

By: Senator(s) Ferris

To: Education

## SENATE BILL NO. 3043

1 AN ACT TO AMEND SECTION 37-61-9, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE SCHOOL BOARDS TO FILE BUDGET REQUESTS WITH THE LEVYING  
3 AUTHORITIES ON OR BEFORE SEPTEMBER 1; TO AMEND SECTION 37-61-21,  
4 MISSISSIPPI CODE OF 1972, TO REQUIRE SCHOOL BOARDS TO ADOPT FINAL  
5 AMENDED BUDGETS ON OR BEFORE SEPTEMBER 1 OF THE FOLLOWING FISCAL  
6 YEAR; TO AMEND SECTION 37-7-455, MISSISSIPPI CODE OF 1972, TO  
7 AUTHORIZE SCHOOL DISTRICTS TO SELL SURPLUS PROPERTY OTHER THAN  
8 REAL PROPERTY AND BUILDINGS AT PUBLIC AUCTION WITHOUT HAVING  
9 ADVERTISED FOR AND RECEIVED COMPETITIVE BIDS; TO AMEND SECTION  
10 11-41-1, MISSISSIPPI CODE OF 1972, TO GRANT TO A SCHOOL BOARD OR  
11 SUPERINTENDENT OF EDUCATION STANDING TO SEEK A WRIT OF MANDAMUS TO  
12 COMPEL PERFORMANCE OF A LAWFUL DUTY IN MATTERS AFFECTING THE  
13 OPERATION OF THE SCHOOL DISTRICT OVER WHICH THEY MAY PRESIDE; TO  
14 AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972, TO AUTHORIZE  
15 INTEREST-FREE BORROWING WITHOUT ADDITIONAL TAX LEVIES, AND TO  
16 CLARIFY THE POWERS AND RESPONSIBILITIES OF LOCAL SCHOOL BOARDS;  
17 AND FOR RELATED PURPOSES.

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

19 SECTION 1. Section 37-61-9, Mississippi Code of 1972, is  
20 amended as follows:

21 37-61-9. (1) On or before the first day of September of  
22 each year, the local school board of each school district, with  
23 the assistance of the superintendent of schools or administrative  
24 superintendent, shall prepare and file with the levying authority  
25 for the school district, as defined in Section 37-57-1,  
26 Mississippi Code of 1972, at least two (2) copies of a budget of  
27 estimated expenditures for the support, maintenance and operation  
28 of the public schools of the school district for the fiscal year  
29 commencing on July 1 of such year. Such budget shall be prepared  
30 on forms prescribed and provided by the State Auditor and shall  
31 contain such information as the State Auditor may require.

32 (2) In addition, on or before the first day of September of  
33 each year, the local school board of each school district, with

34 the assistance of the superintendent of schools or administrative  
35 superintendent, shall prepare and file with the State Department  
36 of Education such budgetary information as the State Board of  
37 Education may require. The State Board of Education shall  
38 prescribe and provide forms to each school district for this  
39 purpose.

40 (3) Prior to the adoption of a budget pursuant to this  
41 section, the school board of each school district shall hold at  
42 least one (1) public hearing to provide the general public with an  
43 opportunity to comment on the taxing and spending plan  
44 incorporated in the proposed budget. The public hearing shall be  
45 held at least one (1) week prior to the adoption of the budget  
46 with advance notice. After final adoption of the budget, a  
47 synopsis of such budget in a form prescribed by the State  
48 Department of Audit shall be published in a newspaper having  
49 general circulation in the school district on a date different  
50 from the date on which the county or any municipality therein may  
51 publish its budget.

52 (4) Beginning with the Fiscal Year 1995-1996, there shall be  
53 imposed limitations on budgeted expenditures for certain  
54 administration costs, as defined hereinafter, in an amount not  
55 greater than One Hundred Fifty Thousand Dollars (\$150,000.00) plus  
56 four percent (4%) of the expenditures of all school districts each  
57 year. For purposes of this subsection, "administration costs"  
58 shall be defined as expenditures for salaries and fringe benefits  
59 paid for central administration costs from all sources of revenue  
60 in the following expenditure functions as defined in the  
61 MISSISSIPPI PUBLIC SCHOOL DISTRICT FINANCIAL ACCOUNTING MANUAL:

62 2300 = Support Services - General Administration  
63 2310 = Board of Education Services  
64 2320 = Executive Administration Services  
65 2330 = Special Area Administration Services  
66 2500 = Business Services  
67 2510 = Fiscal Services  
68 2520 = Purchasing Services  
69 2530 = Warehousing and Distributing Services  
70 2540 = Printing, Publishing and Duplicating Services

