

By: Senator(s) Harden

To: Education

SENATE BILL NO. 2969
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE LOCAL SCHOOL BOARDS TO COLLABORATE WITH THE STATE
3 BOARD OF EDUCATION, COMMUNITY ACTION AGENCIES OR THE DEPARTMENT OF
4 HUMAN SERVICES TO DEVELOP AND IMPLEMENT A VOLUNTARY PROGRAM TO
5 PROVIDE SERVICES FOR A FULL DAY PREKINDERGARTEN PROGRAM; TO AMEND
6 SECTION 37-59-301, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
7 AUTHORITY OF SCHOOL DISTRICTS TO SECURE INTEREST FREE TREATMENT OF
8 DEBT UNDER FEDERAL LAW APPLIES TO AGRICULTURE HIGH SCHOOLS; AND
9 FOR RELATED PURPOSES.

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

11 SECTION 1. Section 37-7-301, Mississippi Code of 1972, is
12 amended as follows:

13 37-7-301. The school boards of all school districts shall
14 have the following powers, authority and duties in addition to all
15 others imposed or granted by law, to wit:

16 (a) To organize and operate the schools of the district
17 and to make such division between the high school grades and
18 elementary grades as, in their judgment, will serve the best
19 interests of the school;

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

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

26 (d) To have responsibility for the erection, repairing
27 and equipping of school facilities and the making of necessary
28 school improvements;

29 (e) To suspend or to expel a pupil or to change the
30 placement of a pupil to the school district's alternative school

31 or home-bound program for misconduct in the school or on school
32 property, as defined in Section 37-11-29, on the road to and from
33 school, or at any school-related activity or event, or for conduct
34 occurring on property other than school property or other than at
35 a school-related activity or event when such conduct by a pupil,
36 in the determination of the school superintendent or principal,
37 renders that pupil's presence in the classroom a disruption to the
38 educational environment of the school or a detriment to the best
39 interest and welfare of the pupils and teacher of such class as a
40 whole, and to delegate such authority to the appropriate officials
41 of the school district;

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

45 (g) To support, within reasonable limits, the
46 superintendent, principal and teachers where necessary for the
47 proper discipline of the school;

48 (h) To exclude from the schools students with what
49 appears to be infectious or contagious diseases; provided,
50 however, such student may be allowed to return to school upon
51 presenting a certificate from a public health officer, duly
52 licensed physician or nurse practitioner that the student is free
53 from such disease;

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

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

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

62 (l) To prescribe and enforce rules and regulations not
63 inconsistent with law or with the regulations of the State Board

64 of Education for their own government and for the government of
65 the schools, and to transact their business at regular and special
66 meetings called and held in the manner provided by law;

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

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

72 (o) To make orders directed to the superintendent of
73 schools for the issuance of pay certificates for lawful purposes
74 on any available funds of the district and to have full control of
75 the receipt, distribution, allotment and disbursement of all funds
76 provided for the support and operation of the schools of such
77 school district whether such funds be derived from state
78 appropriations, local ad valorem tax collections, or otherwise;

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

83 (q) To provide athletic programs and other school
84 activities and to regulate the establishment and operation of such
85 programs and activities;

86 (r) To join, in their discretion, any association of
87 school boards and other public school-related organizations, and
88 to pay from local funds other than minimum foundation funds, any
89 membership dues;

90 (s) To expend local school activity funds, or other
91 available school district funds, other than minimum education
92 program funds, for the purposes prescribed under this paragraph.
93 "Activity funds" shall mean all funds received by school officials
94 in all school districts paid or collected to participate in any
95 school activity, such activity being part of the school program
96 and partially financed with public funds or supplemented by public

97 funds. The term "activity funds" shall not include any funds
98 raised and/or expended by any organization unless commingled in a
99 bank account with existing activity funds, regardless of whether
100 the funds were raised by school employees or received by school
101 employees during school hours or using school facilities, and
102 regardless of whether a school employee exercises influence over
103 the expenditure or disposition of such funds. Organizations shall
104 not be required to make any payment to any school for the use of
105 any school facility if, in the discretion of the local school
106 governing board, the organization's function shall be deemed to be
107 beneficial to the official or extracurricular programs of the
108 school. For the purposes of this provision, the term
109 "organization" shall not include any organization subject to the
110 control of the local school governing board. Activity funds may
111 only be expended for any necessary expenses or travel costs,
112 including advances, incurred by students and their chaperons in
113 attending any in-state or out-of-state school-related programs,
114 conventions or seminars and/or any commodities, equipment, travel
115 expenses, purchased services or school supplies which the local
116 school governing board, in its discretion, shall deem beneficial
117 to the official or extracurricular programs of the district,
118 including items which may subsequently become the personal
119 property of individuals, including yearbooks, athletic apparel,
120 book covers and trophies. Activity funds may be used to pay
121 travel expenses of school district personnel. The local school
122 governing board shall be authorized and empowered to promulgate
123 rules and regulations specifically designating for what purposes
124 school activity funds may be expended. The local school governing
125 board shall provide (i) that such school activity funds shall be
126 maintained and expended by the principal of the school generating
127 the funds in individual bank accounts, or (ii) that such school
128 activity funds shall be maintained and expended by the
129 superintendent of schools in a central depository approved by the

