

*****Adopted*****

SUBSTITUTE 1 FOR AMENDMENT No. 1 PROPOSED TO

House Bill NO. 494

By Senator(s) Tollison

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

16 **SECTION 1.** Section 37-7-339, Mississippi Code of 1972, is
17 reenacted and amended as follows:

18 37-7-339. (1) The school board of any local school
19 district, in its discretion, may provide extended day and extended
20 school year programs for kindergarten or compulsory-school-age
21 students, or both, and may expend any funds for these purposes
22 which are available from * * * sources other than the adequate
23 education program. It is not the intent of the Legislature, in
24 enacting this section, to interfere with the Headstart program.
25 School boards, in their discretion, may charge participants a
26 reasonable fee for such programs.

27 (2) The school board of any school district may adopt any
28 orders, policies, rules or regulations with respect to instruction
29 within that school district for which no specific provision has
30 been made by general law and which are not inconsistent with the
31 Mississippi Constitution of 1890, the Mississippi Code of 1972, or
32 any order, policy, rule or regulation of the State Board of
33 Education; those school boards also may alter, modify and repeal
34 any orders, policies, rules or regulations enacted under this
35 subsection. Any such program pertaining to reading must further

36 the goal that Mississippi students will demonstrate a growing
37 proficiency in reading and will reach or exceed the national
38 average within the next decade.

39 * * *

40 **SECTION 2.** Section 37-7-301, Mississippi Code of 1972, is
41 amended as follows:

42 37-7-301. The school boards of all school districts shall
43 have the following powers, authority and duties in addition to all
44 others imposed or granted by law, to wit:

45 (a) To organize and operate the schools of the district
46 and to make such division between the high school grades and
47 elementary grades as, in their judgment, will serve the best
48 interests of the school;

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

52 (c) To be the custodians of real and personal school
53 property and to manage, control and care for same, both during the
54 school term and during vacation;

55 (d) To have responsibility for the erection, repairing
56 and equipping of school facilities and the making of necessary
57 school improvements;

58 (e) To suspend or to expel a pupil or to change the
59 placement of a pupil to the school district's alternative school
60 or home-bound program for misconduct in the school or on school
61 property, as defined in Section 37-11-29, on the road to and from
62 school, or at any school-related activity or event, or for conduct
63 occurring on property other than school property or other than at
64 a school-related activity or event when such conduct by a pupil,
65 in the determination of the school superintendent or principal,
66 renders that pupil's presence in the classroom a disruption to the
67 educational environment of the school or a detriment to the best
68 interest and welfare of the pupils and teacher of such class as a
69 whole, and to delegate such authority to the appropriate officials
70 of the school district;

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

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

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

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

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

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

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

96 (m) To maintain and operate all of the schools under
97 their control for such length of time during the year as may be
98 required;

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

101 (o) To make orders directed to the superintendent of
102 schools for the issuance of pay certificates for lawful purposes
103 on any available funds of the district and to have full control of
104 the receipt, distribution, allotment and disbursement of all funds
105 provided for the support and operation of the schools of such

106 school district whether such funds be derived from state
107 appropriations, local ad valorem tax collections, or otherwise;

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

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

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

119 (s) To expend local school activity funds, or other
120 available school district funds, other than minimum education
121 program funds, for the purposes prescribed under this paragraph.
122 "Activity funds" shall mean all funds received by school officials
123 in all school districts paid or collected to participate in any
124 school activity, such activity being part of the school program
125 and partially financed with public funds or supplemented by public
126 funds. The term "activity funds" shall not include any funds
127 raised and/or expended by any organization unless commingled in a
128 bank account with existing activity funds, regardless of whether
129 the funds were raised by school employees or received by school
130 employees during school hours or using school facilities, and
131 regardless of whether a school employee exercises influence over
132 the expenditure or disposition of such funds. Organizations shall
133 not be required to make any payment to any school for the use of
134 any school facility if, in the discretion of the local school
135 governing board, the organization's function shall be deemed to be
136 beneficial to the official or extracurricular programs of the
137 school. For the purposes of this provision, the term
138 "organization" shall not include any organization subject to the
139 control of the local school governing board. Activity funds may
140 only be expended for any necessary expenses or travel costs,

