

By: Representative Warren

To: Education;
Appropriations

HOUSE BILL NO. 742

1 AN ACT TO AMEND CERTAIN STATUTES RELATING TO THE
2 ADMINISTRATION OF SCHOOL DISTRICTS; TO AMEND SECTION 37-7-307,
3 MISSISSIPPI CODE OF 1972, TO AUTHORIZE LOCAL SCHOOL DISTRICTS TO
4 PRESCRIBE MEETINGS QUALIFYING FOR PROFESSIONAL LEAVE, TO PROVIDE
5 THAT SCHOOL DISTRICT SUBSTITUTE EMPLOYEES MAY BE PAID FROM ANY
6 SCHOOL DISTRICT FUNDS, TO CLARIFY CERTAIN PROVISIONS IN THE SCHOOL
7 DISTRICT EMPLOYEE CATASTROPHIC INJURY OR ILLNESS LEAVE LAW, TO
8 CLARIFY THE DEDUCTION FROM A SCHOOL DISTRICT EMPLOYEE'S
9 COMPENSATION DUE TO THE EMPLOYMENT OF A SUBSTITUTE AND TO
10 AUTHORIZE SCHOOL DISTRICTS TO EMPLOY SUBSTITUTE EMPLOYEES FOR
11 PERSONNEL IN ADDITION TO TEACHERS; TO AMEND SECTION 37-151-103,
12 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE DEPARTMENT OF
13 EDUCATION TO TRANSFER STATE FUNDS ON DATES OTHER THAN DECEMBER
14 15TH IF IT IS IN THE BEST INTEREST OF THE SCHOOL DISTRICT; TO
15 AMEND SECTIONS 37-9-17 AND 37-9-105, MISSISSIPPI CODE OF 1972, TO
16 PROVIDE THAT THE TEACHER CONTRACT RENEWAL DATE SHALL BE 10
17 BUSINESS DAYS AFTER THE ADEQUATE EDUCATION PROGRAM APPROPRIATION
18 IS ENACTED; TO AMEND SECTION 37-9-39, MISSISSIPPI CODE OF 1972, TO
19 AUTHORIZE LOCAL SCHOOL DISTRICTS TO ADOPT A POLICY ON THE TIME
20 BASIS FOR PAYING SALARIES AND WAGES TO ITS EMPLOYEES; TO AMEND
21 SECTION 37-21-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT TEACHER
22 ASSISTANT SALARIES SHALL BE COMPENSATED ON AN HOURLY RATE BASED ON
23 A TOTAL ANNUAL SALARY; TO AMEND SECTIONS 37-61-19 AND 37-61-21,
24 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SCHOOL DISTRICT
25 EXPENDITURES SHALL BE LIMITED TO REVENUE RESOURCES AVAILABLE AND
26 NOT LIMITED TO BUDGET FUNDS AND TO PROVIDE A DATE FOR FINAL BUDGET
27 REVISIONS; TO AMEND SECTION 37-151-5, MISSISSIPPI CODE OF 1972, TO
28 CLARIFY THE TERM "YEAR OF TEACHING EXPERIENCE" UNDER THE ADEQUATE
29 EDUCATION PROGRAM FOR SALARY EXPERIENCE INCREMENT PURPOSES; AND
30 FOR RELATED PURPOSES.

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

32 **SECTION 1.** Section 37-7-307, Mississippi Code of 1972, is
33 amended as follows:

34 37-7-307. (1) For purposes of this section, the term
35 "licensed employee" means any employee of a public school district
36 required to hold a valid license by the Commission on Teacher and
37 Administrator Education, Certification and Licensure and
38 Development.

39 (2) The school board of a school district shall establish by
40 rules and regulations a policy of sick leave with pay for licensed
41 employees employed in the school district, and such policy shall



42 include the following minimum provisions for sick and emergency
43 leave with pay:

44 (a) Each licensed employee, at the beginning of each
45 school year, shall be credited with a minimum sick leave
46 allowance, with pay, of seven (7) days for absences caused by
47 illness or physical disability of the employee during that school
48 year.

49 (b) Any unused portion of the total sick leave
50 allowance shall be carried over to the next school year and
51 credited to such licensed employee if the licensed employee
52 remains employed in the same school district. In the event any
53 public school licensed employee transfers from one public school
54 district in Mississippi to another, any unused portion of the
55 total sick leave allowance credited to such licensed employee
56 shall be credited to such licensed employee in the computation of
57 unused leave for retirement purposes under Section 25-11-109.
58 Accumulation of sick leave allowed under this section shall be
59 unlimited.

60 (c) No deduction from the pay of such licensed employee
61 may be made because of absence of such licensed employee caused by
62 illness or physical disability of the licensed employee until
63 after all sick leave allowance credited to such licensed employee
64 has been used.

65 (d) For the first ten (10) days of absence of a
66 licensed employee because of illness or physical disability, in
67 any school year, in excess of the sick leave allowance credited to
68 such licensed employee, there may be deducted from the pay of such
69 licensed employee the established substitute amount of licensed
70 employee compensation paid in that local school district,
71 necessitated because of the absence of the licensed employee as a
72 result of illness or physical disability. Thereafter, the regular
73 pay of such absent licensed employee may be suspended and withheld



74 in its entirety for any period of absence because of illness or
75 physical disability during that school year.

