MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Bennett To: Education

HOUSE BILL NO. 313

AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972, TO CLARIFY THE USE AND ACCOUNTING PRACTICES RELATING TO STUDENT CLUB FUNDS; TO SPECIFY THE ROLE OF THE LOCAL SCHOOL BOARD IN DESIGNATING AN OFFICER OR EMPLOYEE OF THE SCHOOL DISTRICT TO RECEIVE DEPOSIT OF FUNDS RECEIVED FROM THE OPERATIONS, CONDUCT OR MAINTENANCE OF STUDENT CLUBS; TO SPECIFY THE MINIMUM RULES AND REGULATIONS TO BE ADOPTED BY LOCAL SCHOOL BOARDS FOR THE MANAGEMENT AND GOVERNANCE OF STUDENT CLUB FUNDS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(s) To expend local school activity funds, or other available school district funds, other than minimum education program funds, for the purposes prescribed under this paragraph. "Activity funds" shall mean all funds received by school officials in all school districts paid or collected to participate in any school activity, such activity being part of the school program and partially financed with public funds or supplemented by public funds. The term "activity funds" shall not include any funds raised and/or expended by any organization unless commingled in a bank account with existing activity funds, regardless of whether the funds were raised by school employees or received by school employees during school hours or using school facilities, and regardless of whether a school employee exercises influence over the expenditure or disposition of such funds. Organizations shall not be required to make any payment to any school for the use of any school facility if, in the discretion of the local school governing board, the organization's function shall be deemed to be beneficial to the official or extracurricular programs of the school. For the purposes of this provision, the term "organization" shall not include any organization subject to the control of the local school governing board. Activity funds may only be expended for any necessary expenses or travel costs, including advances, incurred by students and their chaperons in attending any in-state or out-of-state school-related programs, conventions or seminars and/or any commodities, equipment, travel

expenses, purchased services or school supplies which the local school governing board, in its discretion, shall deem beneficial to the official or extracurricular programs of the district, including items which may subsequently become the personal property of individuals, including yearbooks, athletic apparel, book covers and trophies. Activity funds may be used to pay travel expenses of school district personnel. The local school governing board shall be authorized and empowered to promulgate rules and regulations specifically designating for what purposes school activity funds may be expended. The local school governing board shall provide (i) that such school activity funds shall be maintained and expended by the principal of the school generating the funds in individual bank accounts, or (ii) that such school activity funds shall be maintained and expended by the superintendent of schools in a central depository approved by the board. The local school governing board shall provide that such school activity funds be audited as part of the annual audit required in Section 37-9-18. The State Department of Education shall prescribe a uniform system of accounting and financial reporting for all school activity fund transactions;

(t) To enter into an energy performance contract, energy services contract, on a shared-savings, lease or lease-purchase basis, for energy efficiency services and/or equipment as provided for in Section 31-7-14;

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

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

school board shall, not later than the next regular meeting, adopt a resolution calling an election to be held within such school district upon the question of authorizing the school board to lease a school building. Such election shall be called and held, and notice thereof shall be given, in the same manner for elections upon the questions of the issuance of the bonds of school districts, and the results thereof shall be certified to the school board. If at least three-fifths (3/5) of the qualified electors of the school district who voted in such election shall vote in favor of the leasing of a school building, then the school board shall proceed to lease a school building. The term of the lease contract shall not exceed twenty (20) years, and the total cost of such lease shall be either the amount of the lowest and best bid accepted by the school board after advertisement for bids or an amount not to exceed the current fair market value of the lease as determined by the averaging of at least two (2) appraisals by certified general appraisers licensed by the State of Mississippi. The term "school building" as used in this paragraph (v)(i) shall be construed to mean any building or buildings used for classroom purposes in connection with the operation of schools and shall include the site therefor, necessary support facilities, and the equipment thereof and appurtenances thereto such as heating facilities, water supply, sewage disposal, landscaping, walks, drives and playgrounds. The

term "lease" as used in this paragraph (v)(i) may include a lease-purchase contract;

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

(w) To employ all noninstructional and *** * *** nonlicensed employees and fix the duties and compensation of such personnel deemed necessary pursuant to the recommendation of the superintendent of schools;

