

By: Harden

To: Education

SENATE BILL NO. 2487
(As Sent to Governor)

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.