

By: Senator(s) Harden

To: Education;
Appropriations

SENATE BILL NO. 2650

1 AN ACT RELATING TO NONCERTIFIED PUBLIC SCHOOL DISTRICT
2 PERSONNEL; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO DEVELOP
3 HIRING STANDARDS, CONTRACTS AND SALARY SCHEDULES FOR NONCERTIFIED
4 SCHOOL DISTRICT EMPLOYEES, AND TO PRESCRIBE A MINIMUM ANNUAL
5 SALARY THEREFOR; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO
6 DEVELOP AND IMPLEMENT A TRAINING PROGRAM FOR TEACHERS AND TEACHING
7 ASSISTANTS; TO AMEND SECTION 37-21-7, MISSISSIPPI CODE OF 1972, TO
8 INCREASE THE ALLOTMENT OF FUNDS UNDER THE MINIMUM EDUCATION
9 PROGRAM FOR COMPENSATING TEACHING ASSISTANTS AND TO PROVIDE THAT
10 LOCAL SUPPLEMENTS TO SAID SALARY SHALL NOT BE REDUCED; TO AMEND
11 SECTION 37-19-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM
12 "LOCAL SUPPLEMENT" PAID TO TEACHING ASSISTANTS; TO AMEND SECTION
13 37-7-307, MISSISSIPPI CODE OF 1972, TO PROVIDE A MINIMUM SICK
14 LEAVE AND PERSONAL LEAVE ALLOWANCE FOR SUCH NONCERTIFIED
15 EMPLOYEES, AND TO PROVIDE THAT ACCRUED SICK LEAVE FOR SUCH
16 EMPLOYEES SHALL HAVE UNLIMITED ACCUMULATION; TO AMEND SECTION
17 37-9-103, MISSISSIPPI CODE OF 1972, TO INCLUDE NONCERTIFIED SCHOOL
18 PERSONNEL WITHIN THE PROVISIONS OF THE SCHOOL EMPLOYMENT
19 PROCEDURES ACT; TO AMEND SECTION 71-3-5, MISSISSIPPI CODE OF 1972,
20 TO REQUIRE SCHOOL DISTRICTS TO COME WITHIN THE PROVISIONS OF THE
21 WORKERS' COMPENSATION LAW WITH RESPECT TO ALL SCHOOL DISTRICT
22 EMPLOYEES; AND FOR RELATED PURPOSES.

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

24 SECTION 1. For purposes of this act, "noncertified
25 personnel" shall mean all public school district employees who are
26 not administrators, teachers or other persons required to have
27 certification by the State Department of Education as a condition
28 of employment. These include, but are not limited to, teaching
29 assistants, teaching aides, assistant reading instructors,
30 secretaries, clerical or office help, cafeteria personnel and
31 maintenance personnel.

32 SECTION 2. Hiring standards, contracts, job descriptions and
33 salary schedules for noncertified personnel will be developed by
34 the State Department of Education for implementation in each
35 school district. Full-time noncertified personnel shall be paid a
36 minimum annual salary of Twelve Thousand Dollars (\$12,000.00).

37 SECTION 3. The statewide training program for teachers and

38 their teaching assistants prescribed in Section 37-21-7(2),
39 Mississippi Code of 1972, to assure maximum efficiency in the
40 teaching assistant program shall be developed by the State
41 Department of Education and implemented in each school district in
42 the 1999-2000 school year.

43 SECTION 4. Section 37-21-7, Mississippi Code of 1972, is
44 amended as follows:

45 * * *

46 **[From and after July 1, 1999, and until July 1, 2002, Section**
47 **37-21-7 will read as follows:]**

48 37-21-7. (1) This section shall be referred to as the
49 "Mississippi Elementary Schools Assistant Teacher Program," the
50 purpose of which shall be to provide an early childhood education
51 program that assists in the instruction of basic skills. The
52 State Board of Education is authorized, empowered and directed to
53 implement a statewide system of assistant teachers in kindergarten
54 classes and in the first, second and third grades. The assistant
55 teacher shall assist pupils in actual instruction under the strict
56 supervision of a licensed teacher.

57 (2) (a) Each school district shall employ the total number
58 of assistant teachers funded under subsection (6) of this
59 section. The superintendent of each district shall assign the
60 assistant teachers to the kindergarten, first-, second- and
61 third-grade classes in the district in a manner that will promote
62 the maximum efficiency, as determined by the superintendent, in
63 the instruction of skills such as verbal and linguistic skills,
64 logical and mathematical skills, and social skills.

