

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

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

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

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

89 (o) To make orders directed to the superintendent of
90 schools for the issuance of pay certificates for lawful purposes
91 on any available funds of the district and to have full control of
92 the receipt, distribution, allotment and disbursement of all funds
93 provided for the support and operation of the schools of such
94 school district whether such funds be derived from state
95 appropriations, local ad valorem tax collections, or otherwise.

96 The local school board shall be authorized and empowered to

97 promulgate rules and regulations that specify the types of claims
98 and set limits of the dollar amount for payment of claims by the
99 superintendent of schools to be ratified by the board at the next
100 regularly scheduled meeting after payment has been made;

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

105 (q) To provide athletic programs and other school
106 activities and to regulate the establishment and operation of such
107 programs and activities;

108 (r) To join, in their discretion, any association of
109 school boards and other public school-related organizations, and
110 to pay from local funds other than minimum foundation funds, any
111 membership dues;

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

130 school. For the purposes of this provision, the term
131 "organization" shall not include any organization subject to the
132 control of the local school governing board. Activity funds may
133 only be expended for any necessary expenses or travel costs,
134 including advances, incurred by students and their chaperons in
135 attending any in-state or out-of-state school-related programs,
136 conventions or seminars and/or any commodities, equipment, travel
137 expenses, purchased services or school supplies which the local
138 school governing board, in its discretion, shall deem beneficial
139 to the official or extracurricular programs of the district,
140 including items which may subsequently become the personal
141 property of individuals, including yearbooks, athletic apparel,
142 book covers and trophies. Activity funds may be used to pay
143 travel expenses of school district personnel. The local school
144 governing board shall be authorized and empowered to promulgate
145 rules and regulations specifically designating for what purposes
146 school activity funds may be expended. The local school governing
147 board shall provide (i) that such school activity funds shall be
148 maintained and expended by the principal of the school generating
149 the funds in individual bank accounts, or (ii) that such school
150 activity funds shall be maintained and expended by the
151 superintendent of schools in a central depository approved by the
152 board. The local school governing board shall provide that such
153 school activity funds be audited as part of the annual audit
154 required in Section 37-9-18. The State Auditor shall prescribe a
155 uniform system of accounting and financial reporting for all
156 school activity fund transactions;

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

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

163 (v) (i) To lease a school building from an individual,
164 partnership, nonprofit corporation or a private for-profit
165 corporation for the use of such school district, and to expend
166 funds therefor as may be available from any nonadequate education
167 program sources. The school board of the school district desiring
168 to lease a school building shall declare by resolution that a need
169 exists for a school building and that the school district cannot
170 provide the necessary funds to pay the cost or its proportionate
171 share of the cost of a school building required to meet the
172 present needs. The resolution so adopted by the school board
173 shall be published once each week for three (3) consecutive weeks
174 in a newspaper having a general circulation in the school district
175 involved, with the first publication thereof to be made not less
176 than thirty (30) days prior to the date upon which the school
177 board is to act on the question of leasing a school building. If
178 no petition requesting an election is filed prior to such meeting
179 as hereinafter provided, then the school board may, by resolution
180 spread upon its minutes, proceed to lease a school building. If
181 at any time prior to said meeting a petition signed by not less
182 than twenty percent (20%) or fifteen hundred (1500), whichever is
183 less, of the qualified electors of the school district involved
184 shall be filed with the school board requesting that an election
185 be called on the question, then the school board shall, not later
186 than the next regular meeting, adopt a resolution calling an
187 election to be held within such school district upon the question
188 of authorizing the school board to lease a school building. Such
189 election shall be called and held, and notice thereof shall be
190 given, in the same manner for elections upon the questions of the
191 issuance of the bonds of school districts, and the results thereof
192 shall be certified to the school board. If at least three-fifths
193 (3/5) of the qualified electors of the school district who voted
194 in such election shall vote in favor of the leasing of a school
195 building, then the school board shall proceed to lease a school

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

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

227 (w) To employ all noninstructional and noncertificated
228 employees and fix the duties and compensation of such personnel

229 deemed necessary pursuant to the recommendation of the
230 superintendent of schools;

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

233 (y) Subject to rules and regulations of the State Board
234 of Education, to purchase, own and operate trucks, vans and other
235 motor vehicles, which shall bear the proper identification
236 required by law;

237 (z) To expend funds for the payment of substitute
238 teachers and to adopt reasonable regulations for the employment
239 and compensation of such substitute teachers;