71                   2590 =       Other Support Services - Business  
72           2800 =       Support Services - Central  
73                   2810 =       Planning, Research, Development and Evaluation  
74                   2820 =       Information Services  
75                   2830 =       Staff Services  
76                   2840 =       Data Processing Services

77           Any costs classified as "administration costs" for purposes  
78 of this subsection which can be demonstrated by the local school  
79 district to be an expenditure that results in a net cost savings  
80 to the district that may otherwise require budget expenditures for  
81 functions not covered under the definition of administration costs  
82 herein may be excluded from the limitations imposed herein. The  
83 local school board shall make a specific finding of such costs and  
84 spread such finding upon its minutes, which shall be subject to  
85 the approval of the Office of Educational Accountability of the  
86 State Department of Education. Any school district required to  
87 make expenditure cuts, as a result of application of this  
88 subsection, shall not be required to reduce such expenditures more  
89 than twenty-five percent (25%) in any year in order to comply with  
90 this mandate.

91           The State Auditor shall ensure that functions in all  
92 expenditure categories to which this administrative limitation  
93 applies shall be properly classified.

94           This section shall not apply to central administration with  
95 five (5) or less full-time employees, or to those school districts  
96 which can substantiate that comparable reductions have occurred in  
97 administrative costs for the five-year period immediately prior to  
98 school year 1993-1994. In the event the application of this  
99 section may jeopardize the fiscal integrity or operations of the  
100 school district, have an adverse impact on the ability of the  
101 district to deliver educational services, or otherwise restrict  
102 the district from achieving or maintaining a quality education  
103 program, the State Board of Education shall be authorized to

exempt the application of this section to such school district pursuant to rules and regulations of the State Board of Education consistent with the intent of this section.

\* \* \*

SECTION 2. Section 37-61-21, Mississippi Code of 1972, is amended as follows:

37-61-21. If it should appear to the superintendent of schools or administrative superintendent or the school board of any school district that the amounts to be received from state appropriations, taxation or any other source will be more than the amount estimated in the budget filed and approved, or if it should appear that such amounts shall be less than the amount estimated, the school board of the school district, with assistance from the superintendent, shall revise the budget at any time during the fiscal year by increasing or decreasing the fund budget, in proportion to the increase or decrease in the estimated amounts. If it should appear to the superintendent of schools, or administrative superintendent or the school board of a school district that some function of the budget as filed is in excess of the requirement of that function and that the entire amount budgeted for such function will not be needed for expenditures therefor during the fiscal year, the school board of the school district, with assistance from the superintendent, may transfer resources to and from functions and funds within the budget when and where needed; however, no such transfer shall be made from fund to fund or from function to function which will result in the expenditure of any money for any purpose different from that for which the money was appropriated, allotted, collected or otherwise made available or for a purpose which is not authorized by law. No revision of any budget under the provisions hereof shall be made which will permit a fund expenditure in excess of the amounts available for such purpose. The revised portions of the budgets shall be incorporated in the minutes of the school board by

137 spreading them on the minutes or by attaching them as an addendum.

138 Final budget revisions, pertinent to a fiscal year, shall be  
139 approved on or before September 1 of the following fiscal year.

140 SECTION 3. Section 37-7-455, Mississippi Code of 1972, is  
141 amended as follows:

142 37-7-455. (1) Except as otherwise provided in subsection  
143 (2) of this section, all such land, buildings or other property  
144 shall be sold only after the receipt of sealed bids therefor after  
145 the time and place of making such sale has been duly advertised in  
146 some newspaper having a general circulation in the county in which  
147 the property is located once each week for three (3) consecutive  
148 weeks with the first publication to be made not less than fifteen  
149 (15) days prior to the date upon which such bids are to be  
150 received and opened. The property shall be sold to the highest  
151 and best bidder for cash, but the school board shall have the  
152 right to reject any and all bids. If the property is not sold  
153 pursuant to such advertisement, the school board \* \* \*, by  
154 resolution, may set a date for an open meeting of the school  
155 board to be held within sixty (60) days after the date upon which  
156 the bids were opened. At the meeting held pursuant to such  
157 resolution, the school board may sell by auction the \* \* \*  
158 property for a consideration not less than the highest sealed bid  
159 previously received pursuant to the advertisement. At the  
160 meeting, \* \* \* any interested party may bid for cash, and the  
161 property shall be sold to the highest and best bidder for cash,  
162 but the school board shall have the right to reject any and all  
163 bids. The school board may require a written confirmation of bids  
164 received at such called meeting before selling the property at  
165 auction, but it shall not be necessary that sealed bids be  
166 received before conducting the auction.

