

By: Representative Barker

To: Education

HOUSE BILL NO. 540  
(As Sent to Governor)

1 AN ACT TO AUTHORIZE LOCAL SCHOOL BOARDS TO ALLOW SCHOOL  
2 PROPERTY TO BE USED BY THE PUBLIC DURING NONSCHOOL HOURS FOR  
3 RECREATION AND SPORTS; TO EXPRESS CERTAIN LEGISLATIVE FINDINGS  
4 REGARDING OBESITY AND ASSOCIATED HEALTH RISKS; TO DEFINE CERTAIN  
5 TERMS; TO LIMIT THE LIABILITY OF SCHOOL DISTRICTS AND SCHOOL  
6 DISTRICT EMPLOYEES FOR CLAIMS ARISING FROM THE PUBLIC'S USE OF  
7 SCHOOL PROPERTY AND FACILITIES FOR RECREATION AND SPORTS; TO  
8 ENCOURAGE SCHOOL DISTRICTS TO ENTER INTO SHARED USE AGREEMENTS  
9 WITH COMMUNITY ORGANIZATIONS AND LOCAL GOVERNMENTAL ENTITIES FOR  
10 PURPOSES OF RECREATION AND SPORTS; TO REQUIRE THE STATE DEPARTMENT  
11 OF EDUCATION, IN CONSULTATION WITH THE STATE DEPARTMENT OF HEALTH,  
12 TO DEVELOP A BEST PRACTICES TOOL KIT RELATING TO SHARED USE  
13 AGREEMENTS; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** (1) The Legislature finds the following:

16 (a) The Centers for Disease Control and Prevention has  
17 released studies documenting:

18 (i) Overweight and obese children experience the  
19 same risk factors that are associated with heart disease in  
20 adults, including high blood pressure, high cholesterol levels and  
21 Type 2 diabetes, once referred to as adult-onset diabetes;

22 (ii) Every year, an estimated three hundred  
23 thousand (300,000) people in America die because of diseases  
24 caused by being overweight and obese;

25 (iii) Studies have shown that up to eighty percent  
26 (80%) of overweight adolescents become overweight adults;

27 (iv) Fourteen percent (14%) of deaths from cancer  
28 in men and twenty percent (20%) of cancer deaths in women are  
29 because of being overweight and obese; and



30 (v) The annual economic impact in the United  
31 States from obesity on our health care system is estimated at One  
32 Hundred Forty-seven Billion Dollars (\$147,000,000,000.00);

33 (b) According to the National Survey of Children's  
34 Health, Mississippi's childhood obesity rates are the highest in  
35 the nation;

36 (c) A recent study by a major insurance carrier stated  
37 that fifty percent (50%) of all Americans will have diabetes by  
38 the year 2020, costing the health care system approximately Three  
39 Trillion Three Hundred Fifty Billion Dollars  
40 (\$3,350,000,000,000.00) if current trends in obesity are not  
41 abated; and

42 (d) According to the Journal of Nutrition Education and  
43 Behavior, adults with a household member who participated in a  
44 community garden consumed fruits and vegetables one and  
45 four-tenths (1-4/10) more times per day than those who did not  
46 participate, and they were three and one-half (3-1/2) times more  
47 likely to consume fruits and vegetables at least five (5) times  
48 daily.

49 (2) Therefore, the Legislature declares that the intent of  
50 this act is to make school property available to community members  
51 during nonschool hours for recreational activities in order to  
52 support active living, reduce obesity, reduce health care costs  
53 associated with obesity, increase community safety, maximize  
54 community resources, and promote community support for schools.

55 **SECTION 2.** As used in this act, the following words and  
56 phrases have the meanings ascribed in this section unless the  
57 context clearly indicates otherwise:

58 (a) "Recreation" means any indoor or outdoor game or  
59 activity, either organized or unorganized, undertaken for  
60 exercise, relaxation, diversion, sport or pleasure.



61 (b) "School property" means all indoor or outdoor  
62 structures, facilities and land, whether owned, rented or leased  
63 by the school or school district.

64 (c) "Sport" means an activity requiring physical  
65 exertion and skill and which, by its nature and organization, is  
66 competitive and generally accepted as being a sport.

67 (d) "Shared use agreement" means a legal agreement that  
68 defines the rights and responsibilities of the school district and  
69 another organization or governmental agency for use of the school  
70 facilities for recreation or other purpose of importance to the  
71 community.

72 (e) "Local government entity" means any county,  
73 municipality, school district, public hospital or other political  
74 subdivision of the state.

75 **SECTION 3.** (1) The school board of a school district may  
76 adopt a policy allowing the public use of indoor or outdoor school  
77 property during nonschool hours for purposes of recreation or  
78 sport. The school district must ensure that this use of school  
79 facilities by the public does not interfere with the use of those  
80 facilities for school purposes.

81 (2) School districts and school district employees may not  
82 be held liable for any claim resulting from a loss or injury  
83 arising from the use of indoor or outdoor school property or  
84 facilities made available for public recreation or sport.  
85 However, this act does not relieve a school district or school  
86 district employee of liability that otherwise exists for:

87 (a) Deliberate, willful or malicious injury to persons  
88 or property by a school district employee; or

89 (b) Injury resulting from a lack of proper maintenance  
90 or upkeep of a piece of equipment or facilities, unless the school  
91 district or school district employee had attempted to restrict  
92 access to a piece of equipment or facilities area in need of  
93 repair which would endanger a student during normal school hours.



94 This subsection may not be deemed to create or increase the  
95 liability of any person.

96 **SECTION 4.** (1) School districts are encouraged strongly to  
97 enter into shared use agreements with community organizations and  
98 local governmental agencies.

99 (2) Local government entities are expressly authorized to  
100 enter into such shared use agreements and/or expend public funds  
101 and/or to use public labor and/or equipment and/or commodities in  
102 furtherance of the purpose of such agreements.

103 (3) The State Department of Education, in consultation with  
104 the State Department of Health, shall develop a best practices  
105 tool kit relating to shared use agreements for school districts.  
106 This tool kit must include:

107 (a) Information outlining liability protections for  
108 both the school district and school district employees for  
109 injuries resulting from community use of school property or  
110 facilities for purposes of recreation or sport during nonschool  
111 hours;

112 (b) Model shared use agreement language;

113 (c) A list of technical assistance resources available  
114 for the school district to promote community recreational use of  
115 school property or facilities during nonschool hours;

116 (d) A list of potential community partners for shared  
117 use agreements; and

118 (e) A list of any grants or funding opportunities  
119 available to school districts to promote community recreational  
120 use of school property or facilities during nonschool hours.

121 The tool kit must be posted on the State Department of  
122 Education and State Department of Health websites. The State  
123 Department of Education shall review the information required by  
124 this section no less than every two (2) years and shall update the  
125 information as necessary.



126           (4) The State Department of Education shall provide a link  
127 on the department's website to any school district policies or  
128 procedures that promote community recreational use of school  
129 property or facilities in order to encourage information sharing  
130 among the school districts.

131           (5) Each school district, in consultation with the school  
132 health council, must address community recreational use of school  
133 property or facilities during nonschool hours.

134           **SECTION 5.** This act shall take effect and be in force from  
135 and after July 1, 2012.