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

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

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

(aa) To acquire in its own name by purchase all real property which shall be necessary and desirable in connection with the construction, renovation or improvement of any public school building or structure. Whenever the purchase price for such real property is greater than Fifty Thousand Dollars ($50,000.00), the school board shall not purchase the property for an amount exceeding the fair market value of such property as determined by the average of at least two (2) independent appraisals by certified general appraisers licensed by the State of Mississippi. If the board shall be unable to agree with the owner of any such real property in connection with any such project, the board shall have the power and authority to acquire any such real property by condemnation proceedings pursuant to Section 11-27-1 et seq., Mississippi Code of 1972, and for such purpose, the right of eminent domain is hereby conferred upon and vested in said board. Provided further, that the local school board is authorized to grant an easement for ingress and egress over sixteenth section land or lieu land in exchange for a similar easement upon

adjoining land where the exchange of easements affords substantial benefit to the sixteenth section land; provided, however, the exchange must be based upon values as determined by a competent appraiser, with any differential in value to be adjusted by cash payment. Any easement rights granted over sixteenth section land under such authority shall terminate when the easement ceases to be used for its stated purpose. No sixteenth section or lieu land which is subject to an existing lease shall be burdened by any such easement except by consent of the lessee or unless the school district shall acquire the unexpired leasehold interest affected by the easement;

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

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

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

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

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

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

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

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

(hh) To allow individual lessons for music, art and other curriculum-related activities for academic credit or

nonacademic credit during school hours and using school equipment and facilities, subject to uniform rules and regulations adopted by the school board;

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

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

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

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

(mm) To expend federal *** * *** Every Student Succeeds Act (ESSA) funds, or any other available funds that are expressly designated and authorized for that use, to pay training, educational expenses, salary incentives and salary supplements to employees of local school districts; except that incentives shall not be considered part of the local supplement as defined in Section 37-151-5(o), nor shall incentives be considered part of the local supplement paid to an individual teacher for the purposes of Section 37-19-7(1). Mississippi Adequate Education

Program funds or any other state funds may not be used for salary incentives or salary supplements as provided in this paragraph (mm);

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

moving expenses. However, the licensed employee must relocate within the boundaries of the State of Mississippi. Any individual receiving relocation assistance through the Critical Teacher Shortage Act as provided in Section 37-159-5 shall not be eligible to receive additional relocation funds as authorized in this paragraph;

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

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

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

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

(iii) An assessment of revenue levels and sources;

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

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

(vi) An assessment of instructional and administrative technology;

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

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

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

(rr) To implement a financial literacy program for students in Grades 10 and 11. The board may review the national programs and obtain free literature from various nationally recognized programs. After review of the different programs, the board may certify a program that is most appropriate for the school districts' needs. If a district implements a financial literacy program, then any student in Grade 10 or 11 may participate in the program. The financial literacy program shall include, but is not limited to, instruction in the same areas of

personal business and finance as required under Section 37-1-3(2)(b). The school board may coordinate with volunteer teachers from local community organizations, including, but not limited to, the following: United States Department of Agriculture Rural Development, United States Department of Housing and Urban Development, Junior Achievement, bankers and other nonprofit organizations. Nothing in this paragraph shall be construed as to require school boards to implement a financial literacy program;

(ss) To collaborate with the State Board of Education, Community Action Agencies or the Department of Human Services to develop and implement a voluntary program to provide services for a prekindergarten program that addresses the cognitive, social, and emotional needs of four-year-old and three-year-old children. The school board may utilize any source of available revenue to fund the voluntary program. Effective with the 2013-2014 school year, to implement voluntary prekindergarten programs under the Early Learning Collaborative Act of 2013 pursuant to state funds awarded by the State Department of Education on a matching basis;

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

(i) Withhold all or any part (as agreed by the school board) of any monies which such local school board is entitled to receive from time to time under any law and which is in the possession of the Department of Revenue, or any state agency, department or commission created under state law; and

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

The school board may make such written agreement to withhold and transfer funds irrevocable for the term of the written obligation and may include in the written agreement any other terms and provisions acceptable to the school board. If the school board files a copy of such written agreement with the Department of Revenue, or any state agency, department or commission created under state law then the Department of Revenue or any state agency, department or commission created under state law shall immediately make the withholdings provided in such agreement from the amounts due the local school board and shall continue to pay the same over to such financial institution, trustee or obligee for the term of the agreement.