65 (b) If a licensed teacher to whom an assistant teacher
66 has been assigned is required to be absent from the classroom, the
67 assistant teacher may assume responsibility for the classroom in
68 lieu of a substitute teacher. However, no assistant teacher shall
69 assume sole responsibility of the classroom for more than three

70 (3) consecutive school days. Further, in no event shall any
71 assistant teacher be assigned to serve as a substitute teacher for

72 any teacher other than the licensed teacher to whom that assistant
73 teacher has been assigned.

74 (3) Assistant teachers shall have, at a minimum, a high
75 school diploma and shall show demonstratable proficiency in
76 reading and writing skills. The State Department of Education
77 shall develop a testing procedure for assistant teacher applicants
78 to be used in all school districts in the state.

79 (4) (a) In order to receive funding, each school district
80 shall:

81 (i) Submit a plan on the implementation of a
82 reading improvement program to the State Department of Education;
83 and

84 (ii) Develop a plan of educational accountability
85 and assessment of performance, including pretests and posttests,
86 for reading in Grades 1 through 6.

87 (b) Additionally, each school district shall:

88 (i) Provide annually a mandatory preservice
89 orientation session, using an existing in-school service day, for
90 administrators and teachers on the effective use of assistant
91 teachers as part of a team in the classroom setting and on the
92 role of assistant teachers, with emphasis on program goals;

93 (ii) Hold periodic workshops for administrators
94 and teachers on the effective use and supervision of assistant
95 teachers;

96 (iii) Provide training annually on specific
97 instructional skills for assistant teachers;

98 (iv) Annually evaluate their program in accordance
99 with their educational accountability and assessment of
100 performance plan; and

101 (v) Designate the necessary personnel to supervise
102 and report on their program.

103 (5) The State Department of Education shall:

104 (a) Develop and assist in the implementation of a
105 statewide uniform training module, subject to the availability of

106 funds specifically appropriated therefor by the Legislature, which
107 shall be used in all school districts for training administrators,
108 teachers and assistant teachers. The module shall provide for the
109 consolidated training of each assistant teacher and teacher to
110 whom the assistant teacher is assigned, working together as a
111 team, and shall require further periodical training for
112 administrators, teachers and assistant teachers regarding the role
113 of assistant teachers;

114 (b) Annually evaluate the program on the district and
115 state level. Subject to the availability of funds specifically
116 appropriated therefor by the Legislature, the department shall
117 develop: (i) uniform evaluation reports, to be performed by the
118 principal or assistant principal, to collect data for the annual
119 overall program evaluation conducted by the department; or (ii) a
120 program evaluation model that, at a minimum, addresses process
121 evaluation; and

122 (c) Promulgate rules, regulations and such other
123 standards deemed necessary to effectuate the purposes of this
124 section. Noncompliance with the provisions of this section and
125 any rules, regulations or standards adopted by the department may
126 result in a violation of compulsory accreditation standards as
127 established by the State Board of Education and Commission on
128 School Accreditation.

129 (6) In addition to other funds allotted under the Minimum
130 Education Program, each school district shall be allotted Twelve
131 Thousand Dollars (\$12,000.00) per teacher unit as prescribed in
132 Section 37-19-5 for Grades 1, 2 and 3 for the purpose of employing
133 an assistant teacher. Assistant teachers shall be paid a minimum
134 annual salary of Twelve Thousand Dollars (\$12,000.00). However,
135 no assistant teacher shall be paid less than the amount he or she
136 received in the prior school year. In the 1999-2000 school year
137 and school years thereafter, no school district shall receive any
138 funds under this section for any school year during which the
139 aggregate amount of the local contribution to the salaries of

140 assistant teachers by the district shall have been reduced below
141 such amount for the previous year. The assistant teachers shall
142 not be restricted to working only in the grades for which the
143 funds were allotted, but may be assigned to other classes as
144 provided in subsection (2)(a) of this section.

145 (7) (a) As an alternative to employing assistant teachers,
146 the State Board of Education may authorize any school district
147 meeting Level 3, 4 or 5 accreditation requirements to use the
148 minimum program allotment provided under subsection (6) of this
149 section for the purpose of employing licensed teachers for
150 kindergarten, first-, second- and third-grade classes; however, no
151 school district shall be authorized to use the minimum program
152 allotment for assistant teachers for the purpose of employing
153 licensed teachers unless the district has established that the
154 employment of licensed teachers using such funds will reduce the
155 teacher:student ratio in the kindergarten, first-, second- and
156 third-grade classes. All minimum program funds for assistant
157 teachers shall be applied to reducing teacher:student ratio in
158 Grades K-3.