76 (3) Beginning with the school year 1983-1984, each licensed
77 employee at the beginning of each school year shall be credited
78 with a minimum personal leave allowance, with pay, of two (2) days
79 for absences caused by personal reasons during that school year.
80 Such personal leave shall not be taken on the first day of the
81 school term, the last day of the school term, on a day previous to
82 a holiday or a day after a holiday. Personal leave may be used
83 for professional purposes, including absences caused by attendance
84 of such licensed employee at a seminar, class, training program,
85 professional association or other functions designed for
86 educators. No deduction from the pay of such licensed employee
87 may be made because of absence of such licensed employee caused by
88 personal reasons until after all personal leave allowance credited
89 to such licensed employee has been used. However, the
90 superintendent of a school district, in his discretion, may allow
91 a licensed employee personal leave in addition to any minimum
92 personal leave allowance, under the condition that there shall be
93 deducted from the salary of such licensed employee the actual
94 amount of any compensation paid to any person as a substitute,
95 necessitated because of the absence of the licensed employee.

96 (4) Beginning with the school year 1992-1993, each licensed
97 employee shall be credited with a professional leave allowance,
98 with pay, for each day of absence caused by reason of such
99 employee's statutorily required membership and attendance at a
100 regular or special meeting held within the State of Mississippi of
101 the State Board of Education, the Commission on Teacher and
102 Administrator Education, Certification and Licensure and
103 Development, the Commission on School Accreditation, the
104 Mississippi Authority for Educational Television, the meetings of
105 the state textbook rating committees or other meetings authorized
106 by local school board policy.



107 (5) Upon retirement from employment, each licensed and
108 nonlicensed employee shall be paid for not more than thirty (30)
109 days of unused accumulated leave earned while employed by the
110 school district in which the employee is last employed. Such
111 payment for licensed employees shall be made by the school
112 district at a rate equal to the amount paid to substitute teachers
113 and for nonlicensed employees, the payment shall be made by the
114 school district at a rate equal to the federal minimum wage. The
115 payment shall be treated in the same manner for retirement
116 purposes as a lump sum payment for personal leave as provided in
117 Section 25-11-103(e). Any remaining lawfully credited unused
118 leave, for which payment has not been made, shall be certified to
119 the Public Employees' Retirement System in the same manner and
120 subject to the same limitations as otherwise provided by law for
121 unused leave.

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

126 (a) Requiring the absent * * * employee to furnish the
127 certificate of a physician or dentist or other medical
128 practitioner as to the illness of the absent licensed employee,
129 where the absence is for four (4) or more consecutive school days,
130 or for two (2) consecutive school days immediately preceding or
131 following a nonschool day;

132 (b) Providing penalties, by way of full deduction from
133 salary, or entry on the work record of the * * * employee, or
134 other appropriate penalties, for any materially false statement by
135 the * * * employee as to the cause of absence;

136 (c) Forfeiture of accumulated or future sick leave, if
137 the absence of the * * * employee is caused by optional dental or
138 medical treatment or surgery which could, without medical risk,



139 have been provided, furnished or performed at a time when school
140 was not in session;

141 (d) Enlarging, increasing or providing greater sick or
142 personal leave allowances than the minimum standards established
143 by this section in the discretion of the school board of each
144 school district.

145 (7) School boards may include in their budgets provisions
146 for the payment of substitute employees, necessitated because of
147 the absence of regular licensed employees. All such substitute
148 employees shall be paid wholly from district funds * * *, except
149 as otherwise provided for long-term substitute teachers in Section
150 37-19-20. Such school boards, in their discretion, also may pay,
151 from district funds other than adequate education program funds,
152 the whole or any part of the salaries of all employees granted
153 leaves for the purpose of special studies or training.

154 (8) The school board may further adopt rules and regulations
155 which will reasonably implement such leave policies for all other
156 nonlicensed and hourly paid school employees as the board deems
157 appropriate.

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

161 (i) "Catastrophic injury or illness" means a
162 severe condition or combination of conditions affecting the mental
163 or physical health of an employee or a member of an employee's
164 immediate family, including pregnancy, that requires the services
165 of a licensed physician for an extended period of time and that
166 forces the employee to exhaust all leave time available to that
167 employee * * *.

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

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



172 another employee of the same or another school district who is
173 suffering from a catastrophic injury or illness or who has a
174 member of his or her immediate family suffering from a
175 catastrophic injury or illness, in accordance with the following:

176 (i) The employee donating the leave (the "donor
177 employee") shall designate the employee who is to receive the
178 leave (the "recipient employee") and the amount of unused
179 accumulated personal leave and sick leave that is to be donated,
180 and shall notify the school district superintendent or his
181 designee of his or her designation.

