

By: Warren

To: Education

HOUSE BILL NO. 776  
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 37-7-301 AND 37-9-71, MISSISSIPPI  
2 CODE OF 1972, TO CLARIFY THE AUTHORITY OF SCHOOL SUPERINTENDENTS,  
3 PRINCIPALS AND SCHOOL BOARDS TO SUSPEND, EXPEL OR CHANGE THE  
4 PLACEMENT OF PUPILS FOR CONDUCT THAT RENDERS A PUPIL'S PRESENCE IN  
5 THE CLASSROOM DETRIMENTAL TO THE SCHOOL'S EDUCATIONAL ENVIRONMENT  
6 OR THE BEST INTEREST OF A CLASS AS A WHOLE; TO AMEND SECTION  
7 37-13-92, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE REFERRAL OF  
8 SUCH PUPILS TO AN ALTERNATIVE SCHOOL PROGRAM; AND FOR RELATED  
9 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, administrative superintendent, principal and  
47 teachers where necessary for the 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 or administrative superintendent for the issuance of pay  
74 certificates for lawful purposes on any available funds of the  
75 district and to have full control of the receipt, distribution,  
76 allotment and disbursement of all funds provided for the support  
77 and operation of the schools of such school district whether such  
78 funds be derived from state appropriations, local ad valorem tax  
79 collections, or otherwise;

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

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

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

91 (s) To expend local school activity funds, or other  
92 available school district funds, other than minimum education  
93 program funds, for the purposes prescribed under this paragraph.  
94 "Activity funds" shall mean all funds received by school officials  
95 in all school districts paid or collected to participate in any

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

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

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

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

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

162 less, of the qualified electors of the school district involved  
163 shall be filed with the school board requesting that an election  
164 be called on the question, then the school board shall, not later  
165 than the next regular meeting, adopt a resolution calling an  
166 election to be held within such school district upon the question  
167 of authorizing the school board to lease a school building. Such  
168 election shall be called and held, and notice thereof shall be  
169 given, in the same manner for elections upon the questions of the  
170 issuance of the bonds of school districts, and the results thereof  
171 shall be certified to the school board. If at least three-fifths  
172 (3/5) of the qualified electors of the school district who voted  
173 in such election shall vote in favor of the leasing of a school  
174 building, then the school board shall proceed to lease a school  
175 building. The term of the lease contract shall not exceed twenty  
176 (20) years, and the total cost of such lease shall be either the  
177 amount of the lowest and best bid accepted by the school board  
178 after advertisement for bids or an amount not to exceed the  
179 current fair market value of the lease as determined by the  
180 averaging of at least two (2) appraisals by members of the  
181 American Institute of Real Estate Appraisers or the Society of  
182 Real Estate Appraisers. The term "school building" as used in  
183 this item (v) shall be construed to mean any building or buildings  
184 used for classroom purposes in connection with the operation of  
185 schools and shall include the site therefor, necessary support  
186 facilities, and the equipment thereof and appurtenances thereto  
187 such as heating facilities, water supply, sewage disposal,  
188 landscaping, walks, drives and playgrounds. The term "lease" as  
189 used in this item (v)(i) may include a lease/purchase contract;  
190 (ii) If two (2) or more school districts propose  
191 to enter into a lease contract jointly, then joint meetings of the  
192 school boards having control may be held but no action taken shall  
193 be binding on any such school district unless the question of  
194 leasing a school building is approved in each participating school

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

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

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

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

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

219           (aa) To acquire in its own name by purchase all real  
220 property which shall be necessary and desirable in connection with  
221 the construction, renovation or improvement of any public school  
222 building or structure. If the board shall be unable to agree with  
223 the owner of any such real property in connection with any such  
224 project, the board shall have the power and authority to acquire  
225 any such real property by condemnation proceedings pursuant to  
226 Section 11-27-1 et seq., Mississippi Code of 1972, and for such  
227 purpose, the right of eminent domain is hereby conferred upon and

228 vested in said board. Provided further, that the local school  
229 board is authorized to grant an easement for ingress and egress  
230 over sixteenth section land or lieu land in exchange for a similar  
231 easement upon adjoining land where the exchange of easements  
232 affords substantial benefit to the sixteenth section land;  
233 provided, however, the exchange must be based upon values as  
234 determined by a competent appraiser, with any differential in  
235 value to be adjusted by cash payment. Any easement rights granted  
236 over sixteenth section land under such authority shall terminate  
237 when the easement ceases to be used for its stated purpose. No  
238 sixteenth section or lieu land which is subject to an existing  
239 lease shall be burdened by any such easement except by consent of  
240 the lessee or unless the school district shall acquire the  
241 unexpired leasehold interest affected by the easement;