159 It is the intent of the Legislature that no school district
160 shall dismiss any assistant teacher for the purpose of using the
161 minimum program assistant teacher allotment to employ licensed
162 teachers. School districts may rely only upon normal attrition to
163 reduce the number of assistant teachers employed in that district.

164 (b) In the event any school district meets Level 4 or 5
165 accreditation requirements, the State Board of Education, in its
166 discretion, may exempt such school district from any accreditation
167 requirements for the district's early childhood education program
168 or reading improvement program.

169 **[From and after July 1, 2002, this section reads as follows:]**

170 37-21-7. (1) This section shall be referred to as the
171 "Mississippi Elementary Schools Assistant Teacher Program," the
172 purpose of which shall be to provide an early childhood education
173 program that assists in the instruction of basic skills. The

174 State Board of Education is authorized, empowered and directed to
175 implement a statewide system of assistant teachers in kindergarten
176 classes and in the first, second and third grades. The assistant
177 teacher shall assist pupils in actual instruction under the strict
178 supervision of a certified teacher.

179 (2) (a) Each school district shall employ the total number
180 of assistant teachers funded under subsection (6) of this
181 section. The superintendent of each district shall assign the
182 assistant teachers to the kindergarten, first-, second- and
183 third-grade classes in the district in a manner that will promote
184 the maximum efficiency, as determined by the superintendent, in
185 the instruction of skills such as verbal and linguistic skills,
186 logical and mathematical skills, and social skills.

187 (b) If a certified teacher to whom an assistant teacher
188 has been assigned is required to be absent from the classroom, the
189 assistant teacher may assume responsibility for the classroom in
190 lieu of a substitute teacher. However, no assistant teacher shall
191 assume sole responsibility of the classroom for more than three

192 (3) consecutive school days. Further, in no event shall any
193 assistant teacher be assigned to serve as a substitute teacher for
194 any teacher other than the certified teacher to whom that
195 assistant teacher has been assigned.

196 (3) Assistant teachers shall have, at a minimum, a high
197 school diploma or a GED equivalent, and shall show demonstratable
198 proficiency in reading and writing skills. The State Department
199 of Education shall develop a testing procedure for assistant
200 teacher applicants to be used in all school districts in the
201 state.

202 (4) (a) In order to receive funding, each school district
203 shall:

204 (i) Submit a plan on the implementation of a
205 reading improvement program to the State Department of Education;
206 and

207 (ii) Develop a plan of educational accountability

208 and assessment of performance, including pretests and posttests,
209 for reading in Grades 1 through 6.

210 (b) Additionally, each school district shall:

211 (i) Provide annually a mandatory preservice
212 orientation session, using an existing in-school service day, for
213 administrators and teachers on the effective use of assistant
214 teachers as part of a team in the classroom setting and on the
215 role of assistant teachers, with emphasis on program goals;

216 (ii) Hold periodic workshops for administrators
217 and teachers on the effective use and supervision of assistant
218 teachers;

219 (iii) Provide training annually on specific
220 instructional skills for assistant teachers;

221 (iv) Annually evaluate their program in accordance
222 with their educational accountability and assessment of
223 performance plan; and

224 (v) Designate the necessary personnel to supervise
225 and report on their program.

226 (5) The State Department of Education shall:

227 (a) Develop and assist in the implementation of a
228 statewide uniform training module, subject to the availability of
229 funds specifically appropriated therefor by the Legislature, which
230 shall be used in all school districts for training administrators,
231 teachers and assistant teachers. The module shall provide for the
232 consolidated training of each assistant teacher and teacher to
233 whom the assistant teacher is assigned, working together as a
234 team, and shall require further periodical training for
235 administrators, teachers and assistant teachers regarding the role
236 of assistant teachers;

237 (b) Annually evaluate the program on the district and
238 state level. Subject to the availability of funds specifically
239 appropriated therefor by the Legislature, the department shall
240 develop: (i) uniform evaluation reports, to be performed by the
241 principal or assistant principal, to collect data for the annual

242 overall program evaluation conducted by the department; or (ii) a
243 program evaluation model that, at a minimum, addresses process
244 evaluation; and

245 (c) Promulgate rules, regulations and such other
246 standards deemed necessary to effectuate the purposes of this
247 section. Noncompliance with the provisions of this section and
248 any rules, regulations or standards adopted by the department may
249 result in a violation of compulsory accreditation standards as
250 established by the State Board of Education and Commission on
251 School Accreditation.

