

By: Harden

To: Education

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2487

1 AN ACT TO AMEND SECTIONS 37-7-431 THROUGH 37-7-435,  
2 MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT LAND TO  
3 BE ACQUIRED BY SCHOOL DISTRICTS BY THE EXCHANGE METHOD SHALL BE  
4 ADJACENT TO EXISTING SCHOOL DISTRICT PROPERTY; TO AMEND SECTION  
5 37-7-301, MISSISSIPPI CODE OF 1972, TO REQUIRE SCHOOL BOARDS TO  
6 OBTAIN TWO APPRAISALS BEFORE PURCHASING CERTAIN REAL PROPERTY; AND  
7 FOR RELATED PURPOSES.

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

9 SECTION 1. Section 37-7-433, Mississippi Code of 1972, is  
10 amended as follows:[RDD1]

11 37-7-433. Upon being authorized by a resolution of the  
12 school board as is provided by Section 37-7-431, the president and  
13 secretary shall be authorized and empowered to execute, for and on  
14 behalf of the school district, a conveyance of the school property  
15 for the purposes, upon the terms and conditions provided and  
16 specified by the school board, and for the consideration of the  
17 execution of a deed to the \* \* \* lands exchanged. It shall not be  
18 necessary or requisite that competitive bids be advertised for or  
19 received in connection with such exchange of property.

20 SECTION 2. Section 37-7-435, Mississippi Code of 1972, is  
21 amended as follows:[RDD2]

22 37-7-435. The \* \* \* lands shall be conveyed by warranty deed  
23 to the school board members or their successors in office of the  
24 school district. Said \* \* \* lands shall be conveyed by fee simple  
25 absolute.

26 SECTION 3. Section 37-7-431, Mississippi Code of 1972, is  
27 amended as follows:[RDD3]

28 37-7-431. Whenever the school board of any school district

29 shall find and determine, by resolution duly and lawfully adopted  
30 and spread upon its minutes, (a) that it shall need other lands  
31 located within the school district for school purposes, (b) that  
32 the district owns lands of equal value to such needed lands which  
33 could be exchanged for such needed lands, (c) that the value of  
34 the two (2) tracts is equal according to qualified appraisals, and  
35 (d) that the owners of the other lands are agreeable to such  
36 exchange, the school board of such school district shall be  
37 authorized and empowered, in its discretion, to negotiate a trade  
38 of lands upon such terms and conditions as the school board may,  
39 in its discretion, deem proper in consideration of the needs of  
40 the district and of the benefits which will inure to the said  
41 school district.

42 Any such trade of lands shall be subject to approval by the  
43 chancery court of the county in which the school lands lie.  
44 Notice of the hearing before the chancery court shall be published  
45 in a newspaper of general circulation in the school district for  
46 three (3) consecutive weeks, the first notice to be at least  
47 thirty (30) days prior to the hearing.

48 SECTION 4. Section 37-7-301, Mississippi Code of 1972, is  
49 amended as follows:[CRG4]

50 37-7-301. The school boards of all school districts shall  
51 have the following powers, authority and duties in addition to all  
52 others imposed or granted by law, to wit:

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

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

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

62 school term and during vacation;

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

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

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

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

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

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

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

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

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

94 (m) To maintain and operate all of the schools under

95 their control for such length of time during the year as may be  
96 required;

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

99 (o) To make orders directed to the superintendent of  
100 schools \* \* \* for the issuance of pay certificates for lawful  
101 purposes on any available funds of the district and to have full  
102 control of the receipt, distribution, allotment and disbursement  
103 of all funds provided for the support and operation of the schools  
104 of such school district whether such funds be derived from state  
105 appropriations, local ad valorem tax collections, or otherwise;

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

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

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

117 (s) To expend local school activity funds, or other  
118 available school district funds, other than minimum education  
119 program funds, for the purposes prescribed under this paragraph.  
120 "Activity funds" shall mean all funds received by school officials  
121 in all school districts paid or collected to participate in any  
122 school activity, such activity being part of the school program  
123 and partially financed with public funds or supplemented by public  
124 funds. The term "activity funds" shall not include any funds  
125 raised and/or expended by any organization unless commingled in a  
126 bank account with existing activity funds, regardless of whether  
127 the funds were raised by school employees or received by school

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

161 school activity fund transactions;

