

By: Senator(s) Bean, Ferris, Farris

To: Education

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2404

1 AN ACT TO AMEND SECTION 37-13-92, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THE DISCRETION OF SCHOOL SUPERINTENDENTS IN ASSIGNING  
3 STUDENTS TO ALTERNATIVE SCHOOLS, TO PROVIDE THAT WHEN A SCHOOL  
4 DISTRICT RECEIVES NOTICE THAT A STUDENT HAS COMMITTED AN UNLAWFUL  
5 ACT AWAY FROM SCHOOL, IT MAY ASSIGN SUCH STUDENT TO THE  
6 ALTERNATIVE SCHOOL PROGRAM, AND TO DELETE CERTAIN MINIMUM  
7 GUIDELINES FOR ALTERNATIVE SCHOOL PROGRAMS; TO AMEND SECTIONS  
8 37-9-69 AND 37-7-301, MISSISSIPPI CODE OF 1972, TO AUTHORIZE  
9 SCHOOL OFFICIALS TO TAKE DISCIPLINARY ACTION AGAINST STUDENTS FOR  
10 DISORDERLY ACTS AGAINST SCHOOL EMPLOYEES WHICH OCCUR OFF THE  
11 SCHOOL PROPERTY, AND TO CLARIFY THE GENERAL POWERS AND  
12 RESPONSIBILITIES OF LOCAL SCHOOL BOARDS; AND FOR RELATED PURPOSES.

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

14 SECTION 1. Section 37-13-92, Mississippi Code of 1972, is  
15 amended as follows:

16 37-13-92. (1) Beginning with the school year 1993-1994, the  
17 school boards of all school districts shall establish, maintain  
18 and operate, in connection with the regular programs of the school  
19 district, an alternative school program for, but not limited to,  
20 the following categories of compulsory-school-age students:

21 (a) Any compulsory-school-age child who has been  
22 suspended for more than ten (10) days or expelled from school,  
23 except as provided in subsection (2) of this section;

24 (b) Any compulsory-school-age child referred to such  
25 alternative school based upon a documented need for placement in  
26 the alternative school program by the parent, legal guardian or  
27 custodian of such child due to disciplinary problems; \* \* \*

28 (c) Any compulsory-school-age child referred to such  
29 alternative school program by the dispositive order of a  
30 chancellor or youth court judge, with the consent of the  
31 superintendent of the child's school district; and

32 (d) Any compulsory-school-age child in cases where a

33 school district receives notice that the student has committed an  
34 act away from school that is of such a nature that to continue the  
35 student in his or her regular education program would have an  
36 immediate, direct and disruptive effect on the school environment.

37 (2) Notwithstanding any other provisions to the contrary, no  
38 school district shall be required to enroll any  
39 compulsory-school-age child in an alternative school program if  
40 such student (a) is suspended or expelled for possession of a  
41 weapon or other felonious conduct or any other violation set forth  
42 in Section 37-11-18, Mississippi Code of 1972; (b) poses a threat  
43 to the safety of himself or to others; or (c) is disruptive to the  
44 educational process being provided to other students, subject to  
45 review by and the approval of the school board taking under  
46 consideration recommendations by the administrator of the  
47 alternative school and the appropriate guidance counselor.

48 (3) The principal or program administrator of any such  
49 alternative school program shall require verification from the  
50 appropriate guidance counselor of any such child referred to the  
51 alternative school program regarding the suitability of such child  
52 for attendance at the alternative school program. Before a  
53 student may be removed to an alternative school education program,  
54 the superintendent of the student's school district must determine  
55 that the written and distributed disciplinary policy of the local  
56 district is being followed. The policy shall include standards  
57 for:

58 (a) The removal of a student to an alternative  
59 education program that will include a process of educational  
60 review to develop the student's individual instruction plan and  
61 the evaluation at regular intervals of the student's educational  
62 progress; the process shall include classroom teachers and/or  
63 other appropriate professional personnel, as defined in the  
64 district policy, to ensure a continuing educational program for  
65 the removed student;

66 (b) The duration of alternative placement; and

67           (c) The notification of parents or guardians, and their  
68 appropriate inclusion in the removal and evaluation process, as  
69 defined in the district policy. Nothing in this paragraph should  
70 be defined in a manner to circumvent the principal's or the  
71 superintendent's authority to remove a student to alternative  
72 education.

