

By: Harden, Tollison

To: Education; Fees,
Salaries and
AdministrationSENATE BILL NO. 3164
(As Passed the Senate)

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 AUGUST 15; TO AMEND SECTION 37-7-455,
4 MISSISSIPPI CODE OF 1972, TO AUTHORIZE SCHOOL DISTRICTS TO SELL
5 SURPLUS PROPERTY OTHER THAN REAL PROPERTY AND BUILDINGS AT PUBLIC
6 AUCTION WITHOUT HAVING ADVERTISED FOR AND RECEIVED COMPETITIVE
7 BIDS; TO BRING FORWARD SECTIONS 37-59-43 AND 29-3-113, MISSISSIPPI
8 CODE OF 1972; AND FOR RELATED PURPOSES.

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

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

12 37-61-9. (1) On or before the fifteenth day of August of
13 each year, the local school board of each school district, with
14 the assistance of the superintendent of schools or administrative
15 superintendent, shall prepare and file with the levying authority
16 for the school district, as defined in Section 37-57-1,
17 Mississippi Code of 1972, at least two (2) copies of a budget of
18 estimated expenditures for the support, maintenance and operation
19 of the public schools of the school district for the fiscal year
20 commencing on July 1 of such year. Such budget shall be prepared
21 on forms prescribed and provided by the State Auditor and shall
22 contain such information as the State Auditor may require.

23 (2) In addition, on or before the fifteenth day of August of
24 each year, the local school board of each school district, with
25 the assistance of the superintendent of schools or administrative
26 superintendent, shall prepare and file with the State Department
27 of Education such budgetary information as the State Board of
28 Education may require. The State Board of Education shall
29 prescribe and provide forms to each school district for this

30 purpose.

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

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

- 53 2300 = Support Services - General Administration
- 54 2310 = Board of Education Services
- 55 2320 = Executive Administration Services
- 56 2330 = Special Area Administration Services
- 57 2500 = Business Services
- 58 2510 = Fiscal Services
- 59 2520 = Purchasing Services
- 60 2530 = Warehousing and Distributing Services
- 61 2540 = Printing, Publishing and Duplicating Services
- 62 2590 = Other Support Services - Business
- 63 2800 = Support Services - Central
- 64 2810 = Planning, Research, Development and Evaluation
- 65 2820 = Information Services
- 66 2830 = Staff Services

67 2840 = Data Processing Services

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

82 The State Auditor shall ensure that functions in all
83 expenditure categories to which this administrative limitation
84 applies shall be properly classified.

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

98 * * *

99 SECTION 2. Section 37-7-455, Mississippi Code of 1972, is

100 amended as follows:[CRG2]

101 37-7-455. (1) Except as otherwise provided in subsection
102 (2) of this section, all such land, buildings or other property
103 shall be sold only after the receipt of sealed bids therefor after
104 the time and place of making such sale has been duly advertised in
105 some newspaper having a general circulation in the county in which
106 the property is located once each week for three (3) consecutive
107 weeks with the first publication to be made not less than fifteen
108 (15) days prior to the date upon which such bids are to be
109 received and opened. The property shall be sold to the highest
110 and best bidder for cash, but the school board shall have the
111 right to reject any and all bids. If the property is not sold
112 pursuant to such advertisement, the school board * * *, by
113 resolution, may set a date for an open meeting of the school board
114 to be held within sixty (60) days after the date upon which the
115 bids were opened. At the meeting held pursuant to such
116 resolution, the school board may sell by auction the * * *
117 property for a consideration not less than the highest sealed bid
118 previously received pursuant to the advertisement. At the
119 meeting, * * * any interested party may bid for cash, and the
120 property shall be sold to the highest and best bidder for cash,
121 but the school board shall have the right to reject any and all
122 bids. The school board may require a written confirmation of bids
123 received at such called meeting before selling the property at
124 auction, but it shall not be necessary that sealed bids be
125 received before conducting the auction.

