

By: Senator(s) Kirby

To: Education

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2085

1 AN ACT TO AMEND SECTION 37-9-14, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE SUPERINTENDENTS OF PUBLIC SCHOOLS TO APPROVE THE PAYMENT
3 OF INVOICES FOR NOMINAL AMOUNTS OF BUDGETED EXPENDITURES WITH THE
4 SPECIFIC CLAIM TO BE APPROVED BY THE SCHOOL BOARD AT ITS NEXT
5 MEETING; TO AMEND SECTION 37-37-1, MISSISSIPPI CODE OF 1972, TO
6 PROVIDE THAT SUCH PROCEDURE SHALL BE SUBJECT TO GUIDELINES ISSUED
7 BY THE STATE DEPARTMENT OF AUDIT; TO AMEND SECTION 37-7-301,
8 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
9 PURPOSES.

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

11 **SECTION 1.** Section 37-9-14, Mississippi Code of 1972, is
12 amended as follows:

13 37-9-14. (1) It shall be the duty of the superintendent of
14 schools to administer the schools within his district and to
15 implement the decisions of the school board.

16 (2) In addition to all other powers, authority and duties
17 imposed or granted by law, the superintendent of schools shall
18 have the following powers, authority and duties:

19 (a) To enter into contracts in the manner provided by
20 law with each assistant superintendent, principal and teacher of
21 the public schools under his supervision, after such assistant
22 superintendent, principal and teachers have been selected and
23 approved in the manner provided by law.

24 (b) To enforce in the public schools of the school
25 district the courses of study provided by law or the rules and
26 regulations of the State Board of Education, and to comply with
27 the law with reference to the use and distribution of free
28 textbooks.

29 (c) To administer oaths in all cases to persons
30 testifying before him relative to disputes relating to the schools

31 submitted to him for determination, and to take testimony in such
32 cases as provided by law.

33 (d) To examine the monthly and annual reports submitted
34 to him by principals and teachers for the purpose of determining
35 and verifying the accuracy thereof.

36 (e) To preserve all reports of superintendents,
37 principals, teachers and other school officers, and to deliver to
38 his successor or clerk of the board of supervisors all money,
39 property, books, effects and papers.

40 (f) To prepare and keep in his office a map or maps
41 showing the territory embraced in his school district, to furnish
42 the county assessor with a copy of such map or maps, and to revise
43 and correct same from time to time as changes in or alterations of
44 school districts may necessitate.

45 (g) To keep an accurate record of the names of all of
46 the members of the school board showing the districts for which
47 each was elected or appointed, the post office address of each,
48 and the date of the expiration of his term of office. All
49 official correspondence shall be addressed to the school board,
50 and notice to such members shall be regarded as notice to the
51 residents of the district, and it shall be the duty of the members
52 to notify such residents.

53 (h) To deliver in proper time to the assistant
54 superintendents, principals, teachers and board members such
55 forms, records and other supplies which will be needed during the
56 school year as provided by law or any applicable rules and
57 regulations, and to give to such individuals such information with
58 regard to their duties as may be required.

59 (i) To make to the school board reports for each
60 scholastic month in such form as the school board may require.

61 (j) To distribute promptly all reports, letters, forms,
62 circulars and instructions which he may receive for the use of
63 school officials.

64 (k) To keep on file and preserve in his office all
65 appropriate information concerning the affairs of the school
66 district.

67 (l) To visit the schools of his school district in his
68 discretion, and to require the assistant superintendents,
69 principals and teachers thereof to perform their duties as
70 prescribed by law.

71 (m) To observe such instructions and regulations as the
72 school board and other public officials may prescribe, and to make
73 special reports to these officers whenever required.

74 (n) To keep his office open for the transaction of
75 business upon the days and during the hours to be designated by
76 the school board.

77 (o) To make such reports as are required by the State
78 Board of Education.

79 (p) To make an enumeration of educable children in his
80 school district as prescribed by law.

81 (q) To keep in his office and carefully preserve the
82 public school record provided, to enter therein the proceedings of
83 the school board and his decision upon cases and his other
84 official acts, to record therein the data required from the
85 monthly and term reports of principals and teachers, and from the
86 summaries of records thus kept.

87 (r) To delegate student disciplinary matters to
88 appropriate school personnel.

89 (s) To make assignments to the various schools in the
90 district of all noninstructional and nonlicensed employees and all
91 licensed employees, as provided in Sections 37-9-15 and 37-9-17,
92 and to make reassignments of such employees from time to time;
93 however, a reassignment of a licensed employee may only be to an
94 area in which the employee has a valid license issued by the State
95 Department of Education. Upon request from any employee

96 transferred, such assignment shall be subject to review by the
97 school board.