141 including advances, incurred by students and their chaperons in
142 attending any in-state or out-of-state school-related programs,
143 conventions or seminars and/or any commodities, equipment, travel
144 expenses, purchased services or school supplies which the local
145 school governing board, in its discretion, shall deem beneficial
146 to the official or extracurricular programs of the district,
147 including items which may subsequently become the personal
148 property of individuals, including yearbooks, athletic apparel,
149 book covers and trophies. Activity funds may be used to pay
150 travel expenses of school district personnel. The local school
151 governing board shall be authorized and empowered to promulgate
152 rules and regulations specifically designating for what purposes
153 school activity funds may be expended. The local school governing
154 board shall provide (a) that such school activity funds shall be
155 maintained and expended by the principal of the school generating
156 the funds in individual bank accounts, or (b) that such school
157 activity funds shall be maintained and expended by the
158 superintendent of schools in a central depository approved by the
159 board. The local school governing board shall provide that such
160 school activity funds be audited as part of the annual audit
161 required in Section 37-9-18. The State Auditor shall prescribe a
162 uniform system of accounting and financial reporting for all
163 school activity fund transactions;

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

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

170 (v) (i) To lease a school building from an individual,
171 partnership, nonprofit corporation or a private for-profit
172 corporation for the use of such school district, and to expend
173 funds therefor as may be available from any nonminimum program
174 sources. The school board of the school district desiring to
175 lease a school building shall declare by resolution that a need

176 exists for a school building and that the school district cannot
177 provide the necessary funds to pay the cost or its proportionate
178 share of the cost of a school building required to meet the
179 present needs. The resolution so adopted by the school board
180 shall be published once each week for three (3) consecutive weeks
181 in a newspaper having a general circulation in the school district
182 involved, with the first publication thereof to be made not less
183 than thirty (30) days prior to the date upon which the school
184 board is to act on the question of leasing a school building. If
185 no petition requesting an election is filed prior to such meeting
186 as hereinafter provided, then the school board may, by resolution
187 spread upon its minutes, proceed to lease a school building. If
188 at any time prior to said meeting a petition signed by not less
189 than twenty percent (20%) or fifteen hundred (1500), whichever is
190 less, of the qualified electors of the school district involved
191 shall be filed with the school board requesting that an election
192 be called on the question, then the school board shall, not later
193 than the next regular meeting, adopt a resolution calling an
194 election to be held within such school district upon the question
195 of authorizing the school board to lease a school building. Such
196 election shall be called and held, and notice thereof shall be
197 given, in the same manner for elections upon the questions of the
198 issuance of the bonds of school districts, and the results thereof
199 shall be certified to the school board. If at least three-fifths
200 (3/5) of the qualified electors of the school district who voted
201 in such election shall vote in favor of the leasing of a school
202 building, then the school board shall proceed to lease a school
203 building. The term of the lease contract shall not exceed twenty
204 (20) years, and the total cost of such lease shall be either the
205 amount of the lowest and best bid accepted by the school board
206 after advertisement for bids or an amount not to exceed the
207 current fair market value of the lease as determined by the
208 averaging of at least two (2) appraisals by certified general
209 appraisers licensed by the State of Mississippi. The term "school
210 building" as used in this item (v) shall be construed to mean any

211 building or buildings used for classroom purposes in connection
212 with the operation of schools and shall include the site therefor,
213 necessary support facilities, and the equipment thereof and
214 appurtenances thereto such as heating facilities, water supply,
215 sewage disposal, landscaping, walks, drives and playgrounds. The
216 term "lease" as used in this item (v) (i) may include a
217 lease/purchase contract;