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

262 section land under such authority shall terminate when the
263 easement ceases to be used for its stated purpose. No sixteenth
264 section or lieu land which is subject to an existing lease shall
265 be burdened by any such easement except by consent of the lessee
266 or unless the school district shall acquire the unexpired
267 leasehold interest affected by the easement;

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

271 (cc) Subject to rules and regulations of the State
272 Board of Education, to purchase relocatable classrooms for the use
273 of such school district, in the manner prescribed in Section
274 37-1-13;

275 (dd) Enter into contracts or agreements with other
276 school districts, political subdivisions or governmental entities
277 to carry out one or more of the powers or duties of the school
278 board, or to allow more efficient utilization of limited resources
279 for providing services to the public;

280 (ee) To provide for in-service training for employees
281 of the district * * *;

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

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

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

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

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

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

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

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

319 (ll) To expend funds for the services of nonprofit arts
320 organizations or other such nonprofit organizations who provide
321 performances or other services for the students of the school
322 district;

323 (mm) To expend federal No Child Left Behind Act funds,
324 or any other available funds that are expressly designated and
325 authorized for that use, to pay training, educational expenses,
326 salary incentives and salary supplements to employees of local
327 school districts; except that incentives shall not be considered

328 part of the local supplement as defined in Section 37-151-5(o),
329 nor shall incentives be considered part of the local supplement
330 paid to an individual teacher for the purposes of Section
331 37-19-7(1). Mississippi Adequate Education Program funds or any
332 other state funds may not be used for salary incentives or salary
333 supplements as provided in this paragraph (mm);

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

360 to receive additional relocation funds as authorized in this
361 paragraph;

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

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

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

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

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

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

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

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

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

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

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

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

416 (ss) To collaborate with the State Board of Education,
417 Community Action Agencies or the Department of Human Services to
418 develop and implement a voluntary program to provide services for
419 a full-day prekindergarten program that addresses the cognitive,
420 social, and emotional needs of four-year-old and three-year-old
421 children. The school board may utilize nonstate source special
422 funds, grants, donations or gifts to fund the voluntary program;

423 (tt) With respect to any lawful, written obligation of
424 a school district, including, but not limited to, leases
425 (excluding leases of sixteenth section public school trust land),

426 bonds, notes, or other agreement, to agree in writing with the
427 obligee that the State Tax Commission or any state agency,
428 department or commission created under state law may:

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

434 (ii) Pay the same over to any financial
435 institution, trustee or other obligee, as directed in writing by
436 the school board, to satisfy all or part of such obligation of the
437 school district.

438 The school board may make such written agreement to withhold
439 and transfer funds irrevocable for the term of the written
440 obligation and may include in the written agreement any other
441 terms and provisions acceptable to the school board. If the
442 school board files a copy of such written agreement with the State
443 Tax Commission, or any state agency, department or commission
444 created under state law then the State Tax Commission or any state
445 agency, department or commission created under state law shall
446 immediately make the withholdings provided in such agreement from
447 the amounts due the local school board and shall continue to pay
448 the same over to such financial institution, trustee or obligee
449 for the term of the agreement.

450 This paragraph (tt) shall not grant any extra authority to a
451 school board to issue debt in any amount exceeding statutory
452 limitations on assessed value of taxable property within such
453 school district or the statutory limitations on debt maturities,
454 and shall not grant any extra authority to impose, levy or collect
455 a tax which is not otherwise expressly provided for, and shall not
456 be construed to apply to sixteenth section public school trust
457 land;

458 (uu) With respect to any matter or transaction that is
459 competitively bid by a school district, to accept from any bidder
460 as a good faith deposit or bid bond or bid surety, the same type
461 of good faith deposit or bid bond or bid surety that may be
462 accepted by the state or any other political subdivision on
463 similar competitively bid matters or transactions. This paragraph
464 (uu) shall not be construed to apply to sixteenth section public
465 school trust land. The school board may authorize the investment
466 of any school district funds in the same kind and manner of
467 investments, including pooled investments, as any other political
468 subdivision, including community hospitals; and

469 (vv) To utilize the alternate method for the conveyance
470 or exchange of unused school buildings and/or land, reserving a
471 partial or other undivided interest in the property, as
472 specifically authorized and provided in Section 37-7-485.

473 **SECTION 3.** This act shall take effect and be in force from
474 and after July 1, 2006.