This paragraph (tt) shall not grant any extra authority to a school board to issue debt in any amount exceeding statutory limitations on assessed value of taxable property within such school district or the statutory limitations on debt maturities,

and shall not grant any extra authority to impose, levy or collect a tax which is not otherwise expressly provided for, and shall not be construed to apply to sixteenth section public school trust land;

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

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

(ww) To delegate, privatize or otherwise enter into a contract with private entities for the operation of any and all functions of nonacademic school process, procedures and operations including, but not limited to, cafeteria workers, janitorial services, transportation, professional development, achievement and instructional consulting services materials and products,

purchasing cooperatives, insurance, business manager services, auditing and accounting services, school safety/risk prevention, data processing and student records, and other staff services; however, the authority under this paragraph does not apply to the leasing, management or operation of sixteenth section lands. Local school districts, working through their regional education service agency, are encouraged to enter into buying consortia with other member districts for the purposes of more efficient use of state resources as described in Section 37-7-345;

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

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

(zz) To fund and operate voluntary early childhood education programs, defined as programs for children less than five (5) years of age on or before September 1, and to use any source of revenue for such early childhood education programs. Such programs shall not conflict with the Early Learning Collaborative Act of 2013;

(aaa) To issue and provide for the use of procurement cards by school board members, superintendents and licensed school personnel consistent with the rules and regulations of the Mississippi Department of Finance and Administration under Section 31-7-9; *** * ***

(bbb) To conduct an annual comprehensive evaluation of the superintendent of schools consistent with the assessment components of paragraph (pp) of this section and the assessment benchmarks established by the Mississippi School Board Association to evaluate the success the superintendent has attained in meeting district goals and objectives, the superintendent's leadership skill and whether or not the superintendent has established appropriate standards for performance, is monitoring success and is using data for improvement *** * ***; and

(ccc) To expend local school student club funds, or other available school district funds, other than minimum education program funds, for the purposes prescribed under this paragraph. "Student club funds" means student generated funds raised by means other than taxation or through charges of a board of education, for, by or in the name of a school, student body or any subdivision thereof. The term "student club funds" shall not include any funds characterized as "activity funds" as defined in paragraph (s) of this section, or used in for any purposes associated therewith. The local school board shall adopt rules and regulations for the establishment, conduct, operation and maintenance of student club funds, and for the safeguarding, accounting and audit of all funds received, provided that at minimum the rules and regulations require:

(i) The method to be followed in establishing a student club organization;

(ii) The records of receipts and expenditures to be maintained and the reports to be made at least quarterly to the local school board;

(iii) That authority to expend funds shall be distinct and separate from the custody of those funds, and limited only to use by the student club organization for which the account was funded and created, and for purposes of necessary expenses directly associated with furthering the aim and mission of such organization;

(iv) That an independent and impartial audit of the accounts shall be made at least annually in conjunction with the annual audit of the district records as required in Section 37-9-18;

(v) The methods of disbursing the funds of dissolved student club organizations; and

(vi) That the Generally Accepted Accounting Principles (GAAP) are used for procedural guidance in its accounting practices.

The local school board shall require all funds received from the conduct, operation or maintenance of any student club to be deposited with an official designated by the school board, who in such event shall be the treasurer of such student club fund. The school board may assign any of its officers or employees to perform such duties as it may prescribe in connection with any student club organization, and shall designate such of its

officers and employees, from whom an official undertaking shall be required. The local school governing board shall provide that such student club funds shall be maintained and expended by the principal of the school of which the student club organization is affiliated in a district bank account approved by the board, which shall be accounted for separately for each student club organization making deposits into the account through the use of unique accounting codes or identifiers. The State Department of Education shall prescribe a uniform system of accounting and financial reporting for all student club fund transactions.

SECTION 2. This act shall take effect and be in force from and after July 1, 2021.