98 (t) To employ substitutes for licensed employees,
99 regardless of whether or not such substitute holds the proper
100 license, subject to such reasonable rules and regulations as may
101 be adopted by the State Board of Education.

102 (u) To comply in a timely manner with the compulsory
103 education reporting requirements prescribed in Section
104 37-13-91(6).

105 (v) To perform such other duties as may be required of
106 him by law.

107 (w) To notify, in writing, the parent, guardian or
108 custodian, the youth court and local law enforcement of any
109 expulsion of a student for criminal activity as defined in Section
110 37-11-92.

111 (x) To notify the youth court and local law enforcement
112 agencies, by affidavit, of the occurrence of any crime committed
113 by a student or students upon school property or during any
114 school-related activity, regardless of location and the identity
115 of the student or students committing the crime.

116 (y) To employ and dismiss noninstructional and
117 nonlicensed employees as provided by law.

118 (3) All funds to the credit of a school district shall be
119 paid out on pay certificates issued by the superintendent upon
120 order of the school board of the school district properly entered
121 upon the minutes thereof, and all such orders shall be supported
122 by properly itemized invoices from the vendors covering the
123 materials and supplies purchased. All such orders and the
124 itemized invoices supporting same shall be filed as a public
125 record in the office of the superintendent for a period of five
126 (5) years. The superintendent shall be liable upon his official
127 bond for the amount of any pay certificate issued in violation of
128 the provisions of this section. The school board shall have the

129 power and authority to direct and cause warrants to be issued
130 against such district funds for the purpose of refunding any
131 amount of taxes erroneously or illegally paid into such fund when
132 such refund has been approved in the manner provided by law.

133 (4) The superintendent of schools shall be special
134 accounting officer and treasurer with respect to any and all
135 district school funds for his school district. He or his designee
136 shall issue all warrants without the necessity of registration
137 thereof by the chancery clerk. Transactions with the depositories
138 and with the various tax collecting agencies which involve school
139 funds for such school district shall be with the superintendent of
140 schools, or his designee.

141 (5) The superintendent of schools will have no
142 responsibility with regard to agricultural high school and junior
143 college funds.

144 All agricultural high school and junior college funds shall
145 be handled and expended in the manner provided for in Sections
146 37-29-31 through 37-29-39.

147 (6) It shall be the duty of the superintendent of schools to
148 keep and preserve the minutes of the proceedings of the school
149 board.

150 (7) The superintendent of schools shall maintain as a record
151 in his office a book or a computer printout in which he shall
152 enter all demands, claims and accounts paid from any funds of the
153 school district. The record shall be in a form to be prescribed
154 by the State Auditor. All demands, claims and accounts filed
155 shall be preserved by the superintendent of schools as a public
156 record for a period of five (5) years. All claims found by the
157 school board to be illegal shall be rejected or disallowed. All
158 claims which are found to be legal and proper shall be allowed and
159 ratified as paid by the superintendent of schools. The local
160 school board shall be authorized and empowered to promulgate rules
161 and regulations for the payment of claims by the superintendent of

162 schools in an amount not to exceed Two Hundred Fifty Dollars
163 (\$250.00) per claim, to be ratified by the school board after
164 payment has been made at its next regular meeting, pursuant to
165 guidelines issued by the State Department of Audit under Section
166 37-37-1. All claims as to which a continuance is requested by the
167 claimant and those found to be defective but which may be
168 perfected by amendment shall be continued. The superintendent of
169 schools shall issue a pay certificate against any legal and proper
170 fund of the school district in favor of the claimant in payment of
171 claims. The provisions of this section, however, shall not be
172 applicable to the payment of teachers' salaries, salaries of
173 drivers of publicly owned school buses, travel advances, amounts
174 due private contractors or other obligations where the amount
175 thereof has been previously approved by a contract or by an order
176 of the school board entered upon its minutes, or for an amount
177 authorized to be paid by board policy, or by inclusion in the
178 current fiscal year budget, and all such amounts may be paid by
179 the superintendent of schools by pay certificates issued by him
180 against the legal and proper fund without allowance of a specific
181 claim therefor as provided in this section, provided that the
182 payment thereof is otherwise in conformity with law.

