AN ACT TO AMEND SECTION 37-21-7, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE STATUTORY SALARY FOR ASSISTANT TEACHERS IS BASED UPON AN 8-HOUR WORKDAY FOR A CERTAIN NUMBER OF SCHOOL DAYS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 37-21-7, Mississippi Code of 1972, is amended as follows:

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

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

(2) (a) Except as otherwise authorized under subsection (7), each school district shall employ the total number of assistant teachers funded under subsection (6) of this section. The superintendent of each district shall assign the assistant teachers to the kindergarten, first-, second- and third-grade classes in the district in a manner that will promote the maximum efficiency, as determined by the superintendent, in the instruction of skills such as verbal and linguistic skills, logical and mathematical skills, and social skills.
(b) If a licensed teacher to whom an assistant teacher has been assigned is required to be absent from the classroom, the assistant teacher may assume responsibility for the classroom in lieu of a substitute teacher. However, no assistant teacher shall assume sole responsibility of the classroom for more than three (3) consecutive school days. Further, in no event shall any assistant teacher be assigned to serve as a substitute teacher for any teacher other than the licensed teacher to whom that assistant teacher has been assigned.

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

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

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

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

(b) Additionally, each school district shall:

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

(ii) Hold periodic workshops for administrators and teachers on the effective use and supervision of assistant teachers;
(iii) Provide training annually on specific instructional skills for assistant teachers;

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

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

(5) The State Department of Education shall:

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

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

(c) Promulgate rules, regulations and such other standards deemed necessary to effectuate the purposes of this section. Noncompliance with the provisions of this section and any rules, regulations or standards adopted by the department may result in a violation of compulsory accreditation standards as established by the State Board of Education and Commission on School Accreditation.
(6) In addition to other funds allotted under the Minimum Education Program, each school district shall be allotted Nine Thousand One Hundred Fifteen Dollars ($9,115.00) per teacher unit as prescribed in Section 37-19-5 for Grades 1, 2 and 3 for the purpose of employing an assistant teacher. Assistant teachers shall be paid a minimum annual salary of Nine Thousand One Hundred Fifteen Dollars ($9,115.00). However, no assistant teacher shall be paid less than the amount he or she received in the prior school year. No school district shall receive any funds under this section for any school year during which the aggregate amount of the local contribution to the salaries of assistant teachers by the district shall have been reduced below such amount for the previous year. Provided, however, that in the event the Sine Die General Fund Revenue Estimate Increase for fiscal year 2002 is at least five percent (5%), as certified by the Legislative Budget Office to the State Board of Education, the minimum salary for assistant teachers shall be Nine Thousand Three Hundred Sixty-five Dollars ($9,365.00).

In the event the Sine Die General Fund Revenue Estimate Increase for fiscal year 2003 is at least five percent (5%), as certified by the Legislative Budget Office to the State Board of Education, the minimum salary for assistant teachers shall be Nine Thousand Nine Hundred Dollars ($9,900.00).

In the event the Sine Die General Fund Revenue Estimate Increase for fiscal year 2004 is at least five percent (5%), as certified by the Legislative Budget Office to the State Board of Education, the minimum salary for assistant teachers shall be Ten Thousand Five Hundred Dollars ($10,500.00).

In the event the Sine Die General Fund Revenue Estimate Increase for fiscal year 2005 is at least five percent (5%), as certified by the Legislative Budget Office to the State Board of Education, the minimum salary for assistant teachers shall be Eleven Thousand Two Hundred Dollars ($11,200.00).
In the event the Sine Die General Fund Revenue Estimate Increase for fiscal year 2006 is at least five percent (5%), as certified by the Legislative Budget Office to the State Board of Education, the minimum salary for assistant teachers shall be Twelve Thousand Dollars ($12,000.00).

Provided further, that for each one percent (1%) that the Sine Die General Fund Revenue Estimate Growth exceeds the five percent (5%) minimum in fiscal year 2002, 2003, 2004, 2005 or 2006, as certified by the Legislative Budget Office to the State Board of Education and subject to the specific appropriation therefor by the Legislature, the State Board of Education shall revise the salary scale in the appropriate year to provide an additional one percent (1%) across the board increase in the base salaries for assistant teachers. The State Board of Education shall revise the salaries prescribed above for assistant teachers to conform to any adjustments made in prior fiscal years due to revenue growth over and above five percent (5%). The assistant teachers shall not be restricted to working only in the grades for which the funds were allotted, but may be assigned to other classes as provided in subsection (2)(a) of this section. For purposes of the federal Fair Labor Standards Act of 1938, as amended, it is the intent of the Legislature that the compensation provided for assistant teachers by the state in this subsection shall be based upon an eight-hour workday and shall be for a period of workdays being the greater of one hundred eighty-seven (187) days or the number of actual days that regular certified teachers are required to work under contract in their respective school district.