218 (ii) If two (2) or more school districts propose
219 to enter into a lease contract jointly, then joint meetings of the
220 school boards having control may be held but no action taken shall
221 be binding on any such school district unless the question of
222 leasing a school building is approved in each participating school
223 district under the procedure hereinabove set forth in item (v) (i).
224 All of the provisions of item (v) (i) regarding the term and amount
225 of the lease contract shall apply to the school boards of school
226 districts acting jointly. Any lease contract executed by two (2)
227 or more school districts as joint lessees shall set out the amount
228 of the aggregate lease rental to be paid by each, which may be
229 agreed upon, but there shall be no right of occupancy by any
230 lessee unless the aggregate rental is paid as stipulated in the
231 lease contract. All rights of joint lessees under the lease
232 contract shall be in proportion to the amount of lease rental paid
233 by each;

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

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

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

244 (z) To expend funds for the payment of substitute
245 teachers and to adopt reasonable regulations for the employment

246 and compensation of such substitute teachers;

247 (aa) To acquire in its own name by purchase all real
248 property which shall be necessary and desirable in connection with
249 the construction, renovation or improvement of any public school
250 building or structure. Whenever the purchase price for such real
251 property is greater than Fifty Thousand Dollars (\$50,000.00), the
252 school board shall not purchase the property for an amount
253 exceeding the fair market value of such property as determined by
254 the average of at least two (2) independent appraisals by
255 certified general appraisers licensed by the State of Mississippi.
256 If the board shall be unable to agree with the owner of any such
257 real property in connection with any such project, the board shall
258 have the power and authority to acquire any such real property by
259 condemnation proceedings pursuant to Section 11-27-1 et seq.,
260 Mississippi Code of 1972, and for such purpose, the right of
261 eminent domain is hereby conferred upon and vested in said board.

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

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

279 (cc) Subject to rules and regulations of the State
280 Board of Education, to purchase relocatable classrooms for the use

281 of such school district, in the manner prescribed in Section
282 37-1-13;

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

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

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

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

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

312 (ii) Fund-raising activities conducted or
313 authorized by the board for the sale of school pictures, the
314 rental of caps and gowns or the sale of graduation invitations for
315 which the school board receives a commission, rebate or fee shall

316 contain a disclosure statement advising that a portion of the
317 proceeds of the sales or rentals shall be contributed to the
318 student activity fund;

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

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

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

331 (kk) To exercise such powers as may be reasonably
332 necessary to carry out the provisions of this section; * * *

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

337 (mm) To expend funds from any available sources for the
338 purpose of defraying the cost of student field trips to public or
339 private nonprofit museums, including the cost of admission to such
340 museum; and

341 (nn) To enter into contracts or agreements with persons
342 or entities, public or private, to provide training, certification
343 and/or professional development activities for district employees.

344 **SECTION 3.** This act shall take effect and be in force from
345 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO REENACT SECTION 37-7-339, MISSISSIPPI CODE OF 1972,
2 WHICH AUTHORIZES LOCAL SCHOOL DISTRICTS TO PROVIDE EXTENDED DAY
3 AND EXTENDED SCHOOL YEAR PROGRAMS AND TO ADOPT POLICIES, WITH
4 REGARD TO INSTRUCTION, FOR WHICH THERE IS NO SPECIFIC GENERAL LAW

5 OR AGENCY REGULATION; TO AMEND REENACTED SECTION 37-7-339,
6 MISSISSIPPI CODE OF 1972, TO DELETE THE REPEALER ON THAT SECTION;
7 TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972, TO CLARIFY
8 THE AUTHORITY OF LOCAL SCHOOL BOARDS TO ENTER INTO CONTRACTS OR
9 AGREEMENTS WITH PERSONS OR ENTITIES, PUBLIC OR PRIVATE, TO PROVIDE
10 TRAINING, CERTIFICATION AND/OR PROFESSIONAL DEVELOPMENT ACTIVITIES
11 FOR DISTRICT EMPLOYEES AND TO PERMIT THE SCHOOL BOARD OF ALL
12 SCHOOL DISTRICTS TO EXPEND FUNDS FROM ANY AVAILABLE SOURCES FOR
13 THE PURPOSE OF DEFRAYING THE COSTS OF STUDENT FIELD TRIPS TO
14 PUBLIC OR PRIVATE NONPROFIT MUSEUMS; AND FOR RELATED PURPOSES.