73           (4) The local school board or the superintendent shall  
74 provide for the continuing education of a student who has been  
75 removed to an alternative school program.

76           (5) A school district, in its discretion, may provide a  
77 program of general educational development (GED) preparatory  
78 instruction in the alternative school program. However, any GED  
79 preparation program offered in an alternative school program must  
80 be administered in compliance with the rules and regulations  
81 established for such programs under Sections 37-35-1 through  
82 37-35-11 and by the State Board for Community and Junior Colleges.  
83 The school district may administer the General Educational  
84 Development (GED) Testing Program under the policies and  
85 guidelines of the GED Testing Service of the American Council on  
86 Education in the alternative school program or may authorize the  
87 test to be administered through the community/junior college  
88 district in which the alternative school is situated.

89           (6) Any such alternative school program operated under the  
90 authority of this section shall meet all appropriate accreditation  
91 requirements of the State Department of Education.

92           (7) The alternative school program may be held within such  
93 school district or may be operated by two (2) or more adjacent  
94 school districts, pursuant to a contract approved by the State  
95 Board of Education. When two (2) or more school districts  
96 contract to operate an alternative school program, the school  
97 board of a district designated to be the lead district shall serve  
98 as the governing board of the alternative school program.  
99 Transportation for students attending the alternative school  
100 program shall be the responsibility of the local school district.

101 The expense of establishing, maintaining and operating such  
102 alternative school program may be paid from funds contributed or  
103 otherwise made available to the school district for such purpose  
104 or from local district maintenance funds.

105 (8) The State Board of Education shall promulgate minimum  
106 guidelines for alternative school programs. The guidelines shall  
107 require, at a minimum, the formulation of an individual  
108 instruction plan for each student referred to the alternative  
109 school program and, upon a determination that it is in a student's  
110 best interest for that student to receive general educational  
111 development (GED) preparatory instruction, that the local school  
112 board assign the student to a GED preparatory program established  
113 under subsection (4) of this section. \* \* \*

114 \* \* \*

115 (9) On request of a school district, the State Department of  
116 Education shall provide the district informational material on  
117 developing an alternative school program that takes into  
118 consideration size, wealth and existing facilities in determining  
119 a program best suited to a district.

120 (10) Any compulsory-school-age child who becomes involved in  
121 any criminal or violent behavior shall be removed from such  
122 alternative school program and, if probable cause exists, a case  
123 shall be referred to the youth court.

124 (11) The State Board of Education, in its discretion, may  
125 exempt not more than four (4) school district alternative school  
126 programs in the state from any compulsory standard of  
127 accreditation for a period of three (3) years. During this  
128 period, the State Department of Education shall conduct a study of  
129 all alternative school programs in the state, and on or before  
130 January 1, 2000, shall develop and promulgate accreditation  
131 standards for all alternative school programs, including any  
132 recommendations for necessary legislation relating to such  
133 alternative school programs.

134 SECTION 2. Section 37-9-69, Mississippi Code of 1972, is

135 amended as follows:

136           37-9-69. It shall be the duty of each superintendent,  
137 principal and teacher in the public schools of this state to  
138 enforce in the schools the courses of study prescribed by law or  
139 by the State Board of Education, to comply with the law in  
140 distribution and use of free textbooks, and to observe and enforce  
141 the statutes, rules and regulations prescribed for the operation  
142 of schools. Such superintendents, principals and teachers shall  
143 hold the pupils to strict account for disorderly conduct at  
144 school-related activities, whether on or off school property, on  
145 the way to and from school, on the playgrounds, \* \* \* during  
146 recess, and for disorderly acts toward any principal, teacher,  
147 student or employee occurring on or off the school property.