252 (6) No assistant teacher shall be paid less than the amount
253 he or she received in the prior school year. In the 1995-1996
254 school year and school years thereafter, no school district shall
255 receive any funds under this section for any school year during
256 which the aggregate amount of the local contribution to the
257 salaries of assistant teachers by the district shall have been
258 reduced below such amount for the previous year. The assistant
259 teachers shall not be restricted to working only in the grades for
260 which the funds were allotted, but may be assigned to other
261 classes as provided in subsection (2)(a) of this section.

262 (7) (a) As an alternative to employing assistant teachers,
263 the State Board of Education may authorize any school district
264 meeting Level 3, 4 or 5 accreditation requirements to use the
265 adequate education program allotment for the purpose of employing
266 certified teachers for kindergarten, first-, second- and
267 third-grade classes; however, no school district shall be
268 authorized to use the funds for assistant teachers for the purpose
269 of employing certified teachers unless the district has
270 established that the employment of certified teachers using such
271 funds will reduce the teacher:student ratio in the kindergarten,
272 first-, second- and third-grade classes. All adequate education
273 program funds for assistant teachers shall be applied to reducing
274 teacher:student ratio in Grades K-3.

275 It is the intent of the Legislature that no school district

276 shall dismiss any assistant teacher for the purpose of using state
277 funds to employ certified teachers. School districts may rely
278 only upon normal attrition to reduce the number of assistant
279 teachers employed in that district.

280 (b) In the event any school district meets Level 4 or 5
281 accreditation requirements, the State Board of Education, in its
282 discretion, may exempt such school district from any accreditation
283 requirements for the district's early childhood education program
284 or reading improvement program.

285 SECTION 5. Section 37-19-1, Mississippi Code of 1972, is
286 amended as follows:

287 37-19-1. As used in this chapter:

288 (a) The term "minimum education program" shall mean the
289 program of education made possible by the financing plan provided
290 for in this chapter;

291 (b) The term "teacher" shall include any employee of a
292 school board of a school district who is required by law to obtain
293 a teacher's license from the State Board of Education and who is
294 assigned to an instructional area of work as defined by the State
295 Department of Education the equivalent of a minimum of three (3)
296 normal periods per school day;

297 (c) The term "principal" shall mean the head of an
298 attendance center or division thereof;

299 (d) The term "superintendent" shall mean the head of a
300 school district, or the administrative superintendent as defined
301 in Section 37-6-3(4), as the case may be;

302 (e) The term "teacher unit" means one (1) teacher unit
303 for each twenty-four (24) pupils in average daily attendance in
304 kindergarten and in Grades 1, 2, 3 and 4 and one (1) teacher unit
305 for each twenty-seven (27) pupils in average daily attendance in
306 all other grades;

307 (f) The term "cost of the minimum program" shall mean
308 the calculated allowance as fixed by law or by regulations of the
309 State Board of Education for teachers' salaries, administrative

310 expense, transportation, the employer's part of the public
311 employees' retirement and Social Security, and "supportive
312 services" as defined elsewhere in this chapter;

313 (g) The term "school district" shall, for purposes of
314 this chapter, be construed to include any type of school district
315 in the State of Mississippi;

316 (h) "Minimum school term" shall mean a term of at least
317 one hundred eighty (180) days of school in which both teachers and
318 pupils are in regular attendance for scheduled classroom
319 instruction for not less than sixty percent (60%) of the normal
320 school day. It is the intent of the Legislature that any tax
321 levies generated to produce additional local funds required by any
322 school district to operate school terms in excess of one hundred
323 seventy-five (175) days shall not be construed to constitute a new
324 program for the purposes of exemption from the limitation on tax
325 revenues as allowed under Sections 27-39-321 and 37-57-107 for new
326 programs mandated by the Legislature;

327 (i) The term "transportation density" shall mean the
328 number of transported children in average daily attendance per
329 square mile of area served in a county or a separate school
330 district, as determined by the State Department of Education;

331 (j) The term "transported children" shall mean children
332 being transported to school who live within legal limits for
333 transportation and who are otherwise qualified for being
334 transported to school at public expense as fixed by Mississippi
335 state law;

336 (k) The term "year of teaching experience" shall mean
337 nine (9) months of actual teaching in the public or private
338 schools of this or some other state. In no case shall more than
339 one (1) year of teaching experience be given for all services in
340 one (1) calendar or school year. In determining a teacher's
341 experience, no deduction shall be made because of the temporary
342 absence of the teacher because of illness or other good cause, and
343 the teacher shall be given credit therefor. The State Board of

