

By: Senator(s) Bean, Ferris, Farris

To: Education

SENATE BILL NO. 2404  
(As Passed the Senate)

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, AND TO CLARIFY THE  
11 GENERAL POWERS AND RESPONSIBILITIES OF LOCAL SCHOOL BOARDS; TO  
12 AMEND SECTION 43-21-621, MISSISSIPPI CODE OF 1972, TO CONFORM THE  
13 AUTHORITY OF THE YOUTH COURT OVER STUDENTS TO THE PROVISIONS OF  
14 THIS ACT; AND FOR RELATED PURPOSES.

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

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

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

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

26 (b) Any compulsory-school-age child referred to such  
27 alternative school based upon a documented need for placement in

28 the alternative school program by the parent, legal guardian or  
29 custodian of such child due to disciplinary problems; \* \* \*

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

34 (d) Any compulsory-school-age child in cases where a  
35 school district receives notice that the student has committed an  
36 act away from school that is of such a nature that to continue the  
37 student in his or her regular education program would have an  
38 immediate, direct and disruptive effect on the school environment.

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

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

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

68           (b) The duration of alternative placement; and

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

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

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

89 test to be administered through the community/junior college  
90 district in which the alternative school is situated.

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

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

101 Transportation for students attending the alternative school  
102 program shall be the responsibility of the local school district.

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

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

116 \* \* \*

117 (9) On request of a school district, the State Department of

118 Education shall provide the district informational material on  
119 developing an alternative school program that takes into  
120 consideration size, wealth and existing facilities in determining  
121 a program best suited to a district.

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

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

136       SECTION 2. Section 37-9-69, Mississippi Code of 1972, is  
137 amended as follows:

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

147 the way to and from school, on the playgrounds, \* \* \* during  
148 recess, and for threats, assaults, harassment or other disorderly  
149 acts against any school official or employee.

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

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

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

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

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

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

168 (e) To suspend or to expel a pupil for misconduct at  
169 school-related activities, whether on or off school property, upon  
170 school buses, on the road to and from school, during recess or  
171 upon the school playgrounds, and for threats, assaults, harassment  
172 or other disorderly acts against any school official or employee

173 and to delegate such authority to the appropriate officials of the  
174 school district;

175 (f) To visit schools in the district, in their

176 discretion, in a body for the purpose of determining what can be  
177 done for the improvement of the school in a general way;

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

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

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

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

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

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

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

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

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

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

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

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

224           (s) To expend local school activity funds, or other  
225 available school district funds, other than minimum education  
226 program funds, for the purposes prescribed under this paragraph.  
227 "Activity funds" shall mean all funds received by school officials  
228 in all school districts paid or collected to participate in any  
229 school activity, such activity being part of the school program  
230 and partially financed with public funds or supplemented by public  
231 funds. The term "activity funds" shall not include any funds  
232 raised and/or expended by any organization unless commingled in a  
233 bank account with existing activity funds, regardless of whether



234 the funds were raised by school employees or received by school  
235 employees during school hours or using school facilities, and  
236 regardless of whether a school employee exercises influence over  
237 the expenditure or disposition of such funds. Organizations shall  
238 not be required to make any payment to any school for the use of  
239 any school facility if, in the discretion of the local school  
240 governing board, the organization's function shall be deemed to be  
241 beneficial to the official or extracurricular programs of the  
242 school. For the purposes of this provision, the term  
243 "organization" shall not include any organization subject to the  
244 control of the local school governing board. Activity funds may  
245 only be expended for any necessary expenses or travel costs,  
246 including advances, incurred by students and their chaperons in  
247 attending any in-state or out-of-state school-related programs,  
248 conventions or seminars and/or any commodities, equipment, travel  
249 expenses, purchased services or school supplies which the local  
250 school governing board, in its discretion, shall deem beneficial  
251 to the official or extracurricular programs of the district,  
252 including items which may subsequently become the personal  
253 property of individuals, including yearbooks, athletic apparel,  
254 book covers and trophies. Activity funds may be used to pay  
255 travel expenses of school district personnel. The local school  
256 governing board shall be authorized and empowered to promulgate  
257 rules and regulations specifically designating for what purposes  
258 school activity funds may be expended. The local school governing  
259 board shall provide (a) that such school activity funds shall be  
260 maintained and expended by the principal of the school generating  
261 the funds in individual bank accounts, or (b) that such school  
262 activity funds shall be maintained and expended by the

263 superintendent of schools in a central depository approved by the  
264 board. The local school governing board shall provide that such  
265 school activity funds be audited as part of the annual audit  
266 required in Section 37-9-18. The State Auditor shall prescribe a  
267 uniform system of accounting and financial reporting for all  
268 school activity fund transactions;

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

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

275 (v) (i) To lease a school building from an individual,  
276 partnership, nonprofit corporation or a private for-profit  
277 corporation for the use of such school district, and to expend  
278 funds therefor as may be available from any nonminimum program  
279 sources. The school board of the school district desiring to  
280 lease a school building shall declare by resolution that a need  
281 exists for a school building and that the school district cannot  
282 provide the necessary funds to pay the cost or its proportionate  
283 share of the cost of a school building required to meet the  
284 present needs. The resolution so adopted by the school board  
285 shall be published once each week for three (3) consecutive weeks  
286 in a newspaper having a general circulation in the school district  
287 involved, with the first publication thereof to be made not less  
288 than thirty (30) days prior to the date upon which the school  
289 board is to act on the question of leasing a school building. If  
290 no petition requesting an election is filed prior to such meeting  
291 as hereinafter provided, then the school board may, by resolution

