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To: Education; Appropriations

SENATE BILL NO. 2369 (As Sent to Governor)

1 AN ACT TO BE KNOWN AS THE MISSISSIPPI HEALTHY STUDENTS ACT;
2 TO AMEND SECTION 37-13-134, MISSISSIPPI CODE OF 1972, TO REQUIRE A
3 MINIMUM PERIOD OF PHYSICAL ACTIVITY-BASED INSTRUCTION AND A
4 MINIMUM PERIOD OF HEALTH EDUCATION INSTRUCTION IN GRADES K-8, AS
5 DEFINED BY THE STATE BOARD OF EDUCATION; TO REQUIRE ONE-HALF OF A
6 CARNEGIE UNIT IN PHYSICAL EDUCATION OR PHYSICAL ACTIVITY IN GRADES
7 9-12 FOR GRADUATION; TO PROVIDE THAT BEGINNING WITH THE 2008-2009
8 SCHOOL YEAR, THE SCHOOL WELLNESS PLANS OF LOCAL SCHOOL DISTRICTS
9 SHALL PROMOTE INCREASED PHYSICAL ACTIVITY, HEALTHY EATING HABITS
10 AND ABSTINENCE FROM THE USE OF TOBACCO AND ILLEGAL DRUGS; TO
11 REQUIRE THE APPROPRIATION OF SUFFICIENT STATE-SOURCE FUNDS FOR THE
12 STATE DEPARTMENT OF EDUCATION TO EMPLOY A PHYSICAL ACTIVITY
13 COORDINATOR TO ASSIST SCHOOL DISTRICTS IN THE IMPLEMENTATION OF
14 PHYSICAL EDUCATION PROGRAMS; TO PROVIDE THAT THE STATUTORY DUTIES
15 OF THE LOCAL SCHOOL HEALTH COUNCILS SHALL BE MANDATORY RATHER THAN
16 PERMISSIVE; TO DIRECT THE STATE BOARD OF EDUCATION TO ADOPT
17 REGULATIONS, FOR COMPLIANCE BY SCHOOL DISTRICTS BEGINNING WITH THE
18 2008-2009 SCHOOL YEAR, THAT ADDRESS THE FOLLOWING AREAS: HEALTHY
19 FOOD AND BEVERAGE CHOICES; HEALTHY FOOD PREPARATION; MARKETING OF
20 HEALTHY FOOD CHOICES TO STUDENTS AND STAFF; FOOD PREPARATION
21 INGREDIENTS AND PRODUCTS; MINIMUM AND MAXIMUM TIME ALLOTMENT FOR
22 STUDENTS AND STAFF LUNCH AND BREAKFAST PERIODS; THE AVAILABILITY
23 OF FOOD ITEMS DURING THE LUNCH AND BREAKFAST PERIODS; AND METHODS
24 TO INCREASE PARTICIPATION IN THE CHILD NUTRITION SCHOOL BREAKFAST
25 AND LUNCH PROGRAMS; TO PROVIDE THAT THE STATE SUPERINTENDENT OF
26 PUBLIC EDUCATION SHALL APPOINT AN ADVISORY COMMITTEE TO ASSIST THE
27 STATE BOARD OF EDUCATION IN DEVELOPING THE REGULATIONS REQUIRED BY
28 THIS ACT; AND FOR RELATED PURPOSES.

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

30 SECTION 1. This act shall be known as the Mississippi
31 Healthy Students Act.

32 SECTION 2. Section 37-13-134, Mississippi Code of 1972, is
33 amended as follows:

34 37-13-134. (1) The Legislature recognizes that there is a
35 problem with Mississippi student inactivity and obesity \* \* \*, and
36 therefore requires the following guidelines for school district
37 physical education, health education and physical activity and
38 fitness classes:

39 Kindergarten through Grade 8: One hundred fifty (150)
40 minutes per week of physical activity-based instruction and

41 forty-five (45) minutes per week of health education instruction,  
42 as defined by the State Board of Education.

43 Grades 9 through 12: 1/2 Carnegie unit requirement in  
44 physical education or physical activity for graduation.

45 All instruction in physical education, health education and  
46 physical activity must be based on the most current state  
47 standards provided by the State Department of Education.

48 (2) Beginning with the 2006-2007 school year, each local  
49 school board shall, consistent with regulations adopted by the  
50 State Board of Education, adopt a school wellness plan which shall  
51 promote a healthy lifestyle for Mississippi's school children and  
52 staff. Beginning with the 2008-2009 school year, the school  
53 wellness plan shall also promote increased physical activity,  
54 healthy eating habits and abstinence from the use of tobacco and  
55 illegal drugs through programs that incorporate healthy lifestyle  
56 choices into core subject areas which may be developed in  
57 partnership with the Institute for America's Health.

