

By: Harden

To: Education;  
Appropriations

SENATE BILL NO. 2178

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:[RDD1]

45        **[Until July 1, 2002, this section will read as follows:]**

46        37-21-7. (1) This section shall be referred to as the  
47 "Mississippi Elementary Schools Assistant Teacher Program," the  
48 purpose of which shall be to provide an early childhood education  
49 program that assists in the instruction of basic skills. The  
50 State Board of Education is authorized, empowered and directed to  
51 implement a statewide system of assistant teachers in kindergarten  
52 classes and in the first, second and third grades. The assistant  
53 teacher shall assist pupils in actual instruction under the strict  
54 supervision of a licensed teacher.

55        (2) (a) Each school district shall employ the total number  
56 of assistant teachers funded under subsection (6) of this section.

57        The superintendent of each district shall assign the assistant  
58 teachers to the kindergarten, first-, second- and third-grade  
59 classes in the district in a manner that will promote the maximum  
60 efficiency, as determined by the superintendent, in the  
61 instruction of skills such as verbal and linguistic skills,  
62 logical and mathematical skills, and social skills.

63           (b) If a licensed teacher to whom an assistant teacher  
64 has been assigned is required to be absent from the classroom, the  
65 assistant teacher may assume responsibility for the classroom in  
66 lieu of a substitute teacher. However, no assistant teacher shall  
67 assume sole responsibility of the classroom for more than three  
68 (3) consecutive school days. Further, in no event shall any  
69 assistant teacher be assigned to serve as a substitute teacher for  
70 any teacher other than the licensed teacher to whom that assistant  
71 teacher has been assigned.

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

77           (4) (a) In order to receive funding, each school district  
78 shall:

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

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

85           (b) Additionally, each school district shall:

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

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

94 (iii) Provide training annually on specific  
95 instructional skills for assistant teachers;

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

99 (v) Designate the necessary personnel to supervise  
100 and report on their program.

101 (5) The State Department of Education shall:

102 (a) Develop and assist in the implementation of a  
103 statewide uniform training module, subject to the availability of  
104 funds specifically appropriated therefor by the Legislature, which  
105 shall be used in all school districts for training administrators,  
106 teachers and assistant teachers. The module shall provide for the  
107 consolidated training of each assistant teacher and teacher to  
108 whom the assistant teacher is assigned, working together as a  
109 team, and shall require further periodical training for  
110 administrators, teachers and assistant teachers regarding the role  
111 of assistant teachers;

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

119 evaluation; and

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

127 (6) In addition to other funds allotted under the Minimum  
128 Education Program, each school district shall be allotted Twelve  
129 Thousand Dollars (\$12,000.00) per teacher unit as prescribed in  
130 Section 37-19-5 for Grades 1, 2 and 3 for the purpose of employing  
131 an assistant teacher. Assistant teachers shall be paid a minimum  
132 annual salary of Twelve Thousand Dollars (\$12,000.00). However,  
133 no assistant teacher shall be paid less than the amount he or she  
134 received in the prior school year. In the 1995-1996 school year  
135 and school years thereafter, no school district shall receive any  
136 funds under this section for any school year during which the  
137 aggregate amount of the local contribution to the salaries of  
138 assistant teachers by the district shall have been reduced below  
139 such amount for the previous year. The assistant teachers shall  
140 not be restricted to working only in the grades for which the  
141 funds were allotted, but may be assigned to other classes as  
142 provided in subsection (2)(a) of this section.

143 (7) (a) As an alternative to employing assistant teachers,  
144 the State Board of Education may authorize any school district  
145 meeting Level 3, 4 or 5 accreditation requirements to use the  
146 minimum program allotment provided under subsection (6) of this

147 section for the purpose of employing licensed teachers for  
148 kindergarten, first-, second- and third-grade classes; however, no  
149 school district shall be authorized to use the minimum program  
150 allotment for assistant teachers for the purpose of employing  
151 licensed teachers unless the district has established that the  
152 employment of licensed teachers using such funds will reduce the  
153 teacher:student ratio in the kindergarten, first-, second- and  
154 third-grade classes. All minimum program funds for assistant  
155 teachers shall be applied to reducing teacher:student ratio in  
156 Grades K-3.

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

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

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

168 37-21-7. (1) This section shall be referred to as the  
169 "Mississippi Elementary Schools Assistant Teacher Program," the  
170 purpose of which shall be to provide an early childhood education  
171 program that assists in the instruction of basic skills. The  
172 State Board of Education is authorized, empowered and directed to  
173 implement a statewide system of assistant teachers in kindergarten  
174 classes and in the first, second and third grades. The assistant

175 teacher shall assist pupils in actual instruction under the strict  
176 supervision of a certified teacher.