148           SECTION 3. Section 37-7-301, Mississippi Code of 1972, is  
149 amended as follows:

150           37-7-301. The school boards of all school districts shall  
151 have the following powers, authority and duties in addition to all  
152 others imposed or granted by law, to wit:

153           (a) To organize and operate the schools of the district  
154 and to make such division between the high school grades and  
155 elementary grades as, in their judgment, will serve the best  
156 interests of the school;

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

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

163           (d) To have responsibility for the erection, repairing  
164 and equipping of school facilities and the making of necessary  
165 school improvements;

166           (e) To suspend or to expel a pupil for misconduct at  
167 school-related activities, whether on or off school property, upon  
168 school buses, on the road to and from school, during recess or

169 upon the school playgrounds, and for disorderly acts toward any  
170 principal, teacher, student or employee occurring on or off the  
171 school property, and to delegate such authority to the appropriate  
172 officials of the school district;

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

176 (g) To support, within reasonable limits, the  
177 superintendent, administrative superintendent, principal and  
178 teachers where necessary for the proper discipline of the school;

179 (h) To exclude from the schools students with what  
180 appears to be infectious or contagious diseases; provided,  
181 however, such student may be allowed to return to school upon  
182 presenting a certificate from a public health officer, duly  
183 licensed physician or nurse practitioner that the student is free  
184 from such disease;

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

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

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

193 (l) To prescribe and enforce rules and regulations not  
194 inconsistent with law or with the regulations of the State Board  
195 of Education for their own government and for the government of  
196 the schools, and to transact their business at regular and special  
197 meetings called and held in the manner provided by law;

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

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

203           (o) To make orders directed to the superintendent of  
204 schools or administrative superintendent for the issuance of pay  
205 certificates for lawful purposes on any available funds of the  
206 district and to have full control of the receipt, distribution,  
207 allotment and disbursement of all funds provided for the support  
208 and operation of the schools of such school district whether such  
209 funds be derived from state appropriations, local ad valorem tax  
210 collections, or otherwise;

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

215           (q) To provide athletic programs and other school  
216 activities and to regulate the establishment and operation of such  
217 programs and activities;

218           (r) To join, in their discretion, any association of  
219 school boards and other public school-related organizations, and  
220 to pay from local funds other than minimum foundation funds, any  
221 membership dues;

222           (s) To expend local school activity funds, or other  
223 available school district funds, other than minimum education  
224 program funds, for the purposes prescribed under this paragraph.  
225 "Activity funds" shall mean all funds received by school officials  
226 in all school districts paid or collected to participate in any  
227 school activity, such activity being part of the school program  
228 and partially financed with public funds or supplemented by public  
229 funds. The term "activity funds" shall not include any funds  
230 raised and/or expended by any organization unless commingled in a  
231 bank account with existing activity funds, regardless of whether  
232 the funds were raised by school employees or received by school  
233 employees during school hours or using school facilities, and  
234 regardless of whether a school employee exercises influence over  
235 the expenditure or disposition of such funds. Organizations shall  
236 not be required to make any payment to any school for the use of

237 any school facility if, in the discretion of the local school  
238 governing board, the organization's function shall be deemed to be  
239 beneficial to the official or extracurricular programs of the  
240 school. For the purposes of this provision, the term  
241 "organization" shall not include any organization subject to the  
242 control of the local school governing board. Activity funds may  
243 only be expended for any necessary expenses or travel costs,  
244 including advances, incurred by students and their chaperons in  
245 attending any in-state or out-of-state school-related programs,  
246 conventions or seminars and/or any commodities, equipment, travel  
247 expenses, purchased services or school supplies which the local  
248 school governing board, in its discretion, shall deem beneficial  
249 to the official or extracurricular programs of the district,  
250 including items which may subsequently become the personal  
251 property of individuals, including yearbooks, athletic apparel,  
252 book covers and trophies. Activity funds may be used to pay  
253 travel expenses of school district personnel. The local school  
254 governing board shall be authorized and empowered to promulgate  
255 rules and regulations specifically designating for what purposes  
256 school activity funds may be expended. The local school governing  
257 board shall provide (a) that such school activity funds shall be  
258 maintained and expended by the principal of the school generating  
259 the funds in individual bank accounts, or (b) that such school  
260 activity funds shall be maintained and expended by the  
261 superintendent of schools in a central depository approved by the  
262 board. The local school governing board shall provide that such  
263 school activity funds be audited as part of the annual audit  
264 required in Section 37-9-18. The State Auditor shall prescribe a  
265 uniform system of accounting and financial reporting for all  
266 school activity fund transactions;

