AN ACT TO DEFINE "LIMITED ENGLISH PROFICIENT" STUDENTS; TO PROVIDE STANDARDS FOR ENGLISH LANGUAGE INSTRUCTION PROGRAMS IN THE PUBLIC SCHOOLS FOR LIMITED ENGLISH PROFICIENT STUDENTS; TO PROVIDE ADD-ON PROGRAM FUNDING FOR SUCH PROGRAMS UNDER THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM; TO AMEND SECTION 37-3-2, MISSISSIPPI CODE OF 1972, TO PROVIDE STANDARDS FOR A SPECIAL TEACHER LICENSE IN TRANSITIONAL BILINGUAL EDUCATION; TO AMEND SECTIONS 37-151-5 AND 37-151-7, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) For purposes of this section, "limited English proficient" or "limited English proficiency," when used with reference to a student, means:

(a) A student who was not born in the United States and whose native language is a language other than English; or

(b) A student who comes from a home environment where a language other than English is spoken in the home by the parents of the student;

(c) Who, by reason thereof, has sufficient difficulty speaking, reading, writing or listening to the English language to deny such student the opportunity to learn successfully in classrooms where the language of instruction is English.

(2) Any school district with twenty (20) or more limited English proficient students of any grade level and of a particular language group shall offer a program of transitional bilingual education for the students. Such instruction shall be designed to develop the student's mastery of the four (4) language skills, including listening, speaking, reading and writing, as rapidly as possible. Limited English proficient students who are eligible for other categorical or special programs, such as Chapter I and...
exceptional student education, shall also participate in such services in accordance with the requirements of the respective program. Such instruction shall be provided by a licensed teacher or by a recipient of alternative certification in transitional bilingual education who possesses such qualifications as are prescribed by the Commission on Teacher and Administrator Education, Certification and Licensure and Development as provided in Section 37-3-2, Mississippi Code of 1972. No school may place limited English proficient students of different language backgrounds in the same bilingual program without the approval of the State Department of Education. Bilingual education programs may include English proficient students. Bilingual education programs may include multi-grade classrooms, however, the age spread between students cannot exceed four (4) years, except for kindergarten, in which case the age spread cannot exceed one (1) year. The State Board of Education may, upon petition from a local school board, waive any of the requirements of this subsection in a particular school district for such a time as is necessary to avoid undue hardship to that school district.

(3) Each school district shall implement the following procedures for transitional bilingual education programs:

(a) As required in the annual Consolidated Federal Programs Application, develop and submit a school district plan for providing English language instruction for limited English proficient students to the State Department of Education for review and approval;

(b) As required in the annual Consolidated Federal Programs Application, identify limited English proficient students through assessment and provide for student exit from and reclassification into the program;

(c) Provide limited English proficient students instruction in English or the home language instruction in the
basic subject areas of mathematics, science, social studies and computer literacy;

(d) Maintain a student plan;
(e) Provide properly certified teachers;
(f) As required by federal law and in the annual Consolidated Federal Programs Application, provide equal access to other programs for eligible limited English proficient students based on need; and
(g) As required by federal law, provide for parental involvement in the program.

(4) A school district shall be eligible to report full-time equivalent student attendance as an add-on to the Mississippi Adequate Education Program provided the following conditions are met:

(a) The school district has a plan approved by the State Department of Education;
(b) The eligible student is identified and assessed as limited English proficient based on assessment criteria;
(c) An eligible student may be reported for funding in the program for a base period of three (3) years; provided that a student whose English competency does not meet the criteria for proficiency after three (3) years may be reported for a fourth, fifth and sixth year of funding, provided his or her limited English proficiency is assessed and properly documented prior to each additional year;
(d) If a student exits the program and is later reclassified as limited English proficient, the student may be reported for funding for an additional year, or extended annually for a period not to exceed a total of six (6) years.

(5) The State Board of Education shall adopt rules for the purpose of implementing standards under this section. Each district's program for limited English proficient students shall
be evaluated and monitored periodically by the State Department of Education.

**SECTION 2.** Section 37-3-2, Mississippi Code of 1972, is amended as follows:

37-3-2. (1) There is established within the State Department of Education the Commission on Teacher and Administrator Education, Certification and Licensure and Development. It shall be the purpose and duty of the commission to make recommendations to the State Board of Education regarding standards for the certification and licensure and continuing professional development of those who teach or perform tasks of an educational nature in the public schools of Mississippi.

(2) The commission shall be composed of fifteen (15) qualified members. The membership of the commission shall be composed of the following members to be appointed, three (3) from each congressional district: four (4) classroom teachers; three (3) school administrators; one (1) representative of schools of education of institutions of higher learning located within the state to be recommended by the Board of Trustees of State Institutions of Higher Learning; one (1) representative from the schools of education of independent institutions of higher learning to be recommended by the Board of the Mississippi Association of Independent Colleges; one (1) representative from public community and junior colleges located within the state to be recommended by the State Board for Community and Junior Colleges; one (1) local school board member; and four (4) lay persons. All appointments shall be made by the State Board of Education after consultation with the State Superintendent of Public Education. The first appointments by the State Board of Education shall be made as follows: five (5) members shall be appointed for a term of one (1) year; five (5) members shall be appointed for a term of two (2) years; and five (5) members shall
be appointed for a term of three (3) years. Thereafter, all
members shall be appointed for a term of four (4) years.

(3) The State Board of Education when making appointments
shall designate a chairman. The commission shall meet at least
once every two (2) months or more often if needed. Members of the
commission shall be compensated at a rate of per diem as
authorized by Section 25-3-69 and be reimbursed for actual and
necessary expenses as authorized by Section 25-3-41.