344 Education shall fix a number of days, not to exceed twenty-five
345 (25) consecutive school days, during which a teacher may not be
346 under contract of employment during any school year and still be
347 considered to have been in full-time employment for a regular
348 scholastic term. If a full-time school administrator returns to
349 actual teaching in the public schools, the term "year of teaching
350 experience" shall include the period of time he or she served as a
351 school administrator;

352 (l) The term "average daily attendance" shall be the
353 figure which results when the total aggregate attendance during
354 the period or months counted is divided by the number of days
355 during the period or months counted upon which both teachers and
356 pupils are in regular attendance for scheduled classroom
357 instruction;

358 (m) The term "local supplement" shall mean the amount
359 paid to an individual teacher or individual teaching assistant
360 over and above the minimum foundation program salary schedule for
361 regular teaching duties;

362 (n) The term "aggregate amount of support from ad
363 valorem taxation" shall mean the amounts produced by the
364 district's total tax levies for operations;

365 (o) The term "minimum program funds" shall mean all
366 funds, both state and local, constituting the requirements for
367 meeting the cost of the minimum program as provided for in this
368 chapter.

369 SECTION 6. Section 37-7-307, Mississippi Code of 1972, is
370 amended as follows:

371 37-7-307. (1) For purposes of this section, the term
372 "licensed employee" means any employee of a public school district
373 required to hold a valid license by the Commission on Teacher and
374 Administrator Education, Certification and Licensure and
375 Development.

376 (2) The school board of a school district shall establish by
377 rules and regulations a policy of sick leave with pay for licensed

378 employees employed in the school district, and such policy shall
379 include the following minimum provisions for sick and emergency
380 leave with pay:

381 (a) Each licensed employee, at the beginning of each
382 school year, shall be credited with a minimum sick leave
383 allowance, with pay, of seven (7) days for absences caused by
384 illness or physical disability of the employee during that school
385 year.

386 (b) Any unused portion of the total sick leave
387 allowance shall be carried over to the next school year and
388 credited to such licensed employee if the licensed employee
389 remains employed in the same school district. In the event any
390 public school licensed employee transfers from one public school
391 district in Mississippi to another, any unused portion of the
392 total sick leave allowance credited to such licensed employee
393 shall be credited to such licensed employee in the computation of
394 unused leave for retirement purposes under Section 25-11-109.
395 Accumulation of sick leave allowed under this section shall be
396 unlimited.

397 (c) No deduction from the pay of such licensed employee
398 may be made because of absence of such licensed employee caused by
399 illness or physical disability of the licensed employee until
400 after all sick leave allowance credited to such licensed employee
401 has been used.

402 (d) For the first ten (10) days of absence of a
403 licensed employee because of illness or physical disability, in
404 any school year, in excess of the sick leave allowance credited to
405 such licensed employee, there may be deducted from the pay of such
406 licensed employee the established substitute amount of licensed
407 employee compensation paid in that local school district,
408 necessitated because of the absence of the licensed employee as a
409 result of illness or physical disability. Thereafter, the regular
410 pay of such absent licensed employee may be suspended and withheld
411 in its entirety for any period of absence because of illness or

412 physical disability during that school year.

413 (3) Beginning with the school year 1983-1984, each licensed
414 employee at the beginning of each school year shall be credited
415 with a minimum personal leave allowance, with pay, of two (2) days
416 for absences caused by personal reasons during that school year.
417 Such personal leave shall not be taken on the first day of the
418 school term, the last day of the school term, on a day previous to
419 a holiday or a day after a holiday. Personal leave may be used
420 for professional purposes, including absences caused by attendance
421 of such licensed employee at a seminar, class, training program,
422 professional association or other functions designed for
423 educators. No deduction from the pay of such licensed employee
424 may be made because of absence of such licensed employee caused by
425 personal reasons until after all personal leave allowance credited
426 to such licensed employee has been used. However, the
427 superintendent of a school district, in his discretion, may allow
428 a licensed employee personal leave in addition to any minimum
429 personal leave allowance, under the condition that there shall be
430 deducted from the salary of such licensed employee the actual
431 amount of any compensation paid to any person as a substitute,
432 necessitated because of the absence of the licensed employee.