58 (3) The Legislature shall appropriate sufficient  
59 state-source funds for \* \* \* the State Department of  
60 Education \* \* \* to employ a physical activity coordinator to  
61 assist districts on current and effective practices and on  
62 implementation of physical education and physical activity  
63 programs.

64 (4) The physical activity coordinator employed under Section  
65 37-13-133 must have the qualifications prescribed in any of the  
66 following paragraphs, which are listed in the order of preference:

67 (a) A doctorate in physical education, exercise science  
68 or a highly related field, and at least three (3) years of  
69 experience in teaching physical education in Grades K-12 or in  
70 physical activity promotion/fitness leadership; or

71 (b) A master's degree in physical education, exercise  
72 science or a highly related field, and at least five (5) years of

73 experience in teaching physical education in Grades K-12 or in  
74 physical activity promotion/fitness leadership; or

75 (c) A bachelor's degree in physical education, a  
76 teacher's license, and at least seven (7) years of experience in  
77 teaching physical education in Grades K-12 or in physical activity  
78 promotion/fitness leadership.

79 (5) The Governor's Commission on Physical Fitness and Sports  
80 created under Section 7-1-551 et seq., the Mississippi Council on  
81 Obesity Prevention and Management created under Section 41-101-1  
82 et seq., the Task Force on Heart Disease and Stroke Prevention  
83 created under Section 41-103-1 et seq., the Mississippi Alliance  
84 for Health, Physical Education, Recreation and Dance, and the  
85 Mississippi Alliance for School Health shall provide  
86 recommendations to the State Department of Education regarding the  
87 employment of the physical activity coordinator. The department  
88 shall consider the recommendations of those entities in employing  
89 the physical activity coordinator.

90 (6) The physical activity coordinator shall present a state  
91 physical activity plan each year to the Governor's Commission on  
92 Physical Fitness and Sports, the Mississippi Council on Obesity  
93 Prevention and Management, the Task Force on Heart Disease and  
94 Stroke Prevention, the Mississippi Alliance for Health, Physical  
95 Education, Recreation and Dance, and the Mississippi Alliance for  
96 School Health.

97 (7) The physical activity coordinator shall monitor the  
98 districts for adherence to current Mississippi school  
99 accountability standards and for implementation of the physical  
100 education curriculum on file with the State Department of  
101 Education. The State Department of Education shall monitor and  
102 act as a clearinghouse for the activities of the local school  
103 health councils established pursuant to subsection (8) of this  
104 section.

105 \* \* \*

106 (8) (a) The local school board of each school district  
107 shall establish a local school health council for each school  
108 which shall ensure that local community values are reflected in  
109 the local school's wellness plan to address school health. Such  
110 councils shall be established no later than November 1, 2006.

111 (b) The local school health council's duties shall  
112 include, but not be limited to, the following:

113 (i) Recommend age appropriate curriculum and the  
114 number of hours of instruction to be provided in health and  
115 physical activity-based education, provided that the number of  
116 hours shall not be less than that required by Section 37-13-134;

117 (ii) Recommend appropriate practices that \* \* \*  
118 include a coordinated approach to school health \* \* \* designed to  
119 prevent obesity, cardiovascular disease, Type II diabetes and  
120 other health risks, through coordination of:

- 121 1. Health education;
- 122 2. Physical education;
- 123 3. Nutritional services;
- 124 4. Parental/Community involvement;
- 125 5. Instruction to prevent the use of tobacco,  
126 drugs and alcohol;
- 127 6. Physical activity;
- 128 7. Health services;
- 129 8. Healthy environment; \* \* \*
- 130 9. Counseling and psychological services;
- 131 10. Healthy lifestyles; and
- 132 11. Staff wellness.

133 (iii) Provide guidance on the development and  
134 implementation of the local school wellness plan. \* \* \*

135 (c) The local school board shall appoint members to the  
136 local school health council. At a minimum, the school board shall  
137 appoint one (1) person from each of the following groups:

- 138 (i) Parents who are not employed by the school  
139 district;
- 140 (ii) The director of local school food services;  
141 (iii) Public schoolteachers;  
142 (iv) Public school administrators;  
143 (v) District students;  
144 (vi) Health care professionals;  
145 (vii) The business community;  
146 (viii) Law enforcement;  
147 (ix) Senior citizens;  
148 (x) The clergy;  
149 (xi) Nonprofit health organizations; and  
150 (xii) Faith-based organizations.