(4) An appropriate staff member of the State Department of
Education shall be designated and assigned by the State
Superintendent of Public Education to serve as executive secretary
and coordinator for the commission. No less than two (2) other
appropriate staff members of the State Department of Education
shall be designated and assigned by the State Superintendent of
Public Education to serve on the staff of the commission.

(5) It shall be the duty of the commission to:

(a) Set standards and criteria, subject to the approval
of the State Board of Education, for all educator preparation
programs in the state;

(b) Recommend to the State Board of Education each year
approval or disapproval of each educator preparation program in
the state;

(c) Establish, subject to the approval of the State
Board of Education, standards for initial teacher certification
and licensure in all fields;

(d) Establish, subject to the approval of the State
Board of Education, standards for the renewal of teacher licenses
in all fields;

(e) Review and evaluate objective measures of teacher
performance, such as test scores, which may form part of the
licensure process, and to make recommendations for their use;

(f) Review all existing requirements for certification
and licensure;
(g) Consult with groups whose work may be affected by the commission's decisions;

(h) Prepare reports from time to time on current practices and issues in the general area of teacher education and certification and licensure;

(i) Hold hearings concerning standards for teachers' and administrators' education and certification and licensure with approval of the State Board of Education;

(j) Hire expert consultants with approval of the State Board of Education;

(k) Set up ad hoc committees to advise on specific areas; and

(l) Perform such other functions as may fall within their general charge and which may be delegated to them by the State Board of Education.

(6) (a) **Standard License - Approved Program Route.** An educator entering the school system of Mississippi for the first time and meeting all requirements as established by the State Board of Education shall be granted a standard five-year license. Persons who possess two (2) years of classroom experience as an assistant teacher or who have taught for one (1) year in an accredited public or private school shall be allowed to fulfill student teaching requirements under the supervision of a qualified participating teacher approved by an accredited college of education. The local school district in which the assistant teacher is employed shall compensate such assistant teachers at the required salary level during the period of time such individual is completing student teaching requirements.

Applicants for a standard license shall submit to the department:

(i) An application on a department form;

(ii) An official transcript of completion of a teacher education program or a bachelor of science degree with child development emphasis from a program accredited by the
American Association of Family and Consumer Sciences (AAFCS) approved by the department or a nationally accredited program, subject to the following: Licensure to teach in Mississippi prekindergarten through kindergarten classrooms shall require completion of a teacher education program or a bachelor of science degree with child development emphasis from a program accredited by the American Association of Family and Consumer Sciences (AAFCS). Licensure to teach in Mississippi kindergarten, for those applicants who have completed a teacher education program, and in Grade 1 through Grade 4 shall require the completion of an interdisciplinary program of studies. Licenses for Grades 4 through 8 shall require the completion of an interdisciplinary program of studies with two (2) or more areas of concentration. Licensure to teach in Mississippi Grades 7 through 12 shall require a major in an academic field other than education, or a combination of disciplines other than education. Students preparing to teach a subject shall complete a major in the respective subject discipline. All applicants for standard licensure shall demonstrate that such person’s college preparation in those fields was in accordance with the standards set forth by the National Council for Accreditation of Teacher Education (NCATE) or the National Association of State Directors of Teacher Education and Certification (NASDTEC) or, for those applicants who have a bachelor of science degree with child development emphasis, the American Association of Family and Consumer Sciences (AAFCS); (iii) A copy of test scores evidencing satisfactory completion of nationally administered examinations of achievement, such as the Educational Testing Service’s teacher testing examinations; and (iv) Any other document required by the State Board of Education.
(b) **Standard License - Alternate Teaching Route.**

Applicants for a Standard License - Alternate Teaching Route shall submit to the department:

(i) An application on a department form;

(ii) An official transcript evidencing a bachelor's degree from an accredited institution of higher learning;

(iii) A copy of test scores evidencing satisfactory completion of an examination of achievement specified by the commission and approved by the State Board of Education;

(iv) An official transcript evidencing appropriate credit hours or a copy of test scores evidencing successful completion of tests as required by the State Board of Education; and

(v) Any other document required by the State Board of Education.

A Standard License - Approved Program Route and a Standard License - Alternate Teaching Route shall be issued for a five-year period, and may be renewed. Recognizing teaching as a profession, a hiring preference shall be granted to persons holding a Standard License - Approved Program Route or Standard License - Alternate Teaching Route over persons holding any other license.

(c) **Special License - Expert Citizen.** In order to allow a school district to offer specialized or technical courses, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may grant a one-year expert citizen-teacher license to local business or other professional personnel to teach in a public school or nonpublic school accredited or approved by the state. Such person may begin teaching upon his employment by the local school board and licensure by the Mississippi Department of Education. The board shall adopt rules and regulations to administer the expert citizen-teacher license. A special license - expert citizen may
be renewed in accordance with the established rules and regulations of the State Department of Education.

(d) **Special License - Nonrenewable.** The State Board of Education is authorized to establish rules and regulations to allow those educators not meeting requirements in subsection (6)(a), (b) or (c) to be licensed for a period of not more than three (3) years, except by special approval of the State Board of Education.

(e) **Nonlicensed Teaching Personnel.** A nonlicensed person may teach for a maximum of three (3) periods per teaching day in a public school or a nonpublic school accredited/approved by the state. Such person shall submit to the department a transcript or record of his education and experience which substantiates his preparation for the subject to be taught and shall meet other qualifications specified by the commission and approved by the State Board of Education. In no case shall any local school board hire nonlicensed personnel as authorized under this paragraph in excess of five percent (5%) of the total number of licensed personnel in any single school.