167 (2) As an alternative to the procedures established under  
168 subsection (1) of this section, the school board of a school  
169 district may elect, in its discretion, to sell by public auction

any property, other than real property or buildings of the school district, which is not used for school or related school purposes and not needed in the operation of the schools. Before such auction, the school board shall adopt a resolution calling for the auction and shall advertise the auction in some newspaper having a general circulation in the county in which the property is located once each week for two (2) consecutive weeks, with the first publication to be made not less than fifteen (15) days before the date upon which the auction shall be held. The advertisement shall include a general description of the property to be sold at the auction and the date, time and place that such auction shall be held. At the auction, any interested party may bid for cash. The property shall be sold to the highest and best bidder; however, the school board may reject any and all bids. When selling property under this subsection, a school board is not required to advertise for or receive competitive bids in connection with the sale of the property. Any items not sold at such auctions or any other property, other than real property or buildings of the district, not classified as fixed assets for school purposes pursuant to regulations of the State Department of Audit, which no longer have useful value to the school district, in the discretion of the school board or its designated representative, may be destroyed or disposed of in any manner whatsoever, provided that no school official or employee derives any personal economic benefit from such disposal.

(3) When the sale of such property is authorized and approved by the school board, the president of the school board shall be authorized and empowered to execute a conveyance of the property upon the terms and for the consideration fixed by the board. The school board shall reserve unto the district at least an undivided one-half (1/2) nonparticipating royalty interest in all oil, gas and minerals in, on or under the land, and all proceeds derived from royalties upon the reserved mineral

interests shall be used as provided by Section 37-7-457; if the mineral interests of the district are less than the full and undivided ownership, the undivided royalty interest reserved by the district shall be reduced proportionately.

SECTION 4. Section 11-41-1, Mississippi Code of 1972, is amended as follows:

11-41-1. (1) On the complaint of the state, by its Attorney General or a district attorney, in any matter affecting the public interest, or on the complaint of any private person who is interested, the judgment shall be issued by the circuit court, commanding any inferior tribunal, corporation, board, officer, or person to do or not to do an act the performance or omission of which the law specially enjoins as a duty resulting from an office, trust, or station, where there is not a plain, adequate, and speedy remedy in the ordinary course of law. All procedural aspects of this action shall be governed by the Mississippi Rules of Civil Procedure.

(2) In any matter affecting the operation of the school district over which they preside, the duly appointed or elected school board or school superintendent shall have the same authority as is conferred on the Attorney General or district attorney by subsection (1) of this section.

SECTION 5. 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

236 high school grades, as the board shall deem proper;

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

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

243 (e) To suspend or to expel a pupil for misconduct in  
244 the school, upon school buses, on the road to and from school,  
245 during recess or upon the school playgrounds, and to delegate such  
246 authority to the appropriate officials of the school district;

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

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

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

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

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

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

267 (l) To prescribe and enforce rules and regulations not  
268 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 or administrative superintendent 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;

(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

302 and partially financed with public funds or supplemented by public  
303 funds. The term "activity funds" shall not include any funds  
304 raised and/or expended by any organization unless commingled in a  
305 bank account with existing activity funds, regardless of whether  
306 the funds were raised by school employees or received by school  
307 employees during school hours or using school facilities, and  
308 regardless of whether a school employee exercises influence over  
309 the expenditure or disposition of such funds. Organizations shall  
310 not be required to make any payment to any school for the use of  
311 any school facility if, in the discretion of the local school  
312 governing board, the organization's function shall be deemed to be  
313 beneficial to the official or extracurricular programs of the  
314 school. For the purposes of this provision, the term  
315 "organization" shall not include any organization subject to the  
316 control of the local school governing board. Activity funds may  
317 only be expended for any necessary expenses or travel costs,  
318 including advances, incurred by students and their chaperons in  
319 attending any in-state or out-of-state school-related programs,  
320 conventions or seminars and/or any commodities, equipment, travel  
321 expenses, purchased services or school supplies which the local  
322 school governing board, in its discretion, shall deem beneficial  
323 to the official or extracurricular programs of the district,  
324 including items which may subsequently become the personal  
325 property of individuals, including yearbooks, athletic apparel,  
326 book covers and trophies. Activity funds may be used to pay  
327 travel expenses of school district personnel. The local school  
328 governing board shall be authorized and empowered to promulgate  
329 rules and regulations specifically designating for what purposes  
330 school activity funds may be expended. The local school governing  
331 board shall provide (a) that such school activity funds shall be  
332 maintained and expended by the principal of the school generating  
333 the funds in individual bank accounts, or (b) that such school  
334 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 Auditor shall prescribe a uniform system of accounting and financial reporting for all school activity fund transactions;