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

245 (cc) Subject to rules and regulations of the State  
246 Board of Education, to purchase relocatable classrooms for the use  
247 of such school district, in the manner prescribed in Section  
248 37-1-13;

249 (dd) Enter into contracts or agreements with other  
250 school districts, political subdivisions or governmental entities  
251 to carry out one or more of the powers or duties of the school  
252 board, or to allow more efficient utilization of limited resources  
253 for providing services to the public;

254 (ee) To provide for in-service training for employees  
255 of the district. Until June 30, 1994, the school boards may  
256 designate two (2) days of the minimum school term, as defined in  
257 Section 37-19-1, for employee in-service training for  
258 implementation of the new statewide testing system as developed by  
259 the State Board of Education. Such designation shall be subject  
260 to approval by the State Board of Education pursuant to uniform



261 rules and regulations;

262           (ff) The school boards of all school districts, as part  
263 of their duties to prescribe the use of textbooks, may provide  
264 that parents and legal guardians shall be responsible for the  
265 textbooks and for the compensation to the school district for any  
266 books which are not returned to the proper schools upon the  
267 withdrawal of their dependent child. If a textbook is lost or not  
268 returned by any student who drops out of the public school  
269 district, the parent or legal guardian shall also compensate the  
270 school district for the fair market value of the textbooks;

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

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

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

285           (hh) To allow individual lessons for music, art and  
286 other curriculum-related activities for academic credit or  
287 nonacademic credit during school hours and using school equipment  
288 and facilities, subject to uniform rules and regulations adopted  
289 by the school board;

290           (ii) To charge reasonable fees for participating in an  
291 extracurricular activity for academic or nonacademic credit for  
292 necessary and required equipment such as safety equipment, band  
293 instruments and uniforms;

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

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

299 (ll) To expend funds for the services of nonprofit arts  
300 organizations or other such nonprofit organizations who provide  
301 performances or other services for the students of the school  
302 district.

303 SECTION 2. Section 37-9-71, Mississippi Code of 1972, is  
304 amended as follows:

305 37-9-71. The superintendent of schools and the principal of  
306 a school shall have the power to suspend a pupil for good cause,  
307 including misconduct in the school or on school property, as  
308 defined in Section 37-11-29, on the road to and from school, or at  
309 any school-related activity or event, or for conduct occurring on  
310 property other than school property or other than at a  
311 school-related activity or event when such conduct by a pupil, in  
312 the determination of the superintendent or principal, renders that  
313 pupil's presence in the classroom a disruption to the educational  
314 environment of the school or a detriment to the best interest and  
315 welfare of the pupils and teacher of such class as a whole, or for  
316 any reason for which such pupil might be suspended, dismissed or  
317 expelled by the school board under state or federal law or any  
318 rule, regulation or policy of the local school district. However,  
319 such action of the superintendent or principal shall be subject to  
320 review by and the approval or disapproval of the school board. If  
321 the parent, guardian or other person having custody of any child  
322 shall feel aggrieved by the suspension or dismissal of that child,  
323 then such parent, guardian or other person shall have the right to  
324 a due process hearing. The parent or guardian of the child shall  
325 be advised of this right to a hearing by the appropriate  
326 superintendent or principal and the proper form shall be provided

327 for requesting such a hearing.

328 SECTION 3. Section 37-13-92, Mississippi Code of 1972, is  
329 amended as follows:

330 37-13-92. (1) Beginning with the school year 1993-1994, the  
331 school boards of all school districts shall establish, maintain  
332 and operate, in connection with the regular programs of the school  
333 district, an alternative school program for, but not limited to,  
334 the following categories of compulsory-school-age students:

335 (a) Any compulsory-school-age child who has been  
336 suspended for more than ten (10) days or expelled from school,  
337 except for any student expelled for possession of a weapon or  
338 other felonious conduct;

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

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

347 (d) Any compulsory-school-age child whose presence in  
348 the classroom, in the determination of the school superintendent  
349 or principal, is a disruption to the educational environment of  
350 the school or a detriment to the best interest and welfare of the  
351 students and teacher of such class as a whole.

