

By: Senator(s) Harden

To: Education;
Appropriations

SENATE BILL NO. 2216

1 AN ACT TO DIRECT THE STATE BOARD OF EDUCATION TO IMPLEMENT A
2 PRE-KINDERGARTEN PILOT PROGRAM IN THE PUBLIC SCHOOL DISTRICTS; TO
3 PROVIDE THAT THE PILOT PROGRAM SHALL BE AVAILABLE TO 25% OF THE
4 SCHOOL DISTRICTS IN THE STATE; TO PROVIDE THAT THE
5 PRE-KINDERGARTEN PILOT PROGRAM SHALL BE FUNDED FROM EDUCATION
6 ENHANCEMENT FUND APPROPRIATIONS; TO AMEND SECTION 37-7-301,
7 MISSISSIPPI CODE OF 1972, TO AUTHORIZE LOCAL SCHOOL BOARDS TO USE
8 SCHOOL FACILITIES TO PROVIDE CHILD CARE, EXTENDED DAY AND
9 INSTRUCTION SERVICES FOR PRE-KINDERGARTEN-AGE CHILDREN ENROLLED IN
10 THE PILOT PROGRAM; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** (1) Beginning with the 2002-2003 school year,
13 the State Board of Education, in conjunction with the Early
14 Childhood Services Interagency Coordinating Council established in
15 Section 37-21-53, Mississippi Code of 1972, shall establish and
16 implement a Pre-Kindergarten Pilot Program to provide child care
17 services, extended day services and instruction for
18 pre-kindergarten-age children residing in the pilot school
19 districts in the state. Said pilot program shall be available
20 and limited to twenty-five percent (25%) of the school districts
21 in the state, to be selected by the State Board of Education
22 pursuant to criteria and standards established by the board.

23 (2) Transportation for students attending the
24 pre-kindergarten pilot programs shall be the responsibility of the
25 local school district.

26 (3) The expense of establishing, maintaining and operating
27 such pre-kindergarten pilot programs shall be paid from funds
28 contributed or otherwise made available to the school district by
29 the State Board of Education for such purpose from state
30 appropriation from the Education Enhancement Fund created under
31 Section 37-61-33, Mississippi Code of 1972.



32 (4) Any such pre-kindergarten pilot program shall be in
33 compliance with regulations of the State Board of Health related
34 to child day care facilities.

35 (5) Each local school district of this state may annually
36 apply for pre-kindergarten pilot program grant funds subject to
37 appropriations by the Legislature. In order to be eligible for
38 such program, each local school board desiring to participate
39 shall apply to the State Department of Education by May 31 before
40 the beginning of the applicable fiscal year on forms provided by
41 the department. The State Board of Education shall determine by
42 July 1 of each succeeding year which local school districts have
43 submitted approved applications for pre-kindergarten pilot program
44 grants.

45 (6) The State Board of Education and the Early Childhood
46 Services Interagency Coordinating Council shall jointly promulgate
47 rules and regulations regarding the use of school facilities for
48 pre-kindergarten services under the pilot program.

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

51 37-7-301. The school boards of all school districts shall
52 have the following powers, authority and duties in addition to all
53 others imposed or granted by law, to wit:

54 (a) To organize and operate the schools of the district
55 and to make such division between the high school grades and
56 elementary grades as, in their judgment, will serve the best
57 interests of the school;

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

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



64 (d) To have responsibility for the erection, repairing
65 and equipping of school facilities and the making of necessary
66 school improvements;

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

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

83 (g) To support, within reasonable limits, the
84 superintendent, principal and teachers where necessary for the
85 proper discipline of the school;

86 (h) To exclude from the schools students with what
87 appears to be infectious or contagious diseases; provided,
88 however, such student may be allowed to return to school upon
89 presenting a certificate from a public health officer, duly
90 licensed physician or nurse practitioner that the student is free
91 from such disease;

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

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



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

100 (l) To prescribe and enforce rules and regulations not
101 inconsistent with law or with the regulations of the State Board
102 of Education for their own government and for the government of
103 the schools, and to transact their business at regular and special
104 meetings called and held in the manner provided by law;

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

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

110 (o) To make orders directed to the superintendent of
111 schools for the issuance of pay certificates for lawful purposes
112 on any available funds of the district and to have full control of
113 the receipt, distribution, allotment and disbursement of all funds
114 provided for the support and operation of the schools of such
115 school district whether such funds be derived from state
116 appropriations, local ad valorem tax collections, or otherwise;

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

121 (q) To provide athletic programs and other school
122 activities and to regulate the establishment and operation of such
123 programs and activities;

124 (r) To join, in their discretion, any association of
125 school boards and other public school-related organizations, and
126 to pay from local funds other than minimum foundation funds, any
127 membership dues;

128 (s) To expend local school activity funds, or other
129 available school district funds, other than minimum education