433 (4) Beginning with the school year 1992-1993, each licensed
434 employee shall be credited with a professional leave allowance,
435 with pay, for each day of absence caused by reason of such
436 employee's statutorily required membership and attendance at a
437 regular or special meeting held within the State of Mississippi of
438 the State Board of Education, the Commission on Teacher and
439 Administrator Education, Certification and Licensure and
440 Development, the Commission on School Accreditation, the
441 Mississippi Authority for Educational Television and the meetings
442 of the state textbook rating committees.

443 (5) Upon retirement from employment, each licensed and
444 nonlicensed employee shall be paid for not more than thirty (30)
445 days of unused accumulated leave earned while employed by the

446 school district in which the employee is last employed. Such
447 payment for licensed employees shall be made by the school
448 district at a rate equal to the amount paid to substitute teachers
449 and for nonlicensed employees, the payment shall be made by the
450 school district at a rate equal to the federal minimum wage. The
451 payment shall be treated in the same manner for retirement
452 purposes as a lump sum payment for personal leave as provided in
453 Section 25-11-103(e). Any remaining lawfully credited unused
454 leave, for which payment has not been made, shall be certified to
455 the Public Employees' Retirement System in the same manner and
456 subject to the same limitations as otherwise provided by law for
457 unused leave.

458 (6) The school board may adopt rules and regulations which
459 will reasonably aid to implement the policy of sick and personal
460 leave, including, but not limited to, rules and regulations having
461 the following general effect:

462 (a) Requiring the absent licensed employee to furnish
463 the certificate of a physician or dentist or other medical
464 practitioner as to the illness of the absent licensed employee,
465 where the absence is for four (4) or more consecutive school days,
466 or for two (2) consecutive school days immediately preceding or
467 following a nonschool day;

468 (b) Providing penalties, by way of full deduction from
469 salary, or entry on the work record of the licensed employee, or
470 other appropriate penalties, for any materially false statement by
471 the licensed employee as to the cause of absence;

472 (c) Forfeiture of accumulated or future sick leave, if
473 the absence of the licensed employee is caused by optional dental
474 or medical treatment or surgery which could, without medical risk,
475 have been provided, furnished or performed at a time when school
476 was not in session;

477 (d) Enlarging, increasing or providing greater sick or
478 personal leave allowances than the minimum standards established
479 by this section in the discretion of the school board of each

480 school district.

481 (7) School boards may include in their budgets provisions
482 for the payment of substitute teachers, necessitated because of
483 the absence of regular licensed employees. All such substitute
484 teachers shall be paid wholly from district funds other than
485 minimum education program funds. Such school boards, in their
486 discretion, also may pay, from district funds other than minimum
487 education program funds, the whole or any part of the salaries of
488 licensed employees granted leaves for the purpose of special
489 studies or training.

490 (8) The school board may further adopt rules and regulations
491 which will reasonably implement such leave policies for all other
492 nonlicensed school employees as the board deems appropriate. Any
493 unused portion of the total sick leave allowance for a
494 noncertificated school employee shall be carried over to the next
495 school year and credited to such noncertificated employee if the
496 noncertificated employee remains employed in the same school
497 district.

498 (9) (a) For the purposes of this subsection, the following
499 words and phrases shall have the meaning ascribed in this
500 paragraph unless the context requires otherwise:

501 (i) "Catastrophic injury or illness" means a
502 severe condition or combination of conditions affecting the mental
503 or physical health of an employee or a member of an employee's
504 immediate family, including pregnancy, that requires the services
505 of a licensed physician for an extended period of time and that
506 forces the employee to exhaust all leave time accumulated by that
507 employee, thereby resulting in the loss of compensation from the
508 school district for the employee.

509 (ii) "Immediate family" means spouse, parent,
510 stepparent, sibling, child or stepchild.

511 (b) Any school district employee may donate a portion
512 of his or her unused accumulated personal leave or sick leave to
513 another employee of the same or another school district who is

514 suffering from a catastrophic injury or illness or who has a
515 member of his or her immediate family suffering from a
516 catastrophic injury or illness, in accordance with the following:

517 (i) The employee donating the leave (the "donor
518 employee") shall designate the employee who is to receive the
519 leave (the "recipient employee") and the amount of unused
520 accumulated personal leave and sick leave that is to be donated,
521 and shall notify the school district superintendent or his
522 designee of his or her designation.

523 (ii) The maximum amount of unused accumulated
524 personal leave that an employee may donate to any other employee
525 may not exceed a number of days that would leave the donor
526 employee with fewer than seven (7) days of personal leave
527 remaining, and the maximum amount of unused accumulated sick leave
528 that an employee may donate to any other employee may not exceed
529 fifty percent (50%) of the unused accumulated sick leave of the
530 donor employee.