(t) To 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, not to exceed ten (10) years;

(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 nonminimum program sources. 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

368 shall be filed with the school board requesting that an election  
369 be called on the question, then the school board shall, not later  
370 than the next regular meeting, adopt a resolution calling an  
371 election to be held within such school district upon the question  
372 of authorizing the school board to lease a school building. Such  
373 election shall be called and held, and notice thereof shall be  
374 given, in the same manner for elections upon the questions of the  
375 issuance of the bonds of school districts, and the results thereof  
376 shall be certified to the school board. If at least three-fifths  
377 (3/5) of the qualified electors of the school district who voted  
378 in such election shall vote in favor of the leasing of a school  
379 building, then the school board shall proceed to lease a school  
380 building. The term of the lease contract shall not exceed twenty  
381 (20) years, and the total cost of such lease shall be either the  
382 amount of the lowest and best bid accepted by the school board  
383 after advertisement for bids or an amount not to exceed the  
384 current fair market value of the lease as determined by the  
385 averaging of at least two (2) appraisals by members of the  
386 American Institute of Real Estate Appraisers or the Society of  
387 Real Estate Appraisers. The term "school building" as used in  
388 this item (v) shall be construed to mean any building or buildings  
389 used for classroom purposes in connection with the operation of  
390 schools and shall include the site therefor, necessary support  
391 facilities, and the equipment thereof and appurtenances thereto  
392 such as heating facilities, water supply, sewage disposal,  
393 landscaping, walks, drives and playgrounds. The term "lease" as  
394 used in this item (v)(i) may include a lease/purchase contract;  
395 (ii) If two (2) or more school districts propose  
396 to enter into a lease contract jointly, then joint meetings of the  
397 school boards having control may be held but no action taken shall  
398 be binding on any such school district unless the question of  
399 leasing a school building is approved in each participating school  
400 district under the procedure hereinabove set forth in item (v)(i).

401 All of the provisions of item (v)(i) regarding the term and amount  
402 of the lease contract shall apply to the school boards of school  
403 districts acting jointly. Any lease contract executed by two (2)  
404 or more school districts as joint lessees shall set out the amount  
405 of the aggregate lease rental to be paid by each, which may be  
406 agreed upon, but there shall be no right of occupancy by any  
407 lessee unless the aggregate rental is paid as stipulated in the  
408 lease contract. All rights of joint lessees under the lease  
409 contract shall be in proportion to the amount of lease rental paid  
410 by each;

411 (w) To employ all noninstructional and noncertificated  
412 employees and fix the duties and compensation of such personnel  
413 deemed necessary pursuant to the recommendation of the  
414 superintendent of schools or the administrative superintendent;

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

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

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

424 (aa) To acquire in its own name by purchase all real  
425 property which shall be necessary and desirable in connection with  
426 the construction, renovation or improvement of any public school  
427 building or structure. If the board shall be unable to agree with  
428 the owner of any such real property in connection with any such  
429 project, the board shall have the power and authority to acquire  
430 any such real property by condemnation proceedings pursuant to  
431 Section 11-27-1 et seq., Mississippi Code of 1972, and for such  
432 purpose, the right of eminent domain is hereby conferred upon and  
433 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. Until June 30, 1994, the school boards may designate two (2) days of the minimum school term, as defined in Section 37-19-1, for employee in-service training for implementation of the new statewide testing system as developed by the State Board of Education. Such designation shall be subject to approval by the State Board of Education pursuant to uniform rules and regulations;

(ff) The school boards of all school districts, as part of their duties to prescribe the use of textbooks, may 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

500 activities on behalf of or in connection with a tax-exempt  
501 charitable organization;

502 (kk) To exercise such powers as may be reasonably  
503 necessary or implied to carry out the general duties and  
504 responsibilities of school boards; \* \* \*

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

509 (mm) To take all action necessary to borrow funds  
510 pursuant to any federal laws or regulations, provided that such  
511 borrowing will not impose additional special ad valorem taxes on  
512 property within the district.

513 SECTION 6. This act shall take effect and be in force from  
514 and after its passage.