

By: Harden, Tollison

To: Education; Fees,
Salaries and
Administration

SENATE BILL NO. 3164

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 BRING FORWARD
10 SECTIONS 37-59-43 AND 29-3-113, MISSISSIPPI CODE OF 1972; AND FOR
11 RELATED PURPOSES.

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

13 SECTION 1. Section 37-61-9, Mississippi Code of 1972, is
14 amended as follows:[CRG1]

15 37-61-9. (1) On or before the first day of September of
16 each year, the local school board of each school district, with
17 the assistance of the superintendent of schools or administrative
18 superintendent, shall prepare and file with the levying authority
19 for the school district, as defined in Section 37-57-1,
20 Mississippi Code of 1972, at least two (2) copies of a budget of
21 estimated expenditures for the support, maintenance and operation
22 of the public schools of the school district for the fiscal year
23 commencing on July 1 of such year. Such budget shall be prepared
24 on forms prescribed and provided by the State Auditor and shall
25 contain such information as the State Auditor may require.

26 (2) In addition, on or before the first day of September of
27 each year, the local school board of each school district, with
28 the assistance of the superintendent of schools or administrative
29 superintendent, shall prepare and file with the State Department
30 of Education such budgetary information as the State Board of

31 Education may require. The State Board of Education shall
32 prescribe and provide forms to each school district for this
33 purpose.

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

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

56 2300 = Support Services - General Administration
57 2310 = Board of Education Services
58 2320 = Executive Administration Services
59 2330 = Special Area Administration Services
60 2500 = Business Services
61 2510 = Fiscal Services
62 2520 = Purchasing Services
63 2530 = Warehousing and Distributing Services
64 2540 = Printing, Publishing and Duplicating Services
65 2590 = Other Support Services - Business
66 2800 = Support Services - Central
67 2810 = Planning, Research, Development and Evaluation

68 2820 = Information Services
69 2830 = Staff Services
70 2840 = Data Processing Services

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

85 The State Auditor shall ensure that functions in all
86 expenditure categories to which this administrative limitation
87 applies shall be properly classified.

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

101 * * *

102 SECTION 2. Section 37-61-21, Mississippi Code of 1972, is
103 amended as follows:[CRG2]

104 37-61-21. If it should appear to the superintendent of
105 schools or administrative superintendent or the school board of
106 any school district that the amounts to be received from state
107 appropriations, taxation or any other source will be more than the
108 amount estimated in the budget filed and approved, or if it should
109 appear that such amounts shall be less than the amount estimated,
110 the school board of the school district, with assistance from the
111 superintendent, shall revise the budget at any time during the
112 fiscal year by increasing or decreasing the fund budget, in
113 proportion to the increase or decrease in the estimated amounts.
114 If it should appear to the superintendent of schools, or
115 administrative superintendent or the school board of a school
116 district that some function of the budget as filed is in excess of
117 the requirement of that function and that the entire amount
118 budgeted for such function will not be needed for expenditures
119 therefor during the fiscal year, the school board of the school
120 district, with assistance from the superintendent, may transfer
121 resources to and from functions and funds within the budget when
122 and where needed; however, no such transfer shall be made from
123 fund to fund or from function to function which will result in the
124 expenditure of any money for any purpose different from that for
125 which the money was appropriated, allotted, collected or otherwise
126 made available or for a purpose which is not authorized by law. No
127 revision of any budget under the provisions hereof shall be made
128 which will permit a fund expenditure in excess of the amounts
129 available for such purpose. The revised portions of the budgets
130 shall be incorporated in the minutes of the school board by
131 spreading them on the minutes or by attaching them as an addendum.
132 Final budget revisions, pertinent to a fiscal year, shall be
133 approved on or before September 1 of the following fiscal year.

SECTION 3. Section 37-7-455, Mississippi Code of 1972, is amended as follows:[CRG3]

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

(2) As an alternative to the procedures established under subsection (1) of this section, the school board of a school 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

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

189 (3) When the sale of such property is authorized and
190 approved by the school board, the president of the school board
191 shall be authorized and empowered to execute a conveyance of the
192 property upon the terms and for the consideration fixed by the
193 board. The school board shall reserve unto the district at least
194 an undivided one-half (1/2) nonparticipating royalty interest in
195 all oil, gas and minerals in, on or under the land, and all
196 proceeds derived from royalties upon the reserved mineral
197 interests shall be used as provided by Section 37-7-457; if the
198 mineral interests of the district are less than the full and
199 undivided ownership, the undivided royalty interest reserved by

200 the district shall be reduced proportionately.