126 (2) As an alternative to the procedures established under
127 subsection (1) of this section, the school board of a school
128 district may elect, in its discretion, to sell by public auction
129 any property, other than real property or buildings of the school
130 district, which is not used for school or related school purposes
131 and not needed in the operation of the schools. Before such
132 auction, the school board shall adopt a resolution calling for the

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

154 (3) When the sale of such property is authorized and
155 approved by the school board, the president of the school board
156 shall be authorized and empowered to execute a conveyance of the
157 property upon the terms and for the consideration fixed by the
158 board. The school board shall reserve unto the district at least
159 an undivided one-half (1/2) nonparticipating royalty interest in
160 all oil, gas and minerals in, on or under the land, and all
161 proceeds derived from royalties upon the reserved mineral
162 interests shall be used as provided by Section 37-7-457; if the
163 mineral interests of the district are less than the full and
164 undivided ownership, the undivided royalty interest reserved by
165 the district shall be reduced proportionately.

166 SECTION 3. Section 37-59-43, Mississippi Code of 1972, is
167 brought forward as follows:[RDD3]

168 37-59-43. (1) Whenever any school district or levying
169 authority, as defined in Section 37-57-1(1)(b), acting on behalf
170 of a school district, shall have on hand any bond and interest
171 funds, any funds derived from the sale of bonds, or any other
172 funds in excess of the sums which will be required for payment of
173 current obligations and expenses as they come due, and which are
174 not needed or cannot by law be used for the payment of the current
175 obligations or expenses of the school district, the school board
176 of the district shall have the power and authority to invest such
177 excess funds in any bonds or other direct obligations of the
178 United States of America or the State of Mississippi, or of any
179 county or municipality of this state, which such county or
180 municipal bonds have been approved by a reputable bond attorney or
181 have been validated by a decree of the chancery court; or in
182 interest-bearing time certificates of deposit or interest-bearing
183 accounts with any financial institution approved for the deposit
184 of state funds; and such institution shall be eligible to hold
185 school district funds to the extent that it is qualified as a
186 depository for state funds; or in any type of investment permitted
187 by Sections 27-105-33(d) and 27-105-33(e). The rate of interest
188 on such time certificates of deposit and interest-bearing accounts
189 may be negotiated. The negotiated rate of interest shall be at
190 the highest rate possible at the date of purchase or investment
191 for such time certificates of deposit or interest-bearing
192 accounts. In any event, the bonds or obligations in which such
193 funds are invested shall mature or be redeemable prior to the time
194 the funds so invested will be needed for expenditure. When bonds
195 or other obligations have been so purchased, the same may be sold
196 or surrendered for redemption at any time, except certificates of
197 deposit which must mature, by order or resolution of such school
198 board, and the president of the school board, when authorized by

199 such order or resolution, shall have the power and authority to
200 execute all instruments and take such other action as may be
201 necessary to effectuate the sale or redemption thereof.

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

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

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

228 SECTION 4. Section 29-3-113, Mississippi Code of 1972, is
229 brought forward as follows:[RDD4]

230 29-3-113. The principal fund shall be a permanent township
231 fund which shall consist of funds heretofore or hereafter derived

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

236 The principal fund shall consist of:

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

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

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

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

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

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

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

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

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

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

274 The board of education shall have authority to borrow such
275 funds at a rate of interest not less than four percent (4%) per
276 annum and for a term not exceeding twenty (20) years, for the
277 erection, equipment or repair of said district schools, to provide
278 local funds for any building project approved by the State Board
279 of Education or to provide additional funds for forest stand
280 improvement as set forth in Section 29-3-47. In addition, the
281 board may borrow such funds under the same interest restrictions
282 for a term not exceeding ten (10) years to provide funds for the
283 purchase of school buses. The board of education of any school
284 district in any county that has an aggregate amount of assets in
285 its principal fund in excess of Five Million Dollars
286 (\$5,000,000.00), may deduct an amount not to exceed Five Hundred
287 Thousand Dollars (\$500,000.00) for the purpose of covering the
288 cost of asbestos removal from school district buildings. Such
289 asbestos removal shall be construed to constitute the repair of
290 school district facilities as prescribed in Section 29-3-115.

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

295 It shall be unlawful for the board of education to borrow any
296 sixteenth section school funds in any other manner than that
297 prescribed herein, and if any such funds shall be borrowed or

298 invested in any other manner, any officer concerned in making such
299 loan and investment or suffering the same to be made in violation
300 of the provisions of this section, shall be liable personally and
301 on his official bond for the safety of the funds so loaned.

302 SECTION 5. This act shall take effect and be in force from
303 and after its passage.