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



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

273 (v) (i) To lease a school building from an individual,  
274 partnership, nonprofit corporation or a private for-profit  
275 corporation for the use of such school district, and to expend  
276 funds therefor as may be available from any nonminimum program  
277 sources. The school board of the school district desiring to  
278 lease a school building shall declare by resolution that a need  
279 exists for a school building and that the school district cannot  
280 provide the necessary funds to pay the cost or its proportionate  
281 share of the cost of a school building required to meet the  
282 present needs. The resolution so adopted by the school board  
283 shall be published once each week for three (3) consecutive weeks  
284 in a newspaper having a general circulation in the school district  
285 involved, with the first publication thereof to be made not less  
286 than thirty (30) days prior to the date upon which the school  
287 board is to act on the question of leasing a school building. If  
288 no petition requesting an election is filed prior to such meeting  
289 as hereinafter provided, then the school board may, by resolution  
290 spread upon its minutes, proceed to lease a school building. If  
291 at any time prior to said meeting a petition signed by not less  
292 than twenty percent (20%) or fifteen hundred (1500), whichever is  
293 less, of the qualified electors of the school district involved  
294 shall be filed with the school board requesting that an election  
295 be called on the question, then the school board shall, not later  
296 than the next regular meeting, adopt a resolution calling an  
297 election to be held within such school district upon the question  
298 of authorizing the school board to lease a school building. Such  
299 election shall be called and held, and notice thereof shall be  
300 given, in the same manner for elections upon the questions of the  
301 issuance of the bonds of school districts, and the results thereof  
302 shall be certified to the school board. If at least three-fifths  
303 (3/5) of the qualified electors of the school district who voted  
304 in such election shall vote in favor of the leasing of a school

305 building, then the school board shall proceed to lease a school  
306 building. The term of the lease contract shall not exceed twenty  
307 (20) years, and the total cost of such lease shall be either the  
308 amount of the lowest and best bid accepted by the school board  
309 after advertisement for bids or an amount not to exceed the  
310 current fair market value of the lease as determined by the  
311 averaging of at least two (2) appraisals by members of the  
312 American Institute of Real Estate Appraisers or the Society of  
313 Real Estate Appraisers. The term "school building" as used in  
314 this item (v) shall be construed to mean any building or buildings  
315 used for classroom purposes in connection with the operation of  
316 schools and shall include the site therefor, necessary support  
317 facilities, and the equipment thereof and appurtenances thereto  
318 such as heating facilities, water supply, sewage disposal,  
319 landscaping, walks, drives and playgrounds. The term "lease" as  
320 used in this item (v)(i) may include a lease/purchase contract;  
321 (ii) If two (2) or more school districts propose  
322 to enter into a lease contract jointly, then joint meetings of the  
323 school boards having control may be held but no action taken shall  
324 be binding on any such school district unless the question of  
325 leasing a school building is approved in each participating school  
326 district under the procedure hereinabove set forth in item (v)(i).  
327 All of the provisions of item (v)(i) regarding the term and amount  
328 of the lease contract shall apply to the school boards of school  
329 districts acting jointly. Any lease contract executed by two (2)  
330 or more school districts as joint lessees shall set out the amount  
331 of the aggregate lease rental to be paid by each, which may be  
332 agreed upon, but there shall be no right of occupancy by any  
333 lessee unless the aggregate rental is paid as stipulated in the  
334 lease contract. All rights of joint lessees under the lease  
335 contract shall be in proportion to the amount of lease rental paid  
336 by each;

337 (w) To employ all noninstructional and noncertificated  
338 employees and fix the duties and compensation of such personnel

339 deemed necessary pursuant to the recommendation of the  
340 superintendent of schools or the administrative superintendent;

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

343 (y) Subject to rules and regulations of the State Board  
344 of Education, to purchase, own and operate trucks, vans and other  
345 motor vehicles, which shall bear the proper identification  
346 required by law;

