

By: Warren

To: Education

HOUSE BILL NO. 776
(As Sent to Governor)

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, AND TO REQUIRE SCHOOL
7 BOARDS TO OBTAIN TWO APPRAISALS BEFORE PURCHASING CERTAIN REAL
8 PROPERTY; TO AMEND SECTION 37-13-92, MISSISSIPPI CODE OF 1972, TO
9 AUTHORIZE THE REFERRAL OF SUCH PUPILS TO AN ALTERNATIVE SCHOOL
10 PROGRAM; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

30 (e) To suspend or to expel a pupil or to change the

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

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

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

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

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

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

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

63 (l) To prescribe and enforce rules and regulations not

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

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

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

73 (o) To make orders directed to the superintendent of
74 schools * * * for the issuance of pay certificates for lawful
75 purposes on any available funds of the district and to have full
76 control of the receipt, distribution, allotment and disbursement
77 of all funds provided for the support and operation of the schools
78 of such school district whether such funds be derived from state
79 appropriations, local ad valorem tax 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 nonminimum 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 certified general
181 appraisers licensed by the State of Mississippi. The term "school
182 building" as used in this item (v) shall be construed to mean any
183 building or buildings used for classroom purposes in connection
184 with the operation of schools and shall include the site therefor,
185 necessary support facilities, and the equipment thereof and
186 appurtenances thereto such as heating facilities, water supply,
187 sewage disposal, landscaping, walks, drives and playgrounds. The
188 term "lease" as used in this item (v)(i) may include a
189 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 * * *;

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. Whenever the purchase price for such real
223 property is greater than Fifty Thousand Dollars (\$50,000.00), the
224 school board shall not purchase the property for an amount
225 exceeding the fair market value of such property as determined by
226 the average of at least two (2) independent appraisals by
227 certified general appraisers licensed by the State of Mississippi.

228 If the board shall be unable to agree with the owner of any such

229 real property in connection with any such project, the board shall
230 have the power and authority to acquire any such real property by
231 condemnation proceedings pursuant to Section 11-27-1 et seq.,
232 Mississippi Code of 1972, and for such purpose, the right of
233 eminent domain is hereby conferred upon and vested in said board.

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

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

251 (cc) Subject to rules and regulations of the State
252 Board of Education, to purchase relocatable classrooms for the use
253 of such school district, in the manner prescribed in Section
254 37-1-13;

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

260 (ee) To provide for in-service training for employees
261 of the district. Until June 30, 1994, the school boards may

262 designate two (2) days of the minimum school term, as defined in
263 Section 37-19-1, for employee in-service training for
264 implementation of the new statewide testing system as developed by
265 the State Board of Education. Such designation shall be subject
266 to approval by the State Board of Education pursuant to uniform
267 rules and regulations;

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

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

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

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

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

295 by the school board;

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

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

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

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

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

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

328 shall feel aggrieved by the suspension or dismissal of that child,
329 then such parent, guardian or other person shall have the right to
330 a due process hearing. The parent or guardian of the child shall
331 be advised of this right to a hearing by the appropriate
332 superintendent or principal and the proper form shall be provided
333 for requesting such a hearing.

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

336 37-13-92. (1) Beginning with the school year 1993-1994, the
337 school boards of all school districts shall establish, maintain
338 and operate, in connection with the regular programs of the school
339 district, an alternative school program for, but not limited to,
340 the following categories of compulsory-school-age students:

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

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

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

353 (d) Any compulsory-school-age child whose presence in
354 the classroom, in the determination of the school superintendent
355 or principal, is a disruption to the educational environment of
356 the school or a detriment to the best interest and welfare of the
357 students and teacher of such class as a whole.

358 (2) The principal or program administrator of any such
359 alternative school program shall require verification from the
360 appropriate guidance counselor of any such child referred to the

361 alternative school program regarding the suitability of such child
362 for attendance at the alternative school program. Before a
363 student may be removed to an alternative school education program,
364 the superintendent of the student's school district must determine
365 that the written and distributed disciplinary policy of the local
366 district is being followed. The policy shall include standards
367 for:

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

376 (b) The duration of alternative placement; and

377 (c) The notification of parents or guardians, and their
378 appropriate inclusion in the removal and evaluation process, as
379 defined in the district policy. Nothing in this paragraph should
380 be defined in a manner to circumvent the principal's or the
381 superintendent's authority to remove a student to alternative
382 education.

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

386 (4) A school district, in its discretion, may provide a
387 program of general educational development (GED) preparatory
388 instruction in the alternative school program. However, any GED
389 preparation program offered in an alternative school program must
390 be administered in compliance with the rules and regulations
391 established for such programs under Sections 37-35-1 through
392 37-35-11 and by the State Board for Community and Junior Colleges.
393 The school district may administer the General Educational

394 Development (GED) Testing Program under the policies and
395 guidelines of the GED Testing Service of the American Council on
396 Education in the alternative school program or may authorize the
397 test to be administered through the community/junior college
398 district in which the alternative school is situated.

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

402 (6) The alternative school program may be held within such
403 school district or may be operated by two (2) or more adjacent
404 school districts, pursuant to a contract approved by the State
405 Board of Education. When two (2) or more school districts
406 contract to operate an alternative school program, the school
407 board of a district designated to be the lead district shall serve
408 as the governing board of the alternative school program.

409 Transportation for students attending the alternative school
410 program shall be the responsibility of the local school district.

411 The expense of establishing, maintaining and operating such
412 alternative school program may be paid from funds contributed or
413 otherwise made available to the school district for such purpose
414 or from local district maintenance funds.

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

426 (a) Clear guidelines and procedures for placement of

427 students into alternative education programs which at a minimum
428 shall prescribe due process procedures for disciplinary and
429 general educational development (GED) placement;

430 (b) Clear and consistent goals for students and
431 parents;

432 (c) Curricula addressing cultural and learning style
433 differences;

434 (d) Direct supervision of all activities on a closed
435 campus;

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

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

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

443 (h) A motivated and culturally diverse staff;

444 (i) Counseling for parents and students;

445 (j) Administrative and community support for the
446 program; and

447 (k) Clear procedures for annual alternative school
448 program review and evaluation.

449 (8) On request of a school district, the State Department of
450 Education shall provide the district informational material on
451 developing an alternative school program that takes into
452 consideration size, wealth and existing facilities in determining
453 a program best suited to a district.

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

458 (10) The State Board of Education, in its discretion, may
459 exempt not more than four (4) school district alternative school

460 programs in the state from any compulsory standard of
461 accreditation for a period of three (3) years. During this
462 period, the State Department of Education shall conduct a study of
463 all alternative school programs in the state, and on or before
464 January 1, 2000, shall develop and promulgate accreditation
465 standards for all alternative school programs, including any
466 recommendations for necessary legislation relating to such
467 alternative school programs.

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