531 (iii) An employee must have exhausted all of his
532 or her accumulated personal leave and sick leave before he or she
533 will be eligible to receive any leave donated by another employee.
534 Eligibility for donated leave shall be based upon review and
535 approval by the donor employee's supervisor.

536 (iv) Before an employee may receive donated leave,
537 he or she must provide the school district superintendent or his
538 designee with a physician's statement that states the beginning
539 date of the catastrophic injury or illness, a description of the
540 injury or illness, and a prognosis for recovery and the
541 anticipated date that the recipient employee will be able to
542 return to work.

543 (v) If the total amount of leave that is donated
544 to any employee is not used by the recipient employee, the whole
545 days of donated leave shall be returned to the donor employees on
546 a pro rata basis, based on the ratio of the number of days of
547 leave donated by each donor employee to the total number of days

548 of leave donated by all donor employees.

549 (vi) Donated leave shall not be used in lieu of
550 disability retirement.

551 Section 7. Section 37-9-103, Mississippi Code of 1972, is
552 amended as follows:

553 37-9-103. As used in Sections 37-9-101 through 37-9-113 the
554 word "employee" shall include any teacher, principal,
555 superintendent elected by a board of trustees and other
556 professional personnel employed by any public school district of
557 this state and required to have a valid license issued by the
558 State Department of Education as a prerequisite of employment, and
559 shall include any noncertified school district personnel as such
560 term is defined in Section 1 of Senate Bill No. 2650, 1999 Regular
561 Session.

562 SECTION 8. Section 71-3-5, Mississippi Code of 1972, is
563 amended as follows:

564 71-3-5. The following shall constitute employers subject to
565 the provisions of this chapter:

566 Every person, firm and private corporation, including any
567 public service corporation but excluding, however, all nonprofit
568 charitable, fraternal, cultural, or religious corporations or
569 associations, that have in service five (5) or more workmen or
570 operatives regularly in the same business or in or about the same
571 establishment under any contract of hire, express or implied.

572 Any state agency, state institution, state department, or
573 subdivision thereof, including counties and municipalities * * *,
574 or the singular thereof, not heretofore included under the
575 Workers' Compensation Law, may elect, by proper action of its
576 officers or department head, to come within its provisions and, in
577 such case, shall notify the commission of such action by filing
578 notice of compensation insurance with the commission. Payment for
579 compensation insurance policies so taken may be made from any
580 appropriation or funds available to such agency, department or
581 subdivision thereof, or from the general fund of any county or

582 municipality.

583 From and after July 1, 1990, all offices, departments,
584 agencies, bureaus, commissions, boards, institutions, hospitals,
585 colleges, universities, airport authorities or other
586 instrumentalities of the "state" as such term is defined in
587 Section 11-46-1, Mississippi Code of 1972, shall come under the
588 provisions of the Workers' Compensation Law. Payment for
589 compensation insurance policies so taken may be made from any
590 appropriation or funds available to such office, department,
591 agency, bureau, commission, board, institution, hospital, college,
592 university, airport authority or other instrumentality of the
593 state.

594 From and after October 1, 1990, counties and municipalities
595 shall come under the provisions of the Workers' Compensation Law.
596 Payment for compensation insurance policies so taken may be made
597 from any funds available to such counties and municipalities.

598 From and after October 1, 1993, all "political subdivisions,"
599 as such term is defined in Section 11-46-1, Mississippi Code of
600 1972, except counties and municipalities shall come under the
601 provisions of the Workers' Compensation Law. All public school
602 districts shall come within the provisions of the Workers'
603 Compensation Law with respect to all school district employees.
604 Payment for compensation insurance policies so taken may be made
605 from any funds available to such political subdivisions. However,
606 school districts shall not expend minimum program funds to pay for
607 such policies.

608 From and after July 1, 1988, the "state" as such term is
609 defined in Section 11-46-1, Mississippi Code of 1972, may elect to
610 become a self-insurer under the provisions elsewhere set out by
611 law, by notifying the commission of its intent to become a
612 self-insurer. The cost of being such a self-insurer, as provided
613 otherwise by law, may be paid from funds available to the offices,
614 departments, agencies, bureaus, commissions, boards, institutions,
615 hospitals, colleges, universities, airport authorities or other

616 instrumentalities of the state.