292 spread upon its minutes, proceed to lease a school building. If  
293 at any time prior to said meeting a petition signed by not less  
294 than twenty percent (20%) or fifteen hundred (1500), whichever is  
295 less, of the qualified electors of the school district involved  
296 shall be filed with the school board requesting that an election  
297 be called on the question, then the school board shall, not later  
298 than the next regular meeting, adopt a resolution calling an  
299 election to be held within such school district upon the question  
300 of authorizing the school board to lease a school building. Such  
301 election shall be called and held, and notice thereof shall be  
302 given, in the same manner for elections upon the questions of the  
303 issuance of the bonds of school districts, and the results thereof  
304 shall be certified to the school board. If at least three-fifths  
305 (3/5) of the qualified electors of the school district who voted  
306 in such election shall vote in favor of the leasing of a school  
307 building, then the school board shall proceed to lease a school  
308 building. The term of the lease contract shall not exceed twenty  
309 (20) years, and the total cost of such lease shall be either the  
310 amount of the lowest and best bid accepted by the school board  
311 after advertisement for bids or an amount not to exceed the  
312 current fair market value of the lease as determined by the  
313 averaging of at least two (2) appraisals by members of the  
314 American Institute of Real Estate Appraisers or the Society of  
315 Real Estate Appraisers. The term "school building" as used in  
316 this item (v) shall be construed to mean any building or buildings  
317 used for classroom purposes in connection with the operation of  
318 schools and shall include the site therefor, necessary support  
319 facilities, and the equipment thereof and appurtenances thereto  
320 such as heating facilities, water supply, sewage disposal,

321 landscaping, walks, drives and playgrounds. The term "lease" as  
322 used in this item (v)(i) may include a lease/purchase contract;

323 (ii) If two (2) or more school districts propose  
324 to enter into a lease contract jointly, then joint meetings of the  
325 school boards having control may be held but no action taken shall  
326 be binding on any such school district unless the question of  
327 leasing a school building is approved in each participating school  
328 district under the procedure hereinabove set forth in item (v)(i).  
329 All of the provisions of item (v)(i) regarding the term and amount  
330 of the lease contract shall apply to the school boards of school  
331 districts acting jointly. Any lease contract executed by two (2)  
332 or more school districts as joint lessees shall set out the amount  
333 of the aggregate lease rental to be paid by each, which may be  
334 agreed upon, but there shall be no right of occupancy by any  
335 lessee unless the aggregate rental is paid as stipulated in the  
336 lease contract. All rights of joint lessees under the lease  
337 contract shall be in proportion to the amount of lease rental paid  
338 by each;

339 (w) To employ all noninstructional and noncertificated  
340 employees and fix the duties and compensation of such personnel  
341 deemed necessary pursuant to the recommendation of the  
342 superintendent of schools or the administrative superintendent;

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

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

349 (z) To expend funds for the payment of substitute

350 teachers and to adopt reasonable regulations for the employment  
351 and compensation of such substitute teachers;

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

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

378           (cc) Subject to rules and regulations of the State

379 Board of Education, to purchase relocatable classrooms for the use  
380 of such school district, in the manner prescribed in Section  
381 37-1-13;

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

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

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

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

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

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

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

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

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

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

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

437        SECTION 4. Section 43-21-621, Mississippi Code of 1972, is  
438 amended as follows:

439            43-21-621. (1) The youth court may, in compliance with the  
440 laws governing education of children, order any state-supported  
441 public school in its jurisdiction after notice and hearing to  
442 enroll or reenroll any compulsory-school-age child in school, and  
443 further order appropriate educational services. Provided,  
444 however, that the youth court shall not order the enrollment or  
445 reenrollment of a student that has been suspended or expelled by a  
446 public school pursuant to Section 37-9-71 or 37-7-301 \* \* \* . \* \* \*

447        The superintendent of the school district to which such child is  
448 ordered may, in his discretion, assign such child to the  
449 alternative school program of such school established pursuant to  
450 Section 37-13-92, Mississippi Code of 1972. The court shall have  
451 jurisdiction to enforce school and education laws. Nothing in  
452 this section shall be construed to affect the attendance of a  
453 child in a legitimate home instruction program.

454            (2) The youth court may specify the following conditions of  
455 probation related to any juvenile ordered to enroll or reenroll in  
456 school: That the juvenile maintain passing grades in up to four  
457 (4) courses during each grading period and meet with the court  
458 counselor and a representative of the school to make a plan for  
459 how to maintain those passing grades.

460            (3) If the adjudication of delinquency was for an offense  
461 involving a threat to the safety of the juvenile or others and  
462 school attendance is a condition of probation, the youth court  
463 judge shall make a finding that the principal of the juvenile's  
464 school should be notified. If the judge orders that the principal  
465 be notified, the youth court counselor shall within five (5) days



466 or before the juvenile begins to attend school, whichever occurs  
467 first, notify the principal of the juvenile's school in writing of  
468 the nature of the offense and the probation requirements related  
469 to school attendance. A principal notified by a juvenile court  
470 counselor shall handle the report according to the guidelines and  
471 rules adopted by the State Board of Education.

472 (4) The Administrative Office of \* \* \* Courts shall report  
473 to the Legislature on the number of juveniles reported to  
474 principals in accordance with this section no later than January  
475 1, 1996.

476 SECTION 5. This act shall take effect and be in force from  
477 and after its passage.