130 board. The local school governing board shall provide that such
131 school activity funds be audited as part of the annual audit
132 required in Section 37-9-18. The State Auditor shall prescribe a
133 uniform system of accounting and financial reporting for all
134 school activity fund transactions;

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

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

141 (v) (i) To lease a school building from an individual,
142 partnership, nonprofit corporation or a private for-profit
143 corporation for the use of such school district, and to expend
144 funds therefor as may be available from any nonminimum program
145 sources. The school board of the school district desiring to
146 lease a school building shall declare by resolution that a need
147 exists for a school building and that the school district cannot
148 provide the necessary funds to pay the cost or its proportionate
149 share of the cost of a school building required to meet the
150 present needs. The resolution so adopted by the school board
151 shall be published once each week for three (3) consecutive weeks
152 in a newspaper having a general circulation in the school district
153 involved, with the first publication thereof to be made not less
154 than thirty (30) days prior to the date upon which the school
155 board is to act on the question of leasing a school building. If
156 no petition requesting an election is filed prior to such meeting
157 as hereinafter provided, then the school board may, by resolution
158 spread upon its minutes, proceed to lease a school building. If
159 at any time prior to said meeting a petition signed by not less
160 than twenty percent (20%) or fifteen hundred (1500), whichever is
161 less, of the qualified electors of the school district involved
162 shall be filed with the school board requesting that an election

163 be called on the question, then the school board shall, not later
164 than the next regular meeting, adopt a resolution calling an
165 election to be held within such school district upon the question
166 of authorizing the school board to lease a school building. Such
167 election shall be called and held, and notice thereof shall be
168 given, in the same manner for elections upon the questions of the
169 issuance of the bonds of school districts, and the results thereof
170 shall be certified to the school board. If at least three-fifths
171 (3/5) of the qualified electors of the school district who voted
172 in such election shall vote in favor of the leasing of a school
173 building, then the school board shall proceed to lease a school
174 building. The term of the lease contract shall not exceed twenty
175 (20) years, and the total cost of such lease shall be either the
176 amount of the lowest and best bid accepted by the school board
177 after advertisement for bids or an amount not to exceed the
178 current fair market value of the lease as determined by the
179 averaging of at least two (2) appraisals by certified general
180 appraisers licensed by the State of Mississippi. The term "school
181 building" as used in this item (v) shall be construed to mean any
182 building or buildings used for classroom purposes in connection
183 with the operation of schools and shall include the site therefor,
184 necessary support facilities, and the equipment thereof and
185 appurtenances thereto such as heating facilities, water supply,
186 sewage disposal, landscaping, walks, drives and playgrounds. The
187 term "lease" as used in this item (v)(i) may include a
188 lease/purchase contract;

189 (ii) If two (2) or more school districts propose
190 to enter into a lease contract jointly, then joint meetings of the
191 school boards having control may be held but no action taken shall
192 be binding on any such school district unless the question of
193 leasing a school building is approved in each participating school
194 district under the procedure hereinabove set forth in item (v)(i).
195 All of the provisions of item (v)(i) regarding the term and amount

196 of the lease contract shall apply to the school boards of school
197 districts acting jointly. Any lease contract executed by two (2)
198 or more school districts as joint lessees shall set out the amount
199 of the aggregate lease rental to be paid by each, which may be
200 agreed upon, but there shall be no right of occupancy by any
201 lessee unless the aggregate rental is paid as stipulated in the
202 lease contract. All rights of joint lessees under the lease
203 contract shall be in proportion to the amount of lease rental paid
204 by each;

205 (w) To employ all noninstructional and noncertificated
206 employees and fix the duties and compensation of such personnel
207 deemed necessary pursuant to the recommendation of the
208 superintendent of schools;

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

211 (y) Subject to rules and regulations of the State Board
212 of Education, to purchase, own and operate trucks, vans and other
213 motor vehicles, which shall bear the proper identification
214 required by law;

215 (z) To expend funds for the payment of substitute
216 teachers and to adopt reasonable regulations for the employment
217 and compensation of such substitute teachers;

218 (aa) To acquire in its own name by purchase all real
219 property which shall be necessary and desirable in connection with
220 the construction, renovation or improvement of any public school
221 building or structure. Whenever the purchase price for such real
222 property is greater than Fifty Thousand Dollars (\$50,000.00), the
223 school board shall not purchase the property for an amount
224 exceeding the fair market value of such property as determined by
225 the average of at least two (2) independent appraisals by
226 certified general appraisers licensed by the State of Mississippi.
227 If the board shall be unable to agree with the owner of any such
228 real property in connection with any such project, the board shall