201 SECTION 4. Section 37-59-43, Mississippi Code of 1972, is
202 brought forward as follows:[RDD4]

203 37-59-43. (1) Whenever any school district or levying
204 authority, as defined in Section 37-57-1(1)(b), acting on behalf
205 of a school district, shall have on hand any bond and interest
206 funds, any funds derived from the sale of bonds, or any other
207 funds in excess of the sums which will be required for payment of
208 current obligations and expenses as they come due, and which are
209 not needed or cannot by law be used for the payment of the current
210 obligations or expenses of the school district, the school board
211 of the district shall have the power and authority to invest such
212 excess funds in any bonds or other direct obligations of the
213 United States of America or the State of Mississippi, or of any
214 county or municipality of this state, which such county or
215 municipal bonds have been approved by a reputable bond attorney or
216 have been validated by a decree of the chancery court; or in
217 interest-bearing time certificates of deposit or interest-bearing
218 accounts with any financial institution approved for the deposit
219 of state funds; and such institution shall be eligible to hold
220 school district funds to the extent that it is qualified as a
221 depository for state funds; or in any type of investment permitted
222 by Sections 27-105-33(d) and 27-105-33(e). The rate of interest
223 on such time certificates of deposit and interest-bearing accounts
224 may be negotiated. The negotiated rate of interest shall be at
225 the highest rate possible at the date of purchase or investment
226 for such time certificates of deposit or interest-bearing
227 accounts. In any event, the bonds or obligations in which such
228 funds are invested shall mature or be redeemable prior to the time
229 the funds so invested will be needed for expenditure. When bonds
230 or other obligations have been so purchased, the same may be sold
231 or surrendered for redemption at any time, except certificates of
232 deposit which must mature, by order or resolution of such school

board, and the president of the school board, when authorized by such order or resolution, shall have the power and authority to execute all instruments and take such other action as may be necessary to effectuate the sale or redemption thereof.

(2) The provisions of subsection (1) of this section shall also apply to funds of junior college districts, and the governing authorities of such districts are vested with all power and authority with respect to such funds and matters herein mentioned as are vested in the other boards mentioned above with respect to such matters.

(3) All earnings from funds other than bond funds or bond sinking funds in excess of One Hundred Dollars (\$100.00) in any fiscal year, invested according to the provisions of subsections (1) and (2) of this section shall be deposited in the district fund from which the investment was made, or the treasury of the junior college, as the case may be. Earnings from such school district funds which are less than One Hundred Dollars (\$100.00) in any fiscal year may be deposited in the school district maintenance fund, or in the district fund from which the investment was made, in the discretion of the school board. Earnings from funds invested out of bond funds or bond sinking funds, together with the principal thereof, shall be deposited in the fund from which the investment was made.

(4) Nothing contained in this section shall be construed to prevent the payment of a portion of the earnings derived from the investment of bond proceeds or any other amounts in the bond fund or related reserve or sinking funds to the federal government to the extent required by the federal laws applicable to such bonds or the interest income thereon in order to maintain their tax exempt status.

SECTION 5. Section 29-3-113, Mississippi Code of 1972, is brought forward as follows:[RDD5]

29-3-113. The principal fund shall be a permanent township

fund which shall consist of funds heretofore or hereafter derived from certain uses or for certain resources of school trust lands which shall be invested and, except as otherwise provided in this section, only the interest and income derived from such funds shall be expendable by the school district.

The principal fund shall consist of:

(a) Funds received for easements and rights-of-way pursuant to Section 29-3-91;

(b) Funds received for sales of lieu land pursuant to Sections 29-3-15 through 29-3-25;

(c) Funds received from any permanent damage to the school trust land;

(d) Funds received from the sale of nonrenewable resources including but not limited to the sale of sand, gravel, dirt, clays and royalties received from the sale of mineral ores, coal, oil and gas;

(e) Funds received from the sale of buildings pursuant to Section 29-3-77;

(f) Funds received from the sale of timber; and

(g) Funds received pursuant to Section 29-3-23(2).

It shall be the duty of the board of education to keep the principal fund invested in any direct obligation issued by or guaranteed in full as to principal and interest by the United States of America or in certificates of deposit issued by a qualified depository of the State of Mississippi as approved by the State Treasurer. The certificates of deposit may bear interest at any rate per annum which may be mutually agreed upon but in no case shall said rate be less than that paid on passbook savings.

The board of education is likewise authorized to invest said funds in interest bearing deposits or other obligations of the types described in Section 27-105-33, as the same now is or may hereafter be amended, or in any other type investment in which any

other agency, instrumentality or subdivision of the State of Mississippi may invest, except that one hundred percent (100%) of said funds are hereby authorized to be so invested. For the purposes of investment, the principal fund of each township may be combined into one or more district accounts; however, the docket book of the county superintendent shall at all times reflect the proper source of such funds. Provided that funds received from the sale of timber shall be placed in a separate principal fund account, and may be expended for any of the purposes authorized by law.

The board of education shall have authority to borrow such funds at a rate of interest not less than four percent (4%) per annum and for a term not exceeding twenty (20) years, for the erection, equipment or repair of said district schools, to provide local funds for any building project approved by the State Board of Education or to provide additional funds for forest stand improvement as set forth in Section 29-3-47. In addition, the board may borrow such funds under the same interest restrictions for a term not exceeding ten (10) years to provide funds for the purchase of school buses. The board of education of any school district in any county that has an aggregate amount of assets in its principal fund in excess of Five Million Dollars (\$5,000,000.00), may deduct an amount not to exceed Five Hundred Thousand Dollars (\$500,000.00) for the purpose of covering the cost of asbestos removal from school district buildings. Such asbestos removal shall be construed to constitute the repair of school district facilities as prescribed in Section 29-3-115.

No school land trust funds may be expended after the annual payment date until the payment is made on such loan. The annual payment can be made from any funds available to the school district except minimum foundation program funds.

It shall be unlawful for the board of education to borrow any sixteenth section school funds in any other manner than that

332 prescribed herein, and if any such funds shall be borrowed or
333 invested in any other manner, any officer concerned in making such
334 loan and investment or suffering the same to be made in violation
335 of the provisions of this section, shall be liable personally and
336 on his official bond for the safety of the funds so loaned.

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