(f) **Special License - Transitional Bilingual Education.** The commission shall grant special licenses to teachers of transitional bilingual education who possess such qualifications as are prescribed in this section. Teachers of transitional bilingual education shall be compensated by local school boards at not less than one (1) step on the regular salary schedule applicable to permanent teachers licensed under this section. The commission shall grant special licenses to teachers of transitional bilingual education who present the commission with satisfactory evidence that they (i) possess a speaking and reading ability in a language, other than English, in which bilingual education is offered and communicative skills in English; (ii) are in good health and sound moral character; (iii) possess a bachelor's degree or an associate's degree in teacher education.
from an accredited institution of higher education; (iv) meet such requirements as to courses of study, semester hours therein, experience and training as may be required by the commission; and (v) are legally present in the United States and possess legal authorization for employment. A teacher of transitional bilingual education serving under a special license shall be under an exemption from standard licensure if he achieves the requisite qualifications therefor. Two (2) years of service by a teacher of transitional bilingual education under such an exemption shall be credited to the teacher in acquiring a Standard Educator License. In granting special licenses for transitional bilingual education, the commission shall give preference to persons who have been certified as teachers in their country or place of national origin. Nothing in this paragraph shall be deemed to prohibit a local school board from employing to teach in a program in transitional bilingual education a teacher licensed in an appropriate field as approved by the State Department of Education.

(g) In the event any school district meets Level 4 or 5 accreditation standards, the State Board of Education, in its discretion, may exempt such school district from any restrictions in paragraph (e) relating to the employment of nonlicensed teaching personnel.

(7) Administrator License. The State Board of Education is authorized to establish rules and regulations and to administer the licensure process of the school administrators in the State of Mississippi. There will be four (4) categories of administrator licensure with exceptions only through special approval of the State Board of Education.

(a) Administrator License - Nonpracticing. Those educators holding administrative endorsement but have no administrative experience or not serving in an administrative position on January 15, 1997.
(b) **Administrator License - Entry Level.** Those educators holding administrative endorsement and having met the department's qualifications to be eligible for employment in a Mississippi school district. Administrator license - entry level shall be issued for a five-year period and shall be nonrenewable.

(c) **Standard Administrator License - Career Level.** An administrator who has met all the requirements of the department for standard administrator licensure.

(d) **Administrator License - Alternate Route.** The board may establish an alternate route for licensing administrative personnel. Such alternate route for administrative licensure shall be available for persons holding, but not limited to, a master of business administration degree, a master of public administration degree or a master of public planning and policy degree from an accredited college or university, with five (5) years of administrative or supervisory experience. Successful completion of the requirements of alternate route licensure for administrators shall qualify the person for a standard administrator license.

Beginning with the 1997-1998 school year, individuals seeking school administrator licensure under paragraph (b), (c) or (d) shall successfully complete a training program and an assessment process prescribed by the State Board of Education. Applicants seeking school administrator licensure prior to June 30, 1997, and completing all requirements for provisional or standard administrator certification and who have never practiced, shall be exempt from taking the Mississippi Assessment Battery Phase I. Applicants seeking school administrator licensure during the period beginning July 1, 1997, through June 30, 1998, shall participate in the Mississippi Assessment Battery, and upon request of the applicant, the department shall reimburse the applicant for the cost of the assessment process required. After June 30, 1998, all applicants for school administrator licensure
shall meet all requirements prescribed by the department under paragraph (b), (c) or (d), and the cost of the assessment process required shall be paid by the applicant.

(8) Reciprocity. (a) The department shall grant a standard license to any individual who possesses a valid standard license from another state and has a minimum of two (2) years of full-time teaching or administrator experience.

(b) The department shall grant a nonrenewable special license to any individual who possesses a credential which is less than a standard license or certification from another state, or who possesses a standard license from another state but has less than two (2) years of full-time teaching or administration experience. Such special license shall be valid for the current school year plus one (1) additional school year to expire on June 30 of the second year, not to exceed a total period of twenty-four (24) months, during which time the applicant shall be required to complete the requirements for a standard license in Mississippi.

(9) Renewal and Reinstatement of Licenses. The State Board of Education is authorized to establish rules and regulations for the renewal and reinstatement of educator and administrator licenses. Effective May 15, 1997, the valid standard license held by an educator shall be extended five (5) years beyond the expiration date of the license in order to afford the educator adequate time to fulfill new renewal requirements established pursuant to this subsection. An educator completing a master of education, educational specialist or doctor of education degree in May 1997 for the purpose of upgrading the educator's license to a higher class shall be given this extension of five (5) years plus five (5) additional years for completion of a higher degree.

(10) All controversies involving the issuance, revocation, suspension or any change whatsoever in the licensure of an educator required to hold a license shall be initially heard in a hearing de novo, by the commission or by a subcommittee.
established by the commission and composed of commission members for the purpose of holding hearings. Any complaint seeking the denial of issuance, revocation or suspension of a license shall be by sworn affidavit filed with the Commission of Teacher and Administrator Education, Certification and Licensure and Development. The decision thereon by the commission or its subcommittee shall be final, unless the aggrieved party shall appeal to the State Board of Education, within ten (10) days, of the decision of the committee or its subcommittee. An appeal to the State Board of Education shall be on the record previously made before the commission or its subcommittee unless otherwise provided by rules and regulations adopted by the board. The State Board of Education in its authority may reverse, or remand with instructions, the decision of the committee or its subcommittee.

The decision of the State Board of Education shall be final.