130 program funds, for the purposes prescribed under this paragraph.
131 "Activity funds" shall mean all funds received by school officials
132 in all school districts paid or collected to participate in any
133 school activity, such activity being part of the school program
134 and partially financed with public funds or supplemented by public
135 funds. The term "activity funds" shall not include any funds
136 raised and/or expended by any organization unless commingled in a
137 bank account with existing activity funds, regardless of whether
138 the funds were raised by school employees or received by school
139 employees during school hours or using school facilities, and
140 regardless of whether a school employee exercises influence over
141 the expenditure or disposition of such funds. Organizations shall
142 not be required to make any payment to any school for the use of
143 any school facility if, in the discretion of the local school
144 governing board, the organization's function shall be deemed to be
145 beneficial to the official or extracurricular programs of the
146 school. For the purposes of this provision, the term
147 "organization" shall not include any organization subject to the
148 control of the local school governing board. Activity funds may
149 only be expended for any necessary expenses or travel costs,
150 including advances, incurred by students and their chaperons in
151 attending any in-state or out-of-state school-related programs,
152 conventions or seminars and/or any commodities, equipment, travel
153 expenses, purchased services or school supplies which the local
154 school governing board, in its discretion, shall deem beneficial
155 to the official or extracurricular programs of the district,
156 including items which may subsequently become the personal
157 property of individuals, including yearbooks, athletic apparel,
158 book covers and trophies. Activity funds may be used to pay
159 travel expenses of school district personnel. The local school
160 governing board shall be authorized and empowered to promulgate
161 rules and regulations specifically designating for what purposes
162 school activity funds may be expended. The local school governing



163 board shall provide (i) that such school activity funds shall be
164 maintained and expended by the principal of the school generating
165 the funds in individual bank accounts, or (ii) that such school
166 activity funds shall be maintained and expended by the
167 superintendent of schools in a central depository approved by the
168 board. The local school governing board shall provide that such
169 school activity funds be audited as part of the annual audit
170 required in Section 37-9-18. The State Auditor shall prescribe a
171 uniform system of accounting and financial reporting for all
172 school activity fund transactions;

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

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

179 (v) (i) To lease a school building from an individual,
180 partnership, nonprofit corporation or a private for-profit
181 corporation for the use of such school district, and to expend
182 funds therefor as may be available from any nonminimum program
183 sources. The school board of the school district desiring to
184 lease a school building shall declare by resolution that a need
185 exists for a school building and that the school district cannot
186 provide the necessary funds to pay the cost or its proportionate
187 share of the cost of a school building required to meet the
188 present needs. The resolution so adopted by the school board
189 shall be published once each week for three (3) consecutive weeks
190 in a newspaper having a general circulation in the school district
191 involved, with the first publication thereof to be made not less
192 than thirty (30) days prior to the date upon which the school
193 board is to act on the question of leasing a school building. If
194 no petition requesting an election is filed prior to such meeting
195 as hereinafter provided, then the school board may, by resolution



196 spread upon its minutes, proceed to lease a school building. If
197 at any time prior to said meeting a petition signed by not less
198 than twenty percent (20%) or fifteen hundred (1500), whichever is
199 less, of the qualified electors of the school district involved
200 shall be filed with the school board requesting that an election
201 be called on the question, then the school board shall, not later
202 than the next regular meeting, adopt a resolution calling an
203 election to be held within such school district upon the question
204 of authorizing the school board to lease a school building. Such
205 election shall be called and held, and notice thereof shall be
206 given, in the same manner for elections upon the questions of the
207 issuance of the bonds of school districts, and the results thereof
208 shall be certified to the school board. If at least three-fifths
209 (3/5) of the qualified electors of the school district who voted
210 in such election shall vote in favor of the leasing of a school
211 building, then the school board shall proceed to lease a school
212 building. The term of the lease contract shall not exceed twenty
213 (20) years, and the total cost of such lease shall be either the
214 amount of the lowest and best bid accepted by the school board
215 after advertisement for bids or an amount not to exceed the
216 current fair market value of the lease as determined by the
217 averaging of at least two (2) appraisals by certified general
218 appraisers licensed by the State of Mississippi. The term "school
219 building" as used in this item (v) shall be construed to mean any
220 building or buildings used for classroom purposes in connection
221 with the operation of schools and shall include the site therefor,
222 necessary support facilities, and the equipment thereof and
223 appurtenances thereto such as heating facilities, water supply,
224 sewage disposal, landscaping, walks, drives and playgrounds. The
225 term "lease" as used in this item (v)(i) may include a
226 lease/purchase contract;

227 (ii) If two (2) or more school districts propose
228 to enter into a lease contract jointly, then joint meetings of the



229 school boards having control may be held but no action taken shall
230 be binding on any such school district unless the question of
231 leasing a school building is approved in each participating school
232 district under the procedure hereinabove set forth in item (v)(i).
233 All of the provisions of item (v)(i) regarding the term and amount
234 of the lease contract shall apply to the school boards of school
235 districts acting jointly. Any lease contract executed by two (2)
236 or more school districts as joint lessees shall set out the amount
237 of the aggregate lease rental to be paid by each, which may be
238 agreed upon, but there shall be no right of occupancy by any
239 lessee unless the aggregate rental is paid as stipulated in the
240 lease contract. All rights of joint lessees under the lease
241 contract shall be in proportion to the amount of lease rental paid
242 by each;

