

By: Harden

To: Education

SENATE BILL NO. 2487
(As Passed the Senate)

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

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 (a) that such school activity funds shall be maintained and expended by the principal of the school generating the funds in individual bank accounts; or (b) 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 Auditor shall prescribe a 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

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 item (v) 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 item * * * 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 * * * set forth in item (v)(i). All of the provisions of item (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

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

board. * * * 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; * * * 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

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.