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To: Education

HOUSE BILL NO. 1102

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 OR EXPEL PUPILS FOR
4 CONDUCT THAT RENDERS A PUPIL'S PRESENCE IN THE CLASSROOM
5 DETRIMENTAL TO THE SCHOOL'S EDUCATIONAL ENVIRONMENT OR THE BEST
6 INTEREST OF A CLASS AS A WHOLE; TO AMEND SECTION 37-13-92,
7 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE REFERRAL OF SUCH PUPILS
8 TO AN ALTERNATIVE SCHOOL PROGRAM; TO REQUIRE A DUE PROCESS
9 COMMITTEE TO BE APPOINTED FOR EACH PUBLIC SCHOOL; AND FOR RELATED
10 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 for misconduct in

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

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

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

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

53 (i) To require those vaccinations specified by the
54 State Health Officer as provided in Section 41-23-37;

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

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

60 (l) To prescribe and enforce rules and regulations not
61 inconsistent with law or with the regulations of the State Board
62 of Education for their own government and for the government of
63 the schools, and to transact their business at regular and special

64 meetings called and held in the manner provided by law;

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

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

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

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

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

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

89 (s) To expend local school activity funds, or other
90 available school district funds, other than minimum education
91 program funds, for the purposes prescribed under this paragraph.
92 "Activity funds" shall mean all funds received by school officials
93 in all school districts paid or collected to participate in any
94 school activity, such activity being part of the school program
95 and partially financed with public funds or supplemented by public
96 funds. The term "activity funds" shall not include any funds

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

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

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

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

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

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

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

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

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

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

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

217 (aa) To acquire in its own name by purchase all real
218 property which shall be necessary and desirable in connection with
219 the construction, renovation or improvement of any public school
220 building or structure. If the board shall be unable to agree with
221 the owner of any such real property in connection with any such
222 project, the board shall have the power and authority to acquire
223 any such real property by condemnation proceedings pursuant to
224 Section 11-27-1 et seq., and for such purpose, the right of
225 eminent domain is hereby conferred upon and vested in said
226 board. * * * The local school board is authorized to grant an
227 easement for ingress and egress over sixteenth section land or
228 lieu land in exchange for a similar easement upon adjoining land

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

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

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

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

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

260 (ff) * * * As part of their duties to prescribe the use
261 of textbooks, to provide, in the board's discretion, that parents

262 and legal guardians shall be responsible for the textbooks and for
263 the compensation to the school district for any books which are
264 not returned to the proper schools upon the withdrawal of their
265 dependent child. If a textbook is lost or not returned by any
266 student who drops out of the public school district, the parent or
267 legal guardian shall also compensate the school district for the
268 fair market value of the textbooks;

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

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

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

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

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

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

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

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

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

303 37-9-71. The superintendent of schools and the principal of
304 a school shall have the power to suspend or change the placement
305 of a pupil for good cause, including misconduct in the school or
306 on school property, as defined in Section 37-11-29, on the road to
307 and from school, or at any school-related activity or event, or
308 for conduct occurring on property other than school property or
309 other than at a school-related activity or event when such conduct
310 by a pupil, in the determination of the school principal and the
311 due process committee of the school, renders that pupil's presence
312 in the classroom a disruption to the educational environment of
313 the school or a detriment to the best interest and welfare of the
314 pupils and teacher of such class as a whole, or for any reason for
315 which such pupil might be suspended, dismissed or expelled by the
316 school board under state or federal law or any rule, regulation or
317 policy of the local school district. However, such action of the
318 superintendent or principal and the due process committee shall be
319 subject to review by and the approval or disapproval of the school
320 board. If the parent, guardian or other person having custody of
321 any child shall feel aggrieved by the suspension, change of
322 placement or dismissal of that child, then such parent, guardian
323 or other person shall have the right to a due process hearing.
324 The parent or guardian of the child shall be advised of this right
325 to a hearing by the appropriate superintendent or principal and
326 the proper form shall be provided for requesting such a hearing.

327 SECTION 3. Section 37-13-92, Mississippi Code of 1972, is

328 amended as follows:

329 37-13-92. (1) Beginning with the school year 1993-1994, the
330 school boards of all school districts shall establish, maintain
331 and operate, in connection with the regular programs of the school
332 district, an alternative school program for, but not limited to,
333 the following categories of compulsory-school-age students:

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

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

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

346 (d) Any compulsory-school-age child whose presence in
347 the classroom, in the determination of the school principal and
348 the due process committee of the school, is a disruption to the
349 educational environment of the school or a detriment to the best
350 interest and welfare of the students and teacher of such class as
351 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. A due process committee consisting of students,
463 parents, teachers and a representative of the local juvenile court
464 system shall be appointed for each public school. The committee
465 shall be culturally diverse and must reflect the demographics of
466 the school's student body. The committee shall assist the school
467 principal in addressing disciplinary matters in the school. The
468 due process committee shall be under the leadership of an
469 administrator in the school district; however, any administrator
470 involved with a specific incident may not participate in the work
471 of the committee relating to that particular incident.

472 SECTION 5. This act shall take effect and be in force from
473 and after July 1, 2000.