151 (9) Nothing in this section shall be construed to prohibit  
152 or limit the sale or distribution of any food or beverage item  
153 through fund-raisers conducted by students, teachers, school  
154 groups, or parent groups when the items are intended for sale off  
155 the school campus.

156 **SECTION 3.** (1) The State Board of Education shall adopt  
157 regulations as provided in this section not later than March 1,  
158 2008, which shall be effective for compliance by school districts  
159 beginning with the 2008-2009 school year, for the Child Nutrition  
160 School Breakfast and Lunch Programs that are not in conflict with  
161 the regulations of the United States Department of Agriculture  
162 (USDA). The regulations shall take into account the most recent  
163 and advanced scientific principles regarding good human health and  
164 fitness, and the effect of the regulations must be that the good  
165 health, well-being and fitness of Mississippi school children  
166 shall be advanced. The regulations shall include, but not be  
167 limited to, the following areas:

- 168 (a) Healthy food and beverage choices;  
169 (b) Healthy food preparation;

170 (c) Marketing of healthy food choices to students and  
171 staff;

172 (d) Food preparation ingredients and products;

173 (e) Minimum and maximum time allotment for students and  
174 staff lunch and breakfast periods;

175 (f) The availability of food items during the lunch and  
176 breakfast periods of the Child Nutrition School Breakfast and  
177 Lunch Programs; and

178 (g) Methods to increase participation in the Child  
179 Nutrition School Breakfast and Lunch Programs.

180 (2) To assist the State Board of Education in developing the  
181 regulations required by this section, the State Superintendent of  
182 Public Education shall appoint an advisory committee comprised of  
183 the following members: one (1) representative of the Office of  
184 Child Nutrition in the State Department of Education; one (1)  
185 member of the State Board of Education; one (1) licensed  
186 dietitian; one (1) licensed physician; one (1) local public school  
187 superintendent; one (1) school food service director from each of  
188 the four (4) congressional districts; one (1) principal of a local  
189 public elementary or middle school; one (1) principal of a local  
190 public high school; the president of the Mississippi School  
191 Nutrition Association or his designee; one (1) member of the  
192 Senate, who shall serve in an advisory capacity only; and one (1)  
193 member of the House of Representatives, who shall serve in an  
194 advisory capacity only. All members of the advisory committee  
195 must be residents of the state and active practitioners in their  
196 respective fields. The State Superintendent shall appoint the  
197 members of the advisory committee not later than April 30, 2007,  
198 and shall designate the member who will be the chairman of the  
199 committee. The advisory committee shall hold its first meeting  
200 not later than June 1, 2007, and shall meet at such other times as  
201 necessary. The advisory committee shall make its recommendations

202 to the State Board of Education on the regulations required by  
203 this section not later than October 15, 2007.

204 To effectuate the purposes of this section, upon the request  
205 of the chairman of the advisory committee, any department,  
206 division, board, bureau, commission or agency of the state or of  
207 any political subdivision of the state shall provide to the  
208 committee such facilities, assistance and data that will enable  
209 the committee to properly carry out its functions under this  
210 section.

211 Members of the advisory committee who are not public  
212 employees who live in the Jackson, Mississippi, metropolitan area  
213 or a member of the Legislature shall receive per diem at the rate  
214 authorized by Section 25-3-69 for attending meetings of the  
215 committee, and shall be reimbursed in accordance with Section  
216 25-3-41 for mileage and actual expenses incurred in the  
217 performance of their duties. The legislative members of the  
218 committee shall be paid from the contingent expense fund of the  
219 house of which he or she is a member in the same manner as  
220 provided for committee meetings when the Legislature is not in  
221 session; however, no per diem or expense for attending meetings of  
222 the committee may be paid while the Legislature is in session. A  
223 committee member may not incur per diem, travel or other expenses  
224 unless previously authorized by vote, at a meeting of the  
225 committee, which action must be recorded in the official minutes  
226 of the meeting. Nonlegislative members will be paid from funds  
227 available to the State Department of Education or from any other  
228 funds made available to the committee for that purpose.

229 (3) Local school districts may adopt rules and regulations  
230 that may be more stringent but not in conflict with those adopted  
231 by the State Board of Education under this section.

232 **SECTION 4.** This act shall take effect and be in force from  
233 and after July 1, 2007, except for Section 3, which shall take  
234 effect and be in force from and after the passage of this act.