243 (w) To employ all noninstructional and noncertificated
244 employees and fix the duties and compensation of such personnel
245 deemed necessary pursuant to the recommendation of the
246 superintendent of schools;

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

249 (y) Subject to rules and regulations of the State Board
250 of Education, to purchase, own and operate trucks, vans and other
251 motor vehicles, which shall bear the proper identification
252 required by law;

253 (z) To expend funds for the payment of substitute
254 teachers and to adopt reasonable regulations for the employment
255 and compensation of such substitute teachers;

256 (aa) To acquire in its own name by purchase all real
257 property which shall be necessary and desirable in connection with
258 the construction, renovation or improvement of any public school
259 building or structure. Whenever the purchase price for such real
260 property is greater than Fifty Thousand Dollars (\$50,000.00), the
261 school board shall not purchase the property for an amount



262 exceeding the fair market value of such property as determined by
263 the average of at least two (2) independent appraisals by
264 certified general appraisers licensed by the State of Mississippi.
265 If the board shall be unable to agree with the owner of any such
266 real property in connection with any such project, the board shall
267 have the power and authority to acquire any such real property by
268 condemnation proceedings pursuant to Section 11-27-1 et seq.,
269 Mississippi Code of 1972, and for such purpose, the right of
270 eminent domain is hereby conferred upon and vested in said board.
271 Provided further, that the local school board is authorized to
272 grant an easement for ingress and egress over sixteenth section
273 land or lieu land in exchange for a similar easement upon
274 adjoining land where the exchange of easements affords substantial
275 benefit to the sixteenth section land; provided, however, the
276 exchange must be based upon values as determined by a competent
277 appraiser, with any differential in value to be adjusted by cash
278 payment. Any easement rights granted over sixteenth section land
279 under such authority shall terminate when the easement ceases to
280 be used for its stated purpose. No sixteenth section or lieu land
281 which is subject to an existing lease shall be burdened by any
282 such easement except by consent of the lessee or unless the school
283 district shall acquire the unexpired leasehold interest affected
284 by the easement;

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

288 (cc) Subject to rules and regulations of the State
289 Board of Education, to purchase relocatable classrooms for the use
290 of such school district, in the manner prescribed in Section
291 37-1-13;

292 (dd) Enter into contracts or agreements with other
293 school districts, political subdivisions or governmental entities
294 to carry out one or more of the powers or duties of the school



295 board, or to allow more efficient utilization of limited resources
296 for providing services to the public;

297 (ee) To provide for in-service training for employees
298 of the district. Until June 30, 1994, the school boards may
299 designate two (2) days of the minimum school term, as defined in
300 Section 37-19-1, for employee in-service training for
301 implementation of the new statewide testing system as developed by
302 the State Board of Education. Such designation shall be subject
303 to approval by the State Board of Education pursuant to uniform
304 rules and regulations;

305 (ff) As part of their duties to prescribe the use of
306 textbooks, to provide that parents and legal guardians shall be
307 responsible for the textbooks and for the compensation to the
308 school district for any books which are not returned to the proper
309 schools upon the withdrawal of their dependent child. If a
310 textbook is lost or not returned by any student who drops out of
311 the public school district, the parent or legal guardian shall
312 also compensate the school district for the fair market value of
313 the textbooks;

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

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

321 (ii) Fund-raising activities conducted or
322 authorized by the board for the sale of school pictures, the
323 rental of caps and gowns or the sale of graduation invitations for
324 which the school board receives a commission, rebate or fee shall
325 contain a disclosure statement advising that a portion of the
326 proceeds of the sales or rentals shall be contributed to the
327 student activity fund;



328 (hh) To allow individual lessons for music, art and
329 other curriculum-related activities for academic credit or
330 nonacademic credit during school hours and using school equipment
331 and facilities, subject to uniform rules and regulations adopted
332 by the school board;

333 (ii) To charge reasonable fees for participating in an
334 extracurricular activity for academic or nonacademic credit for
335 necessary and required equipment such as safety equipment, band
336 instruments and uniforms;

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

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

342 (ll) To expend funds for the services of nonprofit arts
343 organizations or other such nonprofit organizations who provide
344 performances or other services for the students of the school
345 district; and

346 (mm) To authorize, in its discretion, the use of school
347 facilities to provide child care services, extended school day
348 services and instruction for pre-kindergarten-age children under a
349 pilot program agreement with the State Department of Education and
350 to expend funds for such purposes as may be available from any
351 sources. Any such program shall be in compliance with regulations
352 of the State Board of Health related to child day care facilities.
353 The State Board of Education shall promulgate rules and
354 regulations regarding the use of school facilities for child day
355 care services.

356 **SECTION 3.** This act shall take effect and be in force from
357 and after July 1, 2002.