352 (2) The principal or program administrator of any such  
353 alternative school program shall require verification from the  
354 appropriate guidance counselor of any such child referred to the  
355 alternative school program regarding the suitability of such child  
356 for attendance at the alternative school program. Before a  
357 student may be removed to an alternative school education program,  
358 the superintendent of the student's school district must determine  
359 that the written and distributed disciplinary policy of the local

360 district is being followed. The policy shall include standards  
361 for:

362 (a) The removal of a student to an alternative  
363 education program that will include a process of educational  
364 review to develop the student's individual instruction plan and  
365 the evaluation at regular intervals of the student's educational  
366 progress; the process shall include classroom teachers and/or  
367 other appropriate professional personnel, as defined in the  
368 district policy, to ensure a continuing educational program for  
369 the removed student;

370 (b) The duration of alternative placement; and

371 (c) The notification of parents or guardians, and their  
372 appropriate inclusion in the removal and evaluation process, as  
373 defined in the district policy. Nothing in this paragraph should  
374 be defined in a manner to circumvent the principal's or the  
375 superintendent's authority to remove a student to alternative  
376 education.

377 (3) The local school board or the superintendent shall  
378 provide for the continuing education of a student who has been  
379 removed to an alternative school program.

380 (4) A school district, in its discretion, may provide a  
381 program of general educational development (GED) preparatory  
382 instruction in the alternative school program. However, any GED  
383 preparation program offered in an alternative school program must  
384 be administered in compliance with the rules and regulations  
385 established for such programs under Sections 37-35-1 through  
386 37-35-11 and by the State Board for Community and Junior Colleges.  
387 The school district may administer the General Educational  
388 Development (GED) Testing Program under the policies and  
389 guidelines of the GED Testing Service of the American Council on  
390 Education in the alternative school program or may authorize the  
391 test to be administered through the community/junior college  
392 district in which the alternative school is situated.

393 (5) Any such alternative school program operated under the  
394 authority of this section shall meet all appropriate accreditation  
395 requirements of the State Department of Education.

396 (6) The alternative school program may be held within such  
397 school district or may be operated by two (2) or more adjacent  
398 school districts, pursuant to a contract approved by the State  
399 Board of Education. When two (2) or more school districts  
400 contract to operate an alternative school program, the school  
401 board of a district designated to be the lead district shall serve  
402 as the governing board of the alternative school program.

403 Transportation for students attending the alternative school  
404 program shall be the responsibility of the local school district.

405 The expense of establishing, maintaining and operating such  
406 alternative school program may be paid from funds contributed or  
407 otherwise made available to the school district for such purpose  
408 or from local district maintenance funds.

409 (7) The State Board of Education shall promulgate minimum  
410 guidelines for alternative school programs. The guidelines shall  
411 require, at a minimum, the formulation of an individual  
412 instruction plan for each student referred to the alternative  
413 school program and, upon a determination that it is in a student's  
414 best interest for that student to receive general educational  
415 development (GED) preparatory instruction, that the local school  
416 board assign the student to a GED preparatory program established  
417 under subsection (4) of this section. The minimum guidelines for  
418 alternative school programs shall also require the following  
419 components:

420 (a) Clear guidelines and procedures for placement of  
421 students into alternative education programs which at a minimum  
422 shall prescribe due process procedures for disciplinary and  
423 general educational development (GED) placement;

424 (b) Clear and consistent goals for students and  
425 parents;

426 (c) Curricula addressing cultural and learning style  
427 differences;

428 (d) Direct supervision of all activities on a closed  
429 campus;

430 (e) Full-day attendance with a rigorous workload and  
431 minimal time off;

432 (f) Selection of program from options provided by the  
433 local school district, Division of Youth Services or the youth  
434 court, including transfer to a community-based alternative school;

435 (g) Continual monitoring and evaluation and formalized  
436 passage from one step or program to another;

437 (h) A motivated and culturally diverse staff;

438 (i) Counseling for parents and students;

439 (j) Administrative and community support for the  
440 program; and

441 (k) Clear procedures for annual alternative school  
442 program review and evaluation.

443 (8) On request of a school district, the State Department of  
444 Education shall provide the district informational material on  
445 developing an alternative school program that takes into  
446 consideration size, wealth and existing facilities in determining  
447 a program best suited to a district.

448 (9) Any compulsory-school-age child who becomes involved in  
449 any criminal or violent behavior shall be removed from such  
450 alternative school program and, if probable cause exists, a case  
451 shall be referred to the youth court.

452 (10) The State Board of Education, in its discretion, may  
453 exempt not more than four (4) school district alternative school  
454 programs in the state from any compulsory standard of  
455 accreditation for a period of three (3) years. During this  
456 period, the State Department of Education shall conduct a study of  
457 all alternative school programs in the state, and on or before  
458 January 1, 2000, shall develop and promulgate accreditation

459 standards for all alternative school programs, including any  
460 recommendations for necessary legislation relating to such  
461 alternative school programs.

462 SECTION 4. This act shall take effect and be in force from  
463 and after July 1, 2000.