(11) The State Board of Education, acting through the commission, may deny an application for any teacher or administrator license for one or more of the following:

(a) Lack of qualifications which are prescribed by law or regulations adopted by the State Board of Education;

(b) The applicant has a physical, emotional or mental disability that renders the applicant unfit to perform the duties authorized by the license, as certified by a licensed psychologist or psychiatrist;

(c) The applicant is actively addicted to or actively dependent on alcohol or other habit-forming drugs or is a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effect, at the time of application for a license;

(d) Revocation of an applicant's certificate or license by another state;

(e) Fraud or deceit committed by the applicant in securing or attempting to secure such certification and license;
(f) Failing or refusing to furnish reasonable evidence of identification;

(g) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law; or

(h) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense as defined by federal or state law.

(12) The State Board of Education, acting on the recommendation of the commission, may revoke or suspend any teacher or administrator license for specified periods of time for one or more of the following:

(a) Breach of contract or abandonment of employment may result in the suspension of the license for one (1) school year as provided in Section 37-9-57;

(b) Obtaining a license by fraudulent means shall result in immediate suspension and continued suspension for one (1) year after correction is made;

(c) Suspension or revocation of a certificate or license by another state shall result in immediate suspension or revocation and shall continue until records in the prior state have been cleared;

(d) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law;

(e) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense, as defined by federal or state law; or

(f) The license holder knowingly and willfully committing any of the acts affecting validity of mandatory uniform test results as provided in Section 37-16-4(1).

(13) (a) Dismissal or suspension of a licensed employee by a local school board pursuant to Section 37-9-59 may result in the
suspension or revocation of a license for a length of time which shall be determined by the commission and based upon the severity of the offense.

(b) Any offense committed or attempted in any other state shall result in the same penalty as if committed or attempted in this state.

(c) A person may voluntarily surrender a license. The surrender of such license may result in the commission recommending any of the above penalties without the necessity of a hearing. However, any such license which has voluntarily been surrendered by a licensed employee may be reinstated by a unanimous vote of all members of the commission.

(14) A person whose license has been suspended on any grounds except criminal grounds may petition for reinstatement of the license after one (1) year from the date of suspension, or after one-half (1/2) of the suspended time has lapsed, whichever is greater. A license suspended on the criminal grounds may be reinstated upon petition to the commission filed after expiration of the sentence and parole or probationary period imposed upon conviction. A revoked license may be reinstated upon satisfactory showing of evidence of rehabilitation. The commission shall require all who petition for reinstatement to furnish evidence satisfactory to the commission of good character, good mental, emotional and physical health and such other evidence as the commission may deem necessary to establish the petitioner's rehabilitation and fitness to perform the duties authorized by the license.

(15) Reporting procedures and hearing procedures for dealing with infractions under this section shall be promulgated by the commission, subject to the approval of the State Board of Education. The revocation or suspension of a license shall be effected at the time indicated on the notice of suspension or revocation. The commission shall immediately notify the
superintendent of the school district or school board where the
teacher or administrator is employed of any disciplinary action
and also notify the teacher or administrator of such revocation or
suspension and shall maintain records of action taken. The State
Board of Education may reverse or remand with instructions any
decision of the commission regarding a petition for reinstatement
of a license, and any such decision of the State Board of
Education shall be final.

(16) An appeal from the action of the State Board of
Education in denying an application, revoking or suspending a
license or otherwise disciplining any person under the provisions
of this section, shall be filed in the Chancery Court of the First
Judicial District of Hinds County on the record made, including a
verbatim transcript of the testimony at the hearing. The appeal
shall be filed within thirty (30) days after notification of the
action of the board is mailed or served and the proceedings in
chancery court shall be conducted as other matters coming before
the court. The appeal shall be perfected upon filing notice of
the appeal and by the prepayment of all costs, including the cost
of preparation of the record of the proceedings by the State Board
of Education, and the filing of a bond in the sum of Two Hundred
Dollars ($200.00) conditioned that if the action of the board be
affirmed by the chancery court, the applicant or license holder
shall pay the costs of the appeal and the action of the chancery
court.

(17) All such programs, rules, regulations, standards and
criteria recommended or authorized by the commission shall become
effective upon approval by the State Board of Education as
designated by appropriate orders entered upon the minutes thereof.

(18) The granting of a license shall not be deemed a
property right nor a guarantee of employment in any public school
district. A license is a privilege indicating minimal eligibility
for teaching in the public schools of Mississippi. This section
shall in no way alter or abridge the authority of local school districts to require greater qualifications or standards of performance as a prerequisite of initial or continued employment in such districts.

(19) In addition to the reasons specified in subsections (12) and (13) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 3. Section 37-151-5, Mississippi Code of 1972, is amended as follows:

37-151-5. As used in Sections 37-151-3, 37-151-5 and 37-151-7:

(a) "Adequate program" or "adequate education program" or "Mississippi Adequate Education Program (M.A.E.P.)" shall mean the program proposed to establish adequate current operation funding levels necessary for the programs of such school district to meet at least Level III of the accreditation system as
established by the State Board of Education, acting through the
Mississippi Commission on School Accreditation, regardless of the
school district's geographic location.

(b) "Educational programs or elements of programs not
included in the adequate education program calculations, but which
may be included in appropriations and transfers to school
districts" shall mean:

(i) "Capital outlay" shall mean those funds used
for the constructing, improving, equipping, renovating or major
repairing of school buildings or other school facilities, or the
cost of acquisition of land whereon to construct or establish such
school facilities.

(ii) "Pilot programs" shall mean programs of a
pilot or experimental nature usually designed for special purposes
and for a specified period of time other than those included in
the adequate education program.