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

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

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

194 election shall be called and held, and notice thereof shall be  
195 given, in the same manner for elections upon the questions of the  
196 issuance of the bonds of school districts, and the results thereof  
197 shall be certified to the school board. If at least three-fifths  
198 (3/5) of the qualified electors of the school district who voted  
199 in such election shall vote in favor of the leasing of a school  
200 building, then the school board shall proceed to lease a school  
201 building. The term of the lease contract shall not exceed twenty  
202 (20) years, and the total cost of such lease shall be either the  
203 amount of the lowest and best bid accepted by the school board  
204 after advertisement for bids or an amount not to exceed the  
205 current fair market value of the lease as determined by the  
206 averaging of at least two (2) appraisals by certified general  
207 appraisers licensed by the State of Mississippi. The term "school  
208 building" as used in this item (v) shall be construed to mean any  
209 building or buildings used for classroom purposes in connection  
210 with the operation of schools and shall include the site therefor,  
211 necessary support facilities, and the equipment thereof and  
212 appurtenances thereto such as heating facilities, water supply,  
213 sewage disposal, landscaping, walks, drives and playgrounds. The  
214 term "lease" as used in this item \* \* \* may include a  
215 lease/purchase contract;

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

227 agreed upon, but there shall be no right of occupancy by any  
228 lessee unless the aggregate rental is paid as stipulated in the  
229 lease contract. All rights of joint lessees under the lease  
230 contract shall be in proportion to the amount of lease rental paid  
231 by each;

232 (w) To employ all noninstructional and noncertificated  
233 employees and fix the duties and compensation of such personnel  
234 deemed necessary pursuant to the recommendation of the  
235 superintendent of schools \* \* \*;

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

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

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

245 (aa) To acquire in its own name by purchase all real  
246 property which shall be necessary and desirable in connection with  
247 the construction, renovation or improvement of any public school  
248 building or structure. Whenever the purchase price for such real  
249 property is greater than Fifty Thousand Dollars (\$50,000.00), the  
250 school board shall not purchase the property for an amount  
251 exceeding the fair market value of such property as determined by  
252 the average of at least two (2) independent appraisals by  
253 certified general appraisers licensed by the State of Mississippi.

254 If the board shall be unable to agree with the owner of any such  
255 real property in connection with any such project, the board shall  
256 have the power and authority to acquire any such real property by  
257 condemnation proceedings pursuant to Section 11-27-1 et seq.,  
258 Mississippi Code of 1972, and for such purpose, the right of  
259 eminent domain is hereby conferred upon and vested in the



260 board. \* \* \* The local school board is authorized to grant an  
261 easement for ingress and egress over sixteenth section land or  
262 lieu land in exchange for a similar easement upon adjoining land  
263 where the exchange of easements affords substantial benefit to the  
264 sixteenth section land; \* \* \* however, the exchange must be based  
265 upon values as determined by a competent appraiser, with any  
266 differential in value to be adjusted by cash payment. Any  
267 easement rights granted over sixteenth section land under such  
268 authority shall terminate when the easement ceases to be used for  
269 its stated purpose. No sixteenth section or lieu land which is  
270 subject to an existing lease shall be burdened by any such  
271 easement except by consent of the lessee or unless the school  
272 district shall acquire the unexpired leasehold interest affected  
273 by the easement;

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

277 (cc) Subject to rules and regulations of the State  
278 Board of Education, to purchase relocatable classrooms for the use  
279 of such school district, in the manner prescribed in Section  
280 37-1-13;

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

286 (ee) To provide for in-service training for employees  
287 of the district. Until June 30, 1994, the school boards may  
288 designate two (2) days of the minimum school term, as defined in  
289 Section 37-19-1, for employee in-service training for  
290 implementation of the new statewide testing system as developed by  
291 the State Board of Education. Such designation shall be subject  
292 to approval by the State Board of Education pursuant to uniform

293 rules and regulations;

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

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

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

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

317 (hh) To allow individual lessons for music, art and  
318 other curriculum-related activities for academic credit or  
319 nonacademic credit during school hours and using school equipment  
320 and facilities, subject to uniform rules and regulations adopted  
321 by the school board;

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

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

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

331           (ll) To expend funds for the services of nonprofit arts  
332 organizations or other such nonprofit organizations who provide  
333 performances or other services for the students of the school  
334 district.

335           SECTION 5. This act shall take effect and be in force from  
336 and after July 1, 2000.