617 The Mississippi Transportation Commission, the Department of
618 Public Safety and the Mississippi Industries for the Blind may
619 elect to become self-insurers under the provisions elsewhere set
620 out by law by notifying the commission of their intention of
621 becoming such a self-insurer. The cost of being such a
622 self-insurer, as provided elsewhere by law, may be paid from funds
623 available to the Mississippi Transportation Commission, the
624 Department of Public Safety or the Mississippi Industries for the
625 Blind.

626 The Mississippi State Senate and the Mississippi House of
627 Representatives may elect to become self-insurers under provisions
628 elsewhere set out by law by notifying the commission of their
629 intention of becoming such self-insurers. The cost of being such
630 self-insurers, as provided elsewhere by law, may be paid from
631 funds available to the Mississippi State Senate and the
632 Mississippi House of Representatives. The Mississippi State
633 Senate and the Mississippi House of Representatives are authorized
634 and empowered to provide workers' compensation benefits for
635 employees after January 1, 1970.

636 Any municipality of the State of Mississippi having forty
637 thousand (40,000) population or more desiring to do so may elect
638 to become a self-insurer under provisions elsewhere set out by law
639 by notifying the commission of its intention of becoming such an
640 insurer. The cost of being such a self-insurer, as provided
641 elsewhere by law, may be provided from any funds available to such
642 municipality.

643 The commission may, under such rules and regulations as it
644 prescribes, permit two (2) or more "political subdivisions," as
645 such term is defined in Section 11-46-1, Mississippi Code of 1972,
646 to pool their liabilities to participate in a group workers'
647 compensation self-insurance program. The governing authorities of
648 any political subdivision may authorize the organization and
649 operation of, or the participation in such a group self-insurance

650 program with other political subdivisions, provided such program
651 is approved by the commission. The cost of participating in a
652 group self-insurance program may be provided from any funds
653 available to a political subdivision.

654 Domestic servants, farmers and farm labor are not included
655 under the provisions of this chapter, but this exemption does not
656 apply to the processing of agricultural products when carried on
657 commercially. Any purchaser of timber products shall not be
658 liable for workers' compensation for any person who harvests and
659 delivers timber to such purchaser if such purchaser is not liable
660 for unemployment tax on the person harvesting and delivering the
661 timber as provided by United States Code Annotated, Title 26,
662 Section 3306, as amended. Provided, however, nothing in this
663 section shall be construed to exempt an employer who would
664 otherwise be covered under Section 71-3-5 from providing workers'
665 compensation coverage on those employees for whom he is liable for
666 unemployment tax.

667 Employers exempted by this section may assume, with respect
668 to any employee or classification of employees, the liability for
669 compensation imposed upon employers by this chapter with respect
670 to employees within the coverage of this chapter. The purchase
671 and acceptance by such employer of valid workers' compensation
672 insurance applicable to such employee or classification of
673 employees shall constitute, as to such employer, an assumption by
674 him of such liability under this chapter without any further act
675 on his part notwithstanding any other provisions of this chapter,
676 but only with respect to such employee or such classification of
677 employees as are within the coverage of the state fund. Such
678 assumption of liability shall take effect and continue from the
679 effective date of such workers' compensation insurance and as long
680 only as such coverage shall remain in force, in which case the
681 employer shall be subject with respect to such employee or
682 classification of employees to no other liability than the
683 compensation as provided for in this chapter.

684 This chapter shall not apply to transportation and maritime
685 employments for which a rule of liability is provided by the laws
686 of the United States.

687 This chapter shall not be applicable to a mere direct
688 buyer-seller or vendor-vendee relationship where there is no
689 employer-employee relationship as defined by Section 71-3-3, and
690 any insurance carrier is hereby prohibited from charging a premium
691 for any person who is a seller or vendor rather than an employee.

692 Any employer may elect, by proper and written action of its
693 own governing authority, to be exempt from the provisions of the
694 Workers' Compensation Law as to its sole proprietor, its partner
695 in a partnership or to its employee who is the owner of fifteen
696 percent (15%) or more of its stock in a corporation, if such sole
697 proprietor, partner or employee also voluntarily agrees thereto in
698 writing. Any sole proprietor, partner or employee owning fifteen
699 percent (15%) or more of the stock of his/her corporate employer
700 who becomes exempt from coverage under the Workers' Compensation
701 Law shall be excluded from the total number of workers or
702 operatives toward reaching the mandatory coverage threshold level
703 of five (5).

704 SECTION 9. This act shall take effect and be in force from
705 and after July 1, 1999.