(iii) "Adult education" shall mean public
education dealing primarily with students above eighteen (18)
years of age not enrolled as full-time public school students and
not classified as students of technical schools, colleges or
universities of the state.

(iv) "Food service programs" shall mean those
programs dealing directly with the nutritional welfare of the
student, such as the school lunch and school breakfast programs.

(c) "Base student" shall mean that student
classification that represents the most economically educated
pupil in a school system meeting Level III accreditation, as
determined by the State Board of Education.

(d) "Base student cost" shall mean the funding level
necessary for providing an adequate education program for one (1)
base student, subject to any minimum amounts prescribed in Section
37-151-7(1).
(e) "Add-on program costs" shall mean those items which are included in the adequate education program appropriations and are outside of the program calculations:

(i) "Transportation" shall mean transportation to and from public schools for the students of Mississippi's public schools provided for under law and funded from state funds.

(ii) "Vocational or technical education program" shall mean a secondary vocational or technical program approved by the State Department of Education and provided for from state funds.

(iii) "Special education program" shall mean a program for exceptional children as defined and authorized by Sections 37-23-1 through 37-23-9, and approved by the State Department of Education and provided from state funds.

(iv) "Gifted education program" shall mean those programs for the instruction of intellectually or academically gifted children as defined and provided for in Section 37-23-175 et seq.

(v) "Alternative school program" shall mean those programs for certain compulsory-school-age students as defined and provided for in Sections 37-13-92 and 37-19-22.

(vi) "Extended school year programs" shall mean those programs authorized by law which extend beyond the normal school year.

(vii) "University-based programs" shall mean those university-based programs for handicapped children as defined and provided for in Section 37-23-131 et seq.

(viii) "Bus driver training" programs shall mean those driver training programs as provided for in Section 37-41-1.

(ix) "Transitional bilingual education for limited English proficient students" as defined and provided for in Section 1 of Senate Bill No. 2288, 2002 Regular Session.
(f) "Teacher" shall include any employee of a local school who is required by law to obtain a teacher's license from the State Board of Education and who is assigned to an instructional area of work as defined by the State Department of Education.

(g) "Principal" shall mean the head of an attendance center or division thereof.

(h) "Superintendent" shall mean the head of a school district.

(i) "School district" shall mean any type of school district in the State of Mississippi, and shall include agricultural high schools.

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

(k) The term "transportation density" shall mean the number of transported children in average daily attendance per square mile of area served in a school district, as determined by the State Department of Education.

(l) The term "transported children" shall mean children being transported to school who live within legal limits for transportation and who are otherwise qualified for being transported to school at public expense as fixed by Mississippi state law.
(m) The term "year of teaching experience" shall mean nine (9) months of actual teaching in the public or private schools of this or some other state. In no case shall more than one (1) year of teaching experience be given for all services in one (1) calendar or school year. In determining a teacher's experience, no deduction shall be made because of the temporary absence of the teacher because of illness or other good cause, and the teacher shall be given credit therefor. The State Board of Education shall fix a number of days, not to exceed twenty-five (25) consecutive school days, during which a teacher may not be under contract of employment during any school year and still be considered to have been in full-time employment for a regular scholastic term. In determining the experience of school librarians, each complete year of continuous, full-time employment as a professional librarian in a public library in this or some other state shall be considered a year of teaching experience. If a full-time school administrator returns to actual teaching in the public schools, the term "year of teaching experience" shall include the period of time he or she served as a school administrator.

(n) The term "average daily attendance" shall be the figure which results when the total aggregate attendance during the period or months counted is divided by the number of days during the period or months counted upon which both teachers and pupils are in regular attendance for scheduled classroom instruction less the average daily attendance for self-contained special education classes and, prior to full implementation of the adequate education program the department shall deduct the average daily attendance for the alternative school program provided for in Section 37-19-22.

(o) The term "local supplement" shall mean the amount paid to an individual teacher over and above the adequate education program salary schedule for regular teaching duties.
(p) The term "aggregate amount of support from ad valorem taxation" shall mean the amounts produced by the district's total tax levies for operations.

(q) The term "adequate education program funds" shall mean all funds, both state and local, constituting the requirements for meeting the cost of the adequate program as provided for in Section 37-151-7.

(r) "Department" shall mean the State Department of Education.

(s) "Commission" shall mean the Mississippi Commission on School Accreditation created under Section 37-17-3.

SECTION 4. Section 37-151-7, Mississippi Code of 1972, is amended as follows:

37-151-7. The annual allocation to each school district for the operation of the adequate education program shall be determined as follows:

(1) Computation of the basic amount to be included for current operation in the adequate education program. The following procedure shall be followed in determining the annual allocation to each school district:

(a) **Determination of average daily attendance.** During months two (2) and three (3) of the current school year, the average daily attendance of a school district shall be computed, or the average daily attendance for the prior school year shall be used, whichever is greater. The district's average daily attendance shall be computed and currently maintained in accordance with regulations promulgated by the State Board of Education.

(b) **Determination of base student cost.** The State Board of Education, on or before August 1, with adjusted estimate no later than January 2, shall annually submit to the Legislative Budget Office and the Governor a proposed base student cost adequate to provide the following cost components of educating a
pupil in an average school district meeting Level III accreditation standards required by the Commission on School Accreditation: (i) Instructional Cost; (ii) Administrative Cost; (iii) Operation and Maintenance of Plant; and (iv) Ancillary Support Cost. The department shall utilize a statistical methodology which considers such factors as, but not limited to, (i) school size; (ii) assessed valuation per pupil; (iii) the percentage of students receiving free lunch; (iv) the local district maintenance tax levy; (v) other local school district revenues; and (vi) the district's accreditation level, in the selection of the representative Mississippi school districts for which cost information shall be obtained for each of the above listed cost areas.