177 (2) (a) Each school district shall employ the total number  
178 of assistant teachers funded under subsection (6) of this section.

179 The superintendent of each district shall assign the assistant  
180 teachers to the kindergarten, first-, second- and third-grade  
181 classes in the district in a manner that will promote the maximum  
182 efficiency, as determined by the superintendent, in the  
183 instruction of skills such as verbal and linguistic skills,  
184 logical and mathematical skills, and social skills.

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

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

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

200 (4) (a) In order to receive funding, each school district  
201 shall:

202 (i) Submit a plan on the implementation of a

203 reading improvement program to the State Department of Education;  
204 and

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

208           (b) Additionally, each school district shall:

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

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

217                   (iii) Provide training annually on specific  
218 instructional skills for assistant teachers;

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

222                   (v) Designate the necessary personnel to supervise  
223 and report on their program.

224           (5) The State Department of Education shall:

225                   (a) Develop and assist in the implementation of a  
226 statewide uniform training module, subject to the availability of  
227 funds specifically appropriated therefor by the Legislature, which  
228 shall be used in all school districts for training administrators,  
229 teachers and assistant teachers. The module shall provide for the  
230 consolidated training of each assistant teacher and teacher to



231 whom the assistant teacher is assigned, working together as a  
232 team, and shall require further periodical training for  
233 administrators, teachers and assistant teachers regarding the role  
234 of assistant teachers;

235           (b) Annually evaluate the program on the district and  
236 state level. Subject to the availability of funds specifically  
237 appropriated therefor by the Legislature, the department shall  
238 develop: (i) uniform evaluation reports, to be performed by the  
239 principal or assistant principal, to collect data for the annual  
240 overall program evaluation conducted by the department; or (ii) a  
241 program evaluation model that, at a minimum, addresses process  
242 evaluation; and

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

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

259 classes as provided in subsection (2)(a) of this section.

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

273       It is the intent of the Legislature that no school district  
274 shall dismiss any assistant teacher for the purpose of using state  
275 funds to employ certified teachers. School districts may rely  
276 only upon normal attrition to reduce the number of assistant  
277 teachers employed in that district.

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

283       SECTION 5. Section 37-19-1, Mississippi Code of 1972, is  
284 amended as follows:[LR2]

285       37-19-1. As used in this chapter:

286       (a) The term "minimum education program" shall mean the

287 program of education made possible by the financing plan provided  
288 for in this chapter;

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

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

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

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

305 (f) The term "cost of the minimum program" shall mean  
306 the calculated allowance as fixed by law or by regulations of the  
307 State Board of Education for teachers' salaries, administrative  
308 expense, transportation, the employer's part of the public  
309 employees' retirement and social security, and "supportive  
310 services" as defined elsewhere in this chapter;

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

314 (h) "Minimum school term" shall mean a term of at least

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

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

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

334 (k) The term "year of teaching experience" shall mean  
335 nine (9) months of actual teaching in the public or private  
336 schools of this or some other state. In no case shall more than  
337 one (1) year of teaching experience be given for all services in  
338 one (1) calendar or school year. In determining a teacher's  
339 experience, no deduction shall be made because of the temporary  
340 absence of the teacher because of illness or other good cause, and  
341 the teacher shall be given credit therefor. The State Board of  
342 Education shall fix a number of days, not to exceed twenty-five

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

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

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

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

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

367 SECTION 6. Section 37-7-307, Mississippi Code of 1972, is  
368 amended as follows:[RDD3]

369 37-7-307. (1) For purposes of this section, the term  
370 "licensed employee" means any employee of a public school district

371 required to hold a valid license by the Commission on Teacher and  
372 Administrator Education, Certification and Licensure and  
373 Development.

374 (2) The school board of a school district shall establish by  
375 rules and regulations a policy of sick leave with pay for licensed  
376 employees employed in the school district, and such policy shall  
377 include the following minimum provisions for sick and emergency  
378 leave with pay:

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

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

395 (c) No deduction from the pay of such licensed employee  
396 may be made because of absence of such licensed employee caused by  
397 illness or physical disability of the licensed employee until  
398 after all sick leave allowance credited to such licensed employee

399 has been used.