182 (ii) The maximum amount of unused accumulated
183 personal leave that an employee may donate to any other employee
184 may not exceed a number of days that would leave the donor
185 employee with fewer than seven (7) days of personal leave
186 remaining, and the maximum amount of unused accumulated sick leave
187 that an employee may donate to any other employee may not exceed
188 fifty percent (50%) of the unused accumulated sick leave of the
189 donor employee.

190 (iii) An employee must have exhausted all of his
191 or her available leave before he or she will be eligible to
192 receive any leave donated by another employee. Eligibility for
193 donated leave shall be based upon review and approval by the donor
194 employee's supervisor.

195 (iv) Before an employee may receive donated leave,
196 he or she must provide the school district superintendent or his
197 designee with a physician's statement that states the beginning
198 date of the catastrophic injury or illness, a description of the
199 injury or illness, and a prognosis for recovery and the
200 anticipated date that the recipient employee will be able to
201 return to work.

202 (v) If the total amount of leave that is donated
203 to any employee is not used by the recipient employee, the whole
204 days of donated leave shall be returned to the donor employees on



205 a pro rata basis, based on the ratio of the number of days of
206 leave donated by each donor employee to the total number of days
207 of leave donated by all donor employees.

208 (vi) Donated leave shall not be used in lieu of
209 disability retirement.

210 **SECTION 2.** Section 37-151-103, Mississippi Code of 1972, is
211 amended as follows:

212 37-151-103. (1) Funds due each school district under the
213 terms of this chapter from the Adequate Education Program Fund
214 shall be paid in the following manner: On the twenty-fifth day of
215 each month, or the next business date after that date, there shall
216 be paid to each school district by electronic funds transfer
217 one-twelfth (1/12) of the funds to which the district is entitled
218 from funds appropriated for the Adequate Education Program Fund.

219 * * * However, * * * in December those payments shall be made on
220 December 15th or the next business day after that date. In
221 addition, the State Department of Education may pay school
222 districts from the common school fund and the Adequate Education
223 Program Fund on a date earlier than provided for by this section
224 if it is determined that it is in the best interest of school
225 districts to do so.

226 Provided, however, that if the cash balance in the State
227 General Fund is not adequate on the due date to pay the amounts
228 due to all school districts in the state as determined by the
229 State Superintendent of Education, the State Fiscal Officer shall
230 not transfer said funds payable to any school district or
231 districts until money is available to pay the amount due to all
232 districts.

233 (2) Notwithstanding any provision of this chapter or any
234 other law requiring the number of children in average daily
235 attendance or the average daily attendance of transported children
236 to be determined on the basis of the preceding year, the State
237 Board of Education is hereby authorized and empowered to make



238 proper adjustments in allotments in cases where major changes in
239 the number of children in average daily attendance or the average
240 daily attendance of transported children occurs from one (1) year
241 to another as a result of changes or alterations in the boundaries
242 of school districts, the sending of children from one (1) county
243 or district to another upon a contract basis, the termination or
244 discontinuance of a contract for the sending of children from one
245 (1) county or district to another, a change in or relocation of
246 attendance centers, or for any other reason which would result in
247 a major decrease or increase in the number of children in average
248 daily attendance or the average daily attendance of transported
249 children during the current school year as compared with the
250 preceding year.

251 (3) In the event of an inordinately large number of
252 absentees in any school district as a result of epidemic, natural
253 disaster, or any concerted activity discouraging school
254 attendance, then in such event school attendance for the purposes
255 of determining average daily attendance under the adequate
256 education program shall be based upon the average daily attendance
257 for the preceding school year for such school district.

258 **SECTION 3.** Section 37-9-17, Mississippi Code of 1972, is
259 amended as follows:

260 37-9-17. (1) On or before April 30 of each year, or ten
261 (10) business days after the adequate education appropriation bill
262 is enacted into law, whichever is later, the principal of each
263 school shall recommend to the superintendent of the local school
264 district the licensed employees or noninstructional employees to
265 be employed for the school involved except those licensed
266 employees or noninstructional employees who have been previously
267 employed and who have a contract valid for the ensuing scholastic
268 year. If such recommendations meet with the approval of the
269 superintendent, the superintendent shall recommend the employment
270 of such licensed employees or noninstructional employees to the



271 local school board, and, unless good reason to the contrary
272 exists, the board shall elect the employees so recommended. If,
273 for any reason, the local school board shall decline to elect any
274 employee so recommended, additional recommendations for the places
275 to be filled shall be made by the principal to the superintendent
276 and then by the superintendent to the local school board as
277 provided above. The school board of any local school district
278 shall be authorized to designate a personnel supervisor or another
279 principal employed by the school district to recommend to the
280 superintendent licensed employees or noninstructional employees;
281 however, this authorization shall be restricted to no more than
282 two (2) positions for each employment period for each school in
283 the local school district. Any noninstructional employee employed
284 upon the recommendation of a personnel supervisor or another
285 principal employed by the local school district must have been
286 employed by the local school district at the time the
287 superintendent was elected or appointed to office; a
288 noninstructional employee employed under this authorization may
289 not be paid compensation in excess of the statewide average
290 compensation for such