For the instructional cost component, the department shall determine the instructional cost of each of the representative school districts selected above, excluding instructional cost of self-contained special education programs and vocational education programs, and the average daily attendance in the selected school districts. The instructional cost is then totaled and divided by the total average daily attendance for the selected school districts to yield the instructional cost component. For the administrative cost component, the department shall determine the administrative cost of each of the representative school districts selected above, excluding administrative cost of self-contained special education programs and vocational education programs, and the average daily attendance in the selected school districts. The administrative cost is then totaled and divided by the total average daily attendance for the selected school districts to yield the administrative cost component. For the plant and maintenance cost component, the department shall determine the plant and maintenance cost of each of the representative school districts selected above, excluding plant and maintenance cost of self-contained special education programs and vocational education programs.
programs, and the average daily attendance in the selected school
districts. The plant and maintenance cost is then totaled and
divided by the total average daily attendance for the selected
school districts to yield the plant and maintenance cost
component. For the ancillary support cost component, the
department shall determine the ancillary support cost of each of
the representative school districts selected above, excluding
ancillary support cost of self-contained special education
programs and vocational education programs, and the average daily
attendance in the selected school districts. The ancillary
support cost is then totaled and divided by the total average
daily attendance for the selected school districts to yield the
ancillary support cost component. The total base cost for each
year shall be the sum of the instructional cost component,
administrative cost component, plant and maintenance cost
component and ancillary support cost component, and any estimated
adjustments for additional state requirements as determined by the
State Board of Education. Provided, however, that the base
student cost in fiscal year 1998 shall be Two Thousand Six Hundred
Sixty-four Dollars ($2,664.00).

(c) **Determination of the basic adequate education**

program cost. The basic amount for current operation to be
included in the Mississippi Adequate Education Program for each
school district shall be computed as follows:

Multiply the average daily attendance of the district by the
base student cost as established by the Legislature, which yields
the total base program cost for each school district.

(d) **Adjustment to the base student cost for at-risk**

pupils. The amount to be included for at-risk pupil programs for
each school district shall be computed as follows: Multiply the
base student cost for the appropriate fiscal year as determined
under paragraph (b) by five percent (5%), and multiply that
product by the number of pupils participating in the federal free
school lunch program in such school district, which yields the
total adjustment for at-risk pupil programs for such school
district.

(e) Add-on program cost. The amount to be allocated to
school districts in addition to the adequate education program
cost for add-on programs for each school district shall be
computed as follows:

(i) Transportation cost shall be the amount
allocated to such school district for the operational support of
the district transportation system from state funds.

(ii) Vocational or technical education program
cost shall be the amount allocated to such school district from
state funds for the operational support of such programs.

(iii) Special education program cost shall be the
amount allocated to such school district from state funds for the
operational support of such programs.

(iv) Gifted education program cost shall be the
amount allocated to such school district from state funds for the
operational support of such programs.

(v) Alternative school program cost shall be the
amount allocated to such school district from state funds for the
operational support of such programs.

(vi) Extended school year programs shall be the
amount allocated to school districts for those programs authorized
by law which extend beyond the normal school year.

(vii) University-based programs shall be the
amount allocated to school districts for those university-based
programs for handicapped children as defined and provided for in

(viii) Bus driver training programs shall be the
amount provided for those driver training programs as provided for
in Section 37-41-1, Mississippi Code of 1972.
(ix) Transitional bilingual education programs for limited English proficient students as defined and approved in Section 1 of Senate Bill No. 2288, 2002 Regular Session.

The sum of the items listed above (i) transportation, (ii) vocational or technical education, (iii) special education, (iv) gifted education, (v) alternative school, (vi) extended school year, and (vii) university-based shall yield the add-on cost for each school district, (viii) bus driver training, and (ix) transitional bilingual education.

(f) Total projected adequate education program cost.

The total Mississippi Adequate Education Program Cost shall be the sum of the total basic adequate education program cost (paragraph (c)), and the adjustment to the base student cost for at-risk pupils (paragraph (d)) for each school district.

(g) Supplemental grant to school districts. In addition to the adequate education program grant, the State Department of Education shall annually distribute an additional amount as follows: Multiply the base student cost for the appropriate fiscal year as determined under paragraph (b) by .13% and multiply that product by the average daily attendance of each school district. Such grant shall not be subject to the local revenue requirement provided in subsection (2).

(2) Computation of the required local revenue in support of the adequate education program. The amount that each district shall provide toward the cost of the adequate education program shall be calculated as follows:

(a) The State Board of Education shall certify to each school district that twenty-eight (28) mills, less the estimated amount of the yield of the School Ad Valorem Tax Reduction Fund grants as determined by the State Department of Education, is the millage rate required to provide the district required local effort for that year, or twenty-seven percent (27%) of the basic adequate education program cost for such school district as
determined under subsection (c), whichever is a lesser amount. In the case of an agricultural high school the millage requirement shall be set at a level which generates an equitable amount per pupil to be determined by the State Board of Education.

(b) The State Board of Education shall determine (i) the total assessed valuation of nonexempt property for school purposes in each school district; (ii) assessed value of exempt property owned by homeowners aged sixty-five (65) or older or disabled as defined in Section 27-33-67(2), Mississippi Code of 1972; (iii) the school district's tax loss from exemptions provided to applicants under the age of sixty-five (65) and not disabled as defined in Section 27-33-67(1), Mississippi Code of 1972; and (iv) the school district's homestead reimbursement revenues.