347 (z) To expend funds for the payment of substitute  
348 teachers and to adopt reasonable regulations for the employment  
349 and compensation of such substitute teachers;

350 (aa) To acquire in its own name by purchase all real  
351 property which shall be necessary and desirable in connection with  
352 the construction, renovation or improvement of any public school  
353 building or structure. If the board shall be unable to agree with  
354 the owner of any such real property in connection with any such  
355 project, the board shall have the power and authority to acquire  
356 any such real property by condemnation proceedings pursuant to  
357 Section 11-27-1 et seq., Mississippi Code of 1972, and for such  
358 purpose, the right of eminent domain is hereby conferred upon and  
359 vested in said board. Provided further, that the local school  
360 board is authorized to grant an easement for ingress and egress  
361 over sixteenth section land or lieu land in exchange for a similar  
362 easement upon adjoining land where the exchange of easements  
363 affords substantial benefit to the sixteenth section land;  
364 provided, however, the exchange must be based upon values as  
365 determined by a competent appraiser, with any differential in  
366 value to be adjusted by cash payment. Any easement rights granted  
367 over sixteenth section land under such authority shall terminate  
368 when the easement ceases to be used for its stated purpose. No  
369 sixteenth section or lieu land which is subject to an existing  
370 lease shall be burdened by any such easement except by consent of  
371 the lessee or unless the school district shall acquire the  
372 unexpired leasehold interest affected by the easement;

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

376           (cc) Subject to rules and regulations of the State  
377 Board of Education, to purchase relocatable classrooms for the use  
378 of such school district, in the manner prescribed in Section  
379 37-1-13;

380           (dd) Enter into contracts or agreements with other  
381 school districts, political subdivisions or governmental entities  
382 to carry out one or more of the powers or duties of the school  
383 board, or to allow more efficient utilization of limited resources  
384 for providing services to the public;

385           (ee) To provide for in-service training for employees  
386 of the district. Until June 30, 1994, the school boards may  
387 designate two (2) days of the minimum school term, as defined in  
388 Section 37-19-1, for employee in-service training for  
389 implementation of the new statewide testing system as developed by  
390 the State Board of Education. Such designation shall be subject  
391 to approval by the State Board of Education pursuant to uniform  
392 rules and regulations;

393           (ff) The school boards of all school districts, as part  
394 of their duties to prescribe the use of textbooks, may provide  
395 that parents and legal guardians shall be responsible for the  
396 textbooks and for the compensation to the school district for any  
397 books which are not returned to the proper schools upon the  
398 withdrawal of their dependent child. If a textbook is lost or not  
399 returned by any student who drops out of the public school  
400 district, the parent or legal guardian shall also compensate the  
401 school district for the fair market value of the textbooks;

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

406           (i) Any proceeds of the fund-raising activities

407 shall be treated as "activity funds" and shall be accounted for as  
408 are other activity funds under this section; and

409                   (ii) Fund-raising activities conducted or  
410 authorized by the board for the sale of school pictures, the  
411 rental of caps and gowns or the sale of graduation invitations for  
412 which the school board receives a commission, rebate or fee shall  
413 contain a disclosure statement advising that a portion of the  
414 proceeds of the sales or rentals shall be contributed to the  
415 student activity fund;

416                   (hh) To allow individual lessons for music, art and  
417 other curriculum-related activities for academic credit or  
418 nonacademic credit during school hours and using school equipment  
419 and facilities, subject to uniform rules and regulations adopted  
420 by the school board;

421                   (ii) To charge reasonable fees for participating in an  
422 extracurricular activity for academic or nonacademic credit for  
423 necessary and required equipment such as safety equipment, band  
424 instruments and uniforms;

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

428                   (kk) To exercise such powers as may be reasonably  
429 necessary or implied to carry out the general duties and  
430 responsibilities of school boards; and

431                   (ll) To expend funds for the services of nonprofit arts  
432 organizations or other such nonprofit organizations who provide  
433 performances or other services for the students of the school  
434 district.

435           SECTION 4. This act shall take effect and be in force from  
436 and after its passage.