229 have the power and authority to acquire any such real property by
230 condemnation proceedings pursuant to Section 11-27-1 et seq.,
231 Mississippi Code of 1972, and for such purpose, the right of
232 eminent domain is hereby conferred upon and vested in said board.
233 Provided further, that the local school board is authorized to
234 grant an easement for ingress and egress over sixteenth section
235 land or lieu land in exchange for a similar easement upon
236 adjoining land where the exchange of easements affords substantial
237 benefit to the sixteenth section land; provided, however, the
238 exchange must be based upon values as determined by a competent
239 appraiser, with any differential in value to be adjusted by cash
240 payment. Any easement rights granted over sixteenth section land
241 under such authority shall terminate when the easement ceases to
242 be used for its stated purpose. No sixteenth section or lieu land
243 which is subject to an existing lease shall be burdened by any
244 such easement except by consent of the lessee or unless the school
245 district shall acquire the unexpired leasehold interest affected
246 by the easement;

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

250 (cc) Subject to rules and regulations of the State
251 Board of Education, to purchase relocatable classrooms for the use
252 of such school district, in the manner prescribed in Section
253 37-1-13;

254 (dd) Enter into contracts or agreements with other
255 school districts, political subdivisions or governmental entities
256 to carry out one or more of the powers or duties of the school
257 board, or to allow more efficient utilization of limited resources
258 for providing services to the public;

259 (ee) To provide for in-service training for employees
260 of the district. Until June 30, 1994, the school boards may
261 designate two (2) days of the minimum school term, as defined in

262 Section 37-19-1, for employee in-service training for
263 implementation of the new statewide testing system as developed by
264 the State Board of Education. Such designation shall be subject
265 to approval by the State Board of Education pursuant to uniform
266 rules and regulations;

267 (ff) As part of their duties to prescribe the use of
268 textbooks, to provide that parents and legal guardians shall be
269 responsible for the textbooks and for the compensation to the
270 school district for any books which are not returned to the proper
271 schools upon the withdrawal of their dependent child. If a
272 textbook is lost or not returned by any student who drops out of
273 the public school district, the parent or legal guardian shall
274 also compensate the school district for the fair market value of
275 the textbooks;

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

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

283 (ii) Fund-raising activities conducted or
284 authorized by the board for the sale of school pictures, the
285 rental of caps and gowns or the sale of graduation invitations for
286 which the school board receives a commission, rebate or fee shall
287 contain a disclosure statement advising that a portion of the
288 proceeds of the sales or rentals shall be contributed to the
289 student activity fund;

290 (hh) To allow individual lessons for music, art and
291 other curriculum-related activities for academic credit or
292 nonacademic credit during school hours and using school equipment
293 and facilities, subject to uniform rules and regulations adopted
294 by the school board;

295 (ii) To charge reasonable fees for participating in an
296 extracurricular activity for academic or nonacademic credit for
297 necessary and required equipment such as safety equipment, band
298 instruments and uniforms;

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

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

304 (ll) To expend funds for the services of nonprofit arts
305 organizations or other such nonprofit organizations who provide
306 performances or other services for the students of the school
307 district; and

308 (mm) To collaborate with the State Board of Education,
309 Community Action Agencies or the Department of Human Services to
310 develop and implement a voluntary program to provide services for
311 a full day prekindergarten program that addresses the cognitive,
312 social, and emotional needs of four-year-old and three-year-old
313 children. The school board may utilize nonstate source special
314 funds, grants, donations or gifts to fund the voluntary program.

315 **SECTION 2.** Section 37-59-301, Mississippi Code of 1972, is
316 amended as follows:

317 37-59-301. Notwithstanding any law or any provision of any
318 law to the contrary, the following additional and supplemental
319 powers and authorizations are hereby granted to each public school
320 district in connection with the issuance of any debt, as defined
321 herein.

322 (a) For purposes of this section, "debt" means any
323 note, bond, lease or other evidence of indebtedness that a
324 district is authorized to issue under any provision of law, and
325 shall include debt issued by or on behalf of an agricultural high
326 school.

327 (b) Any school district issuing debt may, by resolution
328 of its board of trustees or board of education, do all things
329 regarding the form, payment structure, purchase price and terms of
330 such debt which may be helpful in qualifying the debt for reduced
331 or interest free treatment under any federal law or the
332 regulations promulgated thereunder and to assure that such debt
333 will be readily acceptable in the municipal bond market, provided
334 the same is not inconsistent with the Constitution of the state.
335 Provided, however, that nothing in this section shall be construed
336 as allowing a school district to exceed the final maturity term or
337 exceed any debt limitation provided in the applicable state law
338 authorizing the debt.

339 (c) This section shall be construed to be supplemental
340 and additional to any powers conferred by other laws on school
341 districts and not in derogation of any such powers not existing.
342 The section is remedial in nature and shall be liberally
343 construed. Provided, however, that this section shall not grant
344 any extra authority to a school board to issue debt in any amount
345 exceeding statutory limitations on assessed value of taxable
346 property within such school district or the statutory limitations
347 on debt maturities, and shall not grant any extra authority to
348 impose, levy or collect a tax which is not otherwise expressly
349 provided for.

350 **SECTION 3.** This act shall take effect and be in force from
351 and after July 1, 2004.