(c) The amount of the total adequate education program funding which shall be contributed by each school district shall be the sum of the ad valorem receipts generated by the millage required under this subsection plus the following local revenue sources for the appropriate fiscal year which are or may be available for current expenditure by the school district:

One hundred percent (100%) of Grand Gulf income as prescribed in Section 27-35-309.

(3) Computation of the required state effort in support of the adequate education program.

The required state effort in support of the adequate education program shall be determined by subtracting the sum of the required local tax effort as set forth in subsection (2)(a) of this section and the other local revenue sources as set forth in subsection (2)(c) of this section in an amount not to exceed twenty-seven percent (27%) of the total projected adequate education program cost as set forth in subsection (1)(f) of this section from the total projected adequate education program cost as set forth in subsection (1)(f) of this section.
Provided, however, that in fiscal year 1998 and in the fiscal year in which the adequate education program is fully funded by the Legislature, any increase in the said state contribution, including the supplemental grant to school districts provided under subsection (1)(g), to any district calculated under this section shall be not less than eight percent (8%) in excess of the amount received by said district from state funds for the fiscal year immediately preceding. For purposes of this section, state funds shall include minimum program funds less the add-on programs, state Uniform Millage Assistance Grant funds, Education Enhancement Funds appropriated for Uniform Millage Assistance Grants and state textbook allocations, and State General Funds allocated for textbooks.

(4) The State Adequate Education Program Fund is hereby established in the State Treasury which shall be used to distribute any funds specifically appropriated by the Legislature to such fund, to school districts entitled to increased allocations of state funds under the adequate education program funding formula prescribed in Sections 37-151-3, 37-151-5 and 37-151-7 of this article. If the Legislature provides less funds than the total state funds needed for support of such increased allocations under the adequate education program, the State Department of Education shall reduce all elements of the cost of the adequate education program proportionately. Any such adequate education program funds shall be transferred to the school district maintenance fund of such district in the manner prescribed in Section 37-19-47, Mississippi Code of 1972, and shall be expended in the manner provided by law.

(5) The Interim School District Capital Expenditure Fund is hereby established in the State Treasury which shall be used to distribute any funds specifically appropriated by the Legislature to such fund to school districts entitled to increased allocations of state funds under the adequate education program funding
formula prescribed in Sections 37-151-3 through 37-151-7, Mississippi Code of 1972, until such time as the said adequate education program is fully funded by the Legislature. The following percentages of the total state cost of increased allocations of funds under the adequate education program funding formula shall be appropriated by the Legislature into the Interim School District Capital Expenditure Fund to be distributed to all school districts under the formula: Nine and two-tenths percent (9.2%) shall be appropriated in fiscal year 1998, twenty percent (20%) shall be appropriated in fiscal year 1999, forty percent (40%) shall be appropriated in fiscal year 2000, sixty percent (60%) shall be appropriated in fiscal year 2001, eighty percent (80%) shall be appropriated in fiscal year 2002, and one hundred percent (100%) shall be appropriated in fiscal year 2003 into the State Adequate Education Program Fund created in subsection (4). Until such time as the adequate education program is fully funded by the Legislature, such money shall be used by school districts for the following purposes:

(a) Purchasing, erecting, repairing, equipping, remodeling and enlarging school buildings and related facilities, including gymnasiums, auditoriums, lunchrooms, vocational training buildings, libraries, school barns and garages for transportation vehicles, school athletic fields and necessary facilities connected therewith, and purchasing land therefor. Any such capital improvement project by a school district shall be approved by the State Board of Education, and based on an approved long-range plan. The State Board of Education shall promulgate minimum requirements for the approval of school district capital expenditure plans.

(b) Providing necessary water, light, heating, air conditioning, and sewerage facilities for school buildings, and purchasing land therefor.
(c) Paying debt service on existing capital improvement debt of the district or refinancing outstanding debt of a district if such refinancing will result in an interest cost savings to the district.