183 **SECTION 2.** Section 37-37-1, Mississippi Code of 1972, is
184 amended as follows:

185 37-37-1. The Department of Audit of the Office of the State
186 Auditor of Public Accounts is hereby authorized and directed to
187 prescribe and formulate for use by all school districts of this
188 state, including municipal separate school districts, adequate
189 accounting systems and other essential financial records which
190 shall be uniform for all of the school districts of this state.
191 Such uniform system shall include a method of accounting for and
192 keeping records of all funds received, handled and disbursed by
193 such school district, whether derived from taxation or otherwise,
194 including funds derived from donations, athletic events and other

195 special activities of the school district. The uniform system of
196 accounts so prescribed and formulated by the Department of Audit
197 shall be distributed and disseminated to all of the school
198 districts of this state and it shall be mandatory that the boards
199 of trustees of all such school districts install, utilize and
200 follow said uniform system of accounts in keeping the financial
201 records of the school district. The State Department of Audit
202 shall issue guidelines for local school boards to follow in order
203 to authorize the prior payment of claims by the superintendent of
204 schools for amounts not to exceed Two Hundred Fifty Dollars
205 (\$250.00) to be ratified by the school board after payment has
206 been made.

207 **SECTION 3.** Section 37-7-301, Mississippi Code of 1972, is
208 amended as follows:

209 37-7-301. The school boards of all school districts shall
210 have the following powers, authority and duties in addition to all
211 others imposed or granted by law, to wit:

212 (a) To organize and operate the schools of the district
213 and to make such division between the high school grades and
214 elementary grades as, in their judgment, will serve the best
215 interests of the school;

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

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

222 (d) To have responsibility for the erection, repairing
223 and equipping of school facilities and the making of necessary
224 school improvements;

225 (e) To suspend or to expel a pupil or to change the
226 placement of a pupil to the school district's alternative school
227 or home-bound program for misconduct in the school or on school

228 property, as defined in Section 37-11-29, on the road to and from
229 school, or at any school-related activity or event, or for conduct
230 occurring on property other than school property or other than at
231 a school-related activity or event when such conduct by a pupil,
232 in the determination of the school superintendent or principal,
233 renders that pupil's presence in the classroom a disruption to the
234 educational environment of the school or a detriment to the best
235 interest and welfare of the pupils and teacher of such class as a
236 whole, and to delegate such authority to the appropriate officials
237 of the school district;

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

241 (g) To support, within reasonable limits, the
242 superintendent, principal and teachers where necessary for the
243 proper discipline of the school;

244 (h) To exclude from the schools students with what
245 appears to be infectious or contagious diseases; provided,
246 however, such student may be allowed to return to school upon
247 presenting a certificate from a public health officer, duly
248 licensed physician or nurse practitioner that the student is free
249 from such disease;

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

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

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

258 (l) To prescribe and enforce rules and regulations not
259 inconsistent with law or with the regulations of the State Board
260 of Education for their own government and for the government of

261 the schools, and to transact their business at regular and special
262 meetings called and held in the manner provided by law;

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

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

268 (o) To make orders directed to the superintendent of
269 schools for the issuance of pay certificates for lawful purposes
270 on any available funds of the district and to have full control of
271 the receipt, distribution, allotment and disbursement of all funds
272 provided for the support and operation of the schools of such
273 school district whether such funds be derived from state
274 appropriations, local ad valorem tax collections, or otherwise.
275 The local school board shall be authorized and empowered to
276 promulgate rules and regulations for payment of claims by the
277 superintendent of schools to be ratified by the board at its next
278 regularly scheduled meeting after payment has been made;

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

283 (q) To provide athletic programs and other school
284 activities and to regulate the establishment and operation of such
285 programs and activities;

286 (r) To join, in their discretion, any association of
287 school boards and other public school-related organizations, and
288 to pay from local funds other than minimum foundation funds, any
289 membership dues;

290 (s) To expend local school activity funds, or other
291 available school district funds, other than minimum education
292 program funds, for the purposes prescribed under this paragraph.