(7) (a) As an alternative to employing assistant teachers, any school district may use the minimum program allotment provided under subsection (6) of this section for the purpose of employing licensed teachers for kindergarten, first-, second- and third-grade classes; however, no school district shall be
authorized to use the minimum program allotment for assistant teachers for the purpose of employing licensed teachers unless the district has established that the employment of licensed teachers using such funds will reduce the teacher:student ratio in the kindergarten, first-, second- and third-grade classes. All minimum program funds for assistant teachers shall be applied to reducing teacher:student ratio in Grades K-3.

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

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

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

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

(2) (a) Except as otherwise authorized under subsection (7), each school district shall employ the total number of assistant teachers funded under the Mississippi Adequate Education Program of this section. The superintendent of each district shall assign the assistant teachers to the kindergarten, first-, second- and third-grade classes in the district in a manner that
will promote the maximum efficiency, as determined by the superintendent, in the instruction of skills such as verbal and linguistic skills, logical and mathematical skills, and social skills.

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

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

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

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

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

(b) Additionally, each school district shall:

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

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

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

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

(5) The State Department of Education shall:

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

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

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

(6) No assistant teacher shall be paid less than the amount
he or she received in the prior school year. No school district
shall receive any funds for any school year during which the
aggregate amount of the local contribution to the salaries of
assistant teachers by the district shall have been reduced below
such amount for the previous year. Provided, however, that in the
event the Sine Die General Fund Revenue Estimate Increase for
fiscal year 2002 is at least five percent (5%), as certified by
the Legislative Budget Office to the State Board of Education, the
minimum salary for assistant teachers shall be Nine Thousand Three
Hundred Sixty-five Dollars ($9,365.00).

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Increase for fiscal year 2003 is at least five percent (5%), as
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Education, the minimum salary for assistant teachers shall be Nine
Thousand Nine Hundred Dollars ($9,900.00).

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Increase for fiscal year 2004 is at least five percent (5%), as
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In the event the Sine Die General Fund Revenue Estimate
Increase for fiscal year 2005 is at least five percent (5%), as
certified by the Legislative Budget Office to the State Board of
Education, the minimum salary for assistant teachers shall be
Eleven Thousand Two Hundred Dollars ($11,200.00).

In the event the Sine Die General Fund Revenue Estimate
Increase for fiscal year 2006 is at least five percent (5%), as
certified by the Legislative Budget Office to the State Board of
Education, the minimum salary for assistant teachers shall be Twelve Thousand Dollars ($12,000.00).

Provided further, that for each one percent (1%) that the Sine Die General Fund Revenue Estimate Growth exceeds the five percent (5%) minimum in fiscal year 2002, 2003, 2004, 2005 or 2006, as certified by the Legislative Budget Office to the State Board of Education and subject to the specific appropriation therefor by the Legislature, the State Board of Education shall revise the salary scale in the appropriate year to provide an additional one percent (1%) across the board increase in the base salaries for assistant teachers. The State Board of Education shall revise the salaries prescribed above for assistant teachers to conform to any adjustments made in prior fiscal years due to revenue growth over and above five percent (5%). The assistant teachers shall not be restricted to working only in the grades for which the funds were allotted, but may be assigned to other classes as provided in subsection (2)(a) of this section.

For purposes of the federal Fair Labor Standards Act of 1938, as amended, it is the intent of the Legislature that the compensation provided for assistant teachers by the state in this subsection shall be based upon an eight-hour workday and shall be for a period of workdays being the greater of one hundred eighty-seven (187) days or the number of actual days that regular certified teachers are required to work under contract in their respective school district.

(7) (a) As an alternative to employing assistant teachers, any school district may use the adequate education program allotments for the purpose of employing licensed teachers for kindergarten, first-, second- and third-grade classes; however, no school district shall be authorized to use the funds for assistant teachers for the purpose of employing licensed teachers unless the district has established that the employment of licensed teachers using such funds will reduce the teacher:student ratio in the
kindergarten, first-, second- and third-grade classes. All adequate education program funds for assistant teachers shall be applied to reducing teacher:student ratio in Grades K-3.

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

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

SECTION 2. This act shall take effect and be in force from and after its passage.