(d) From and after October 1, 1997, through June 30, 1998, pursuant to a school district capital expenditure plan approved by the State Department of Education, a school district may pledge such funds until July 1, 2002, plus funds provided for in paragraph (e) of this subsection (5) that are not otherwise permanently pledged under such paragraph (e) to pay all or a portion of the debt service on debt issued by the school district under Sections 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt issued by boards of supervisors for agricultural high schools pursuant to Section 37-27-65, Mississippi Code of 1972, or lease-purchase contracts entered into pursuant to Section 31-7-13, Mississippi Code of 1972, or to retire or refinance outstanding debt of a district, if such pledge is accomplished pursuant to a written contract or resolution approved and spread upon the minutes of an official meeting of the district's school board or board of supervisors. It is the intent of this provision to allow school districts to irrevocably pledge their Interim School District Capital Expenditure Fund allotments as a constant stream of revenue to secure a debt issued under the foregoing code sections. To allow school districts to make such an irrevocable pledge, the state shall take all action necessary to ensure that the amount of a district's Interim School District Capital Expenditure Fund allotments shall not be reduced below the amount certified by the department or the district's total allotment under the Interim Capital Expenditure Fund if fully funded, so long as such debt remains outstanding.
(e) From and after October 1, 1997, through June 30, 1998, in addition to any other authority a school district may have, any school district may issue State Aid Capital Improvement Bonds secured in whole by a continuing annual pledge of any Mississippi Adequate Education Program funds available to the district, in an amount not to exceed One Hundred Sixty Dollars ($160.00) per pupil based on the latest completed average daily attendance count certified by the department prior to the issuance of the bonds. Such State Aid Capital Improvement Bonds may be issued for the purposes enumerated in subsections (a), (b), (c) and (g) of this section. Prior to issuing such bonds, the school board of the district shall adopt a resolution declaring the necessity for and its intention of issuing such bonds and borrowing such money, specifying the approximate amount to be so borrowed, how such money is to be used and how such indebtedness is to be evidenced. Any capital improvement project financed with State Aid Capital Improvement Bonds shall be approved by the department, and based on an approved long-range plan. The State Board of Education shall promulgate minimum requirements for the approval of such school district capital expenditure plans. The State Board of Education shall not approve any capital expenditure plan for a pledge of funds under this paragraph unless it determines (i) that the quality of instruction in such district will not be reduced as a result of this pledge, and (ii) the district has other revenue available to attain and maintain at least Level III accreditation. A district issuing State Aid Capital Improvement Bonds may pledge for the repayment of such bonds all funds received by the district from the state, in an amount not to exceed One Hundred Sixty Dollars ($160.00) per pupil in average daily attendance in the school district as set forth above, and not otherwise permanently pledged under paragraph (d) of this subsection or under Section 37-61-33(2)(d), Mississippi Code of 1972. The
The district's school board shall specify by resolution the amount of state funds, which are being pledged by the district for the repayment of the State Aid Capital Improvement Bonds. Once such a pledge is made to secure the bonds, the district shall notify the department of such pledge. Upon making such a pledge, the school district may request the department which may agree to irrevocably transfer a specified amount or percentage of the district's state revenue pledged to repay the district's State Aid Capital Improvement Bonds directly to a state or federally chartered bank serving as a trustee or paying agent on such bonds for the payment of all or portion of such State Aid Capital Improvement Bonds.

Such instructions shall be incorporated into a resolution by the school board for the benefit of holders of the bonds and may provide that such withholding and transfer of such other available funds shall be made only upon notification by a trustee or paying agent on such bonds that the amounts available to pay such bonds on any payment date will not be sufficient. It is the intent of this provision to allow school districts to irrevocably pledge a certain, constant stream of revenue as security for State Aid Capital Improvement Bonds issued hereunder. To allow school districts to make such an irrevocable pledge, the state shall take all action necessary to ensure that the amount of a district's state revenues up to an amount equal to One Hundred Sixty Dollars ($160.00) per pupil as set forth above which have been pledged to repay debt as set forth herein shall not be reduced so long as any State Aid Capital Improvement Bonds are outstanding.

Any such State Aid Capital Improvement bonds shall mature as determined by the district's school bond over a period not to exceed twenty (20) years. Such bonds shall not bear a greater overall maximum interest rate to maturity than that allowed in Section 75-17-101, Mississippi Code of 1972. The further details and terms of such bonds shall be as determined by the school board of the district.
The provisions of this subsection shall be cumulative and supplemental to any existing funding programs or other authority conferred upon school districts or school boards. Debt of a school district secured in whole by a pledge of revenue pursuant to this section shall not be subject to any debt limitation.

For purposes of this paragraph (e), "State Aid Capital Improvement Bond" shall mean any bond, note, or other certificate of indebtedness issued by a school district under the provisions hereof.

This paragraph (e) shall stand repealed from and after June 30, 1998.

(f) As an alternative to the authority granted under paragraph (e), a school district, in its discretion, may authorize the State Board of Education to withhold an amount of the district's adequate education program allotment equal to up to One Hundred Sixty Dollars ($160.00) per student in average daily attendance in the district to be allocated to the State Public School Building Fund to the credit of such school district. A school district may choose the option provided under this paragraph (e) or paragraph (f), but not both. In addition to the grants made by the state pursuant to Section 37-47-9, a school district shall be entitled to grants based on the allotments to the State Public School Building Fund credited to such school district under this paragraph. This paragraph (f) shall stand repealed from and after June 30, 1998.

(g) The State Board of Education may authorize the school district to expend not more than twenty percent (20%) of its annual allotment of such funds or Twenty Thousand Dollars ($20,000.00), whichever is greater, for technology needs of the school district, including computers, software, telecommunications, cable television, interactive video, film low-power television, satellite communications, microwave communications, technology-based equipment installation and
maintenance, and the training of staff in the use of such technology-based instruction. Any such technology expenditure shall be reflected in the local district technology plan approved by the State Board of Education under Section 37-151-17, Mississippi Code of 1972.

(h) To the extent a school district has not utilized twenty percent (20%) of its annual allotment for technology purposes under paragraph (g), a school district may expend not more than twenty percent (20%) of its annual allotment or Twenty Thousand Dollars ($20,000.00), whichever is greater, for instructional purposes. The State Board of Education may authorize a school district to expend more than said twenty percent (20%) of its annual allotment for instructional purposes if it determines that such expenditures are needed for accreditation purposes.

(i) The State Department of Education or the State Board of Education may require that any project commenced pursuant to this act with an estimated project cost of not less than Five Million Dollars ($5,000,000.00) shall be done only pursuant to program management of the process with respect to design and construction. Any individuals, partnerships, companies or other entities acting as a program manager on behalf of a local school district and performing program management services for projects covered under this subsection shall be approved by the State Department of Education.

Any interest accruing on any unexpended balance in the Interim School District Capital Expenditure Fund shall be invested by the State Treasurer and placed to the credit of each school district participating in such fund in its proportionate share. The provisions of this subsection shall be cumulative and supplemental to any existing funding programs or other authority conferred upon school districts or school boards.
SECTION 5. This act shall take effect and be in force from and after July 1, 2002.