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

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

427 personal leave allowance, under the condition that there shall be  
428 deducted from the salary of such licensed employee the actual  
429 amount of any compensation paid to any person as a substitute,  
430 necessitated because of the absence of the licensed employee.

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

441 (5) Upon retirement from employment, each licensed and  
442 nonlicensed employee shall be paid for not more than thirty (30)  
443 days of unused accumulated leave earned while employed by the  
444 school district in which the employee is last employed. Such  
445 payment for licensed employees shall be made by the school  
446 district at a rate equal to the amount paid to substitute teachers  
447 and for nonlicensed employees, the payment shall be made by the  
448 school district at a rate equal to the federal minimum wage. The  
449 payment shall be treated in the same manner for retirement  
450 purposes as a lump sum payment for personal leave as provided in  
451 Section 25-11-103(e). Any remaining lawfully credited unused  
452 leave, for which payment has not been made, shall be certified to  
453 the Public Employees' Retirement System in the same manner and  
454 subject to the same limitations as otherwise provided by law for



455 unused leave.

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

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

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

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

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

479 (7) School boards may include in their budgets provisions  
480 for the payment of substitute teachers, necessitated because of  
481 the absence of regular licensed employees. All such substitute  
482 teachers shall be paid wholly from district funds other than

483 minimum education program funds, except as otherwise provided for  
484 long-term substitute teachers in Section 37-19-20. Such school  
485 boards, in their discretion, also may pay, from district funds  
486 other than minimum education program funds, the whole or any part  
487 of the salaries of licensed employees granted leaves for the  
488 purpose of special studies or training.

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

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

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

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

509 (b) Any school district employee may donate a portion  
510 of his or her unused accumulated personal leave or sick leave to

511 another employee of the same or another school district who is  
512 suffering from a catastrophic injury or illness or who has a  
513 member of his or her immediate family suffering from a  
514 catastrophic injury or illness, in accordance with the following:

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

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

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

534           (iv) Before an employee may receive donated leave,  
535 he or she must provide the school district superintendent or his  
536 designee with a physician's statement that states the beginning  
537 date of the catastrophic injury or illness, a description of the  
538 injury or illness, and a prognosis for recovery and the

539 anticipated date that the recipient employee will be able to  
540 return to work.

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

547 (vi) Donated leave shall not be used in lieu of  
548 disability retirement.

549 SECTION 7. Section 37-9-103, Mississippi Code of 1972, is  
550 amended as follows:[LR4]

551 37-9-103. As used in Sections 37-9-101 through 37-9-113 the  
552 word "employee" shall include any teacher, principal,  
553 superintendent elected by a board of trustees and other  
554 professional personnel employed by any public school district of  
555 this state and required to have a valid license issued by the  
556 State Department of Education as a prerequisite of employment, and  
557 shall include any noncertified school district personnel as such  
558 term is defined in Section 1 of Senate Bill No. 2178, 2000 Regular  
559 Session.

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

562 71-3-5. The following shall constitute employers subject to  
563 the provisions of this chapter:

564 Every person, firm and private corporation, including any  
565 public service corporation but excluding, however, all nonprofit  
566 charitable, fraternal, cultural, or religious corporations or

567 associations, that have in service five (5) or more workmen or  
568 operatives regularly in the same business or in or about the same  
569 establishment under any contract of hire, express or implied.

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

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

592 From and after October 1, 1990, counties and municipalities  
593 shall come under the provisions of the Workers' Compensation Law.  
594 Payment for compensation insurance policies so taken may be made

595 from any funds available to such counties and municipalities.

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

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

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

623 Blind.

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

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

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

651 available to a political subdivision.

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

665 Employers exempted by this section may assume, with respect  
666 to any employee or classification of employees, the liability for  
667 compensation imposed upon employers by this chapter with respect  
668 to employees within the coverage of this chapter. The purchase  
669 and acceptance by such employer of valid workers' compensation  
670 insurance applicable to such employee or classification of  
671 employees shall constitute, as to such employer, an assumption by  
672 him of such liability under this chapter without any further act  
673 on his part notwithstanding any other provisions of this chapter,  
674 but only with respect to such employee or such classification of  
675 employees as are within the coverage of the state fund. Such  
676 assumption of liability shall take effect and continue from the  
677 effective date of such workers' compensation insurance and as long  
678 only as such coverage shall remain in force, in which case the



679 employer shall be subject with respect to such employee or  
680 classification of employees to no other liability than the  
681 compensation as provided for in this chapter.

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

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

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

702 SECTION 9. This act shall take effect and be in force from  
703 and after July 1, 2000.