293 "Activity funds" shall mean all funds received by school officials

294 in all school districts paid or collected to participate in any
295 school activity, such activity being part of the school program
296 and partially financed with public funds or supplemented by public
297 funds. The term "activity funds" shall not include any funds
298 raised and/or expended by any organization unless commingled in a
299 bank account with existing activity funds, regardless of whether
300 the funds were raised by school employees or received by school
301 employees during school hours or using school facilities, and
302 regardless of whether a school employee exercises influence over
303 the expenditure or disposition of such funds. Organizations shall
304 not be required to make any payment to any school for the use of
305 any school facility if, in the discretion of the local school
306 governing board, the organization's function shall be deemed to be
307 beneficial to the official or extracurricular programs of the
308 school. For the purposes of this provision, the term
309 "organization" shall not include any organization subject to the
310 control of the local school governing board. Activity funds may
311 only be expended for any necessary expenses or travel costs,
312 including advances, incurred by students and their chaperons in
313 attending any in-state or out-of-state school-related programs,
314 conventions or seminars and/or any commodities, equipment, travel
315 expenses, purchased services or school supplies which the local
316 school governing board, in its discretion, shall deem beneficial
317 to the official or extracurricular programs of the district,
318 including items which may subsequently become the personal
319 property of individuals, including yearbooks, athletic apparel,
320 book covers and trophies. Activity funds may be used to pay
321 travel expenses of school district personnel. The local school
322 governing board shall be authorized and empowered to promulgate
323 rules and regulations specifically designating for what purposes
324 school activity funds may be expended. The local school governing
325 board shall provide (i) that such school activity funds shall be
326 maintained and expended by the principal of the school generating

327 the funds in individual bank accounts, or (ii) that such school
328 activity funds shall be maintained and expended by the
329 superintendent of schools in a central depository approved by the
330 board. The local school governing board shall provide that such
331 school activity funds be audited as part of the annual audit
332 required in Section 37-9-18. The State Auditor shall prescribe a
333 uniform system of accounting and financial reporting for all
334 school activity fund transactions;

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

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

341 (v) (i) To lease a school building from an individual,
342 partnership, nonprofit corporation or a private for-profit
343 corporation for the use of such school district, and to expend
344 funds therefor as may be available from any nonminimum program
345 sources. The school board of the school district desiring to
346 lease a school building shall declare by resolution that a need
347 exists for a school building and that the school district cannot
348 provide the necessary funds to pay the cost or its proportionate
349 share of the cost of a school building required to meet the
350 present needs. The resolution so adopted by the school board
351 shall be published once each week for three (3) consecutive weeks
352 in a newspaper having a general circulation in the school district
353 involved, with the first publication thereof to be made not less
354 than thirty (30) days prior to the date upon which the school
355 board is to act on the question of leasing a school building. If
356 no petition requesting an election is filed prior to such meeting
357 as hereinafter provided, then the school board may, by resolution
358 spread upon its minutes, proceed to lease a school building. If
359 at any time prior to said meeting a petition signed by not less

360 than twenty percent (20%) or fifteen hundred (1500), whichever is
361 less, of the qualified electors of the school district involved
362 shall be filed with the school board requesting that an election
363 be called on the question, then the school board shall, not later
364 than the next regular meeting, adopt a resolution calling an
365 election to be held within such school district upon the question
366 of authorizing the school board to lease a school building. Such
367 election shall be called and held, and notice thereof shall be
368 given, in the same manner for elections upon the questions of the
369 issuance of the bonds of school districts, and the results thereof
370 shall be certified to the school board. If at least three-fifths
371 (3/5) of the qualified electors of the school district who voted
372 in such election shall vote in favor of the leasing of a school
373 building, then the school board shall proceed to lease a school
374 building. The term of the lease contract shall not exceed twenty
375 (20) years, and the total cost of such lease shall be either the
376 amount of the lowest and best bid accepted by the school board
377 after advertisement for bids or an amount not to exceed the
378 current fair market value of the lease as determined by the
379 averaging of at least two (2) appraisals by certified general
380 appraisers licensed by the State of Mississippi. The term "school
381 building" as used in this item (v) shall be construed to mean any
382 building or buildings used for classroom purposes in connection
383 with the operation of schools and shall include the site therefor,
384 necessary support facilities, and the equipment thereof and
385 appurtenances thereto such as heating facilities, water supply,
386 sewage disposal, landscaping, walks, drives and playgrounds. The
387 term "lease" as used in this item (v)(i) may include a
388 lease/purchase contract;

389 (ii) If two (2) or more school districts propose
390 to enter into a lease contract jointly, then joint meetings of the
391 school boards having control may be held but no action taken shall
392 be binding on any such school district unless the question of

393 leasing a school building is approved in each participating school
394 district under the procedure hereinabove set forth in item (v)(i).
395 All of the provisions of item (v)(i) regarding the term and amount
396 of the lease contract shall apply to the school boards of school
397 districts acting jointly. Any lease contract executed by two (2)
398 or more school districts as joint lessees shall set out the amount
399 of the aggregate lease rental to be paid by each, which may be
400 agreed upon, but there shall be no right of occupancy by any
401 lessee unless the aggregate rental is paid as stipulated in the
402 lease contract. All rights of joint lessees under the lease
403 contract shall be in proportion to the amount of lease rental paid
404 by each;

405 (w) To employ all noninstructional and noncertificated
406 employees and fix the duties and compensation of such personnel
407 deemed necessary pursuant to the recommendation of the
408 superintendent of schools;

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

411 (y) Subject to rules and regulations of the State Board
412 of Education, to purchase, own and operate trucks, vans and other
413 motor vehicles, which shall bear the proper identification
414 required by law;

415 (z) To expend funds for the payment of substitute
416 teachers and to adopt reasonable regulations for the employment
417 and compensation of such substitute teachers;

418 (aa) To acquire in its own name by purchase all real
419 property which shall be necessary and desirable in connection with
420 the construction, renovation or improvement of any public school
421 building or structure. Whenever the purchase price for such real
422 property is greater than Fifty Thousand Dollars (\$50,000.00), the
423 school board shall not purchase the property for an amount
424 exceeding the fair market value of such property as determined by
425 the average of at least two (2) independent appraisals by

426 certified general appraisers licensed by the State of Mississippi.
427 If the board shall be unable to agree with the owner of any such
428 real property in connection with any such project, the board shall
429 have the power and authority to acquire any such real property by
430 condemnation proceedings pursuant to Section 11-27-1 et seq.,
431 Mississippi Code of 1972, and for such purpose, the right of
432 eminent domain is hereby conferred upon and vested in said board.
433 Provided further, that the local school board is authorized to
434 grant an easement for ingress and egress over sixteenth section
435 land or lieu land in exchange for a similar easement upon
436 adjoining land where the exchange of easements affords substantial
437 benefit to the sixteenth section land; provided, however, the
438 exchange must be based upon values as determined by a competent
439 appraiser, with any differential in value to be adjusted by cash
440 payment. Any easement rights granted over sixteenth section land
441 under such authority shall terminate when the easement ceases to
442 be used for its stated purpose. No sixteenth section or lieu land
443 which is subject to an existing lease shall be burdened by any
444 such easement except by consent of the lessee or unless the school
445 district shall acquire the unexpired leasehold interest affected
446 by the easement;

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

450 (cc) Subject to rules and regulations of the State
451 Board of Education, to purchase relocatable classrooms for the use
452 of such school district, in the manner prescribed in Section
453 37-1-13;

454 (dd) Enter into contracts or agreements with other
455 school districts, political subdivisions or governmental entities
456 to carry out one or more of the powers or duties of the school
457 board, or to allow more efficient utilization of limited resources
458 for providing services to the public;

459 (ee) To provide for in-service training for employees
460 of the district. Until June 30, 1994, the school boards may
461 designate two (2) days of the minimum school term, as defined in
462 Section 37-19-1, for employee in-service training for
463 implementation of the new statewide testing system as developed by
464 the State Board of Education. Such designation shall be subject
465 to approval by the State Board of Education pursuant to uniform
466 rules and regulations;

467 (ff) As part of their duties to prescribe the use of
468 textbooks, to provide that parents and legal guardians shall be
469 responsible for the textbooks and for the compensation to the
470 school district for any books which are not returned to the proper
471 schools upon the withdrawal of their dependent child. If a
472 textbook is lost or not returned by any student who drops out of
473 the public school district, the parent or legal guardian shall
474 also compensate the school district for the fair market value of
475 the textbooks;

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

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

483 (ii) Fund-raising activities conducted or
484 authorized by the board for the sale of school pictures, the
485 rental of caps and gowns or the sale of graduation invitations for
486 which the school board receives a commission, rebate or fee shall
487 contain a disclosure statement advising that a portion of the
488 proceeds of the sales or rentals shall be contributed to the
489 student activity fund;

490 (hh) To allow individual lessons for music, art and
491 other curriculum-related activities for academic credit or

492 nonacademic credit during school hours and using school equipment
493 and facilities, subject to uniform rules and regulations adopted
494 by the school board;

495 (ii) To charge reasonable fees for participating in an
496 extracurricular activity for academic or nonacademic credit for
497 necessary and required equipment such as safety equipment, band
498 instruments and uniforms;

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

502 (kk) To exercise such powers as may be reasonably
503 necessary to carry out the provisions of this section; and

504 (ll) To expend funds for the services of nonprofit arts
505 organizations or other such nonprofit organizations who provide
506 performances or other services for the students of the school
507 district.

508 **SECTION 4.** This act shall take effect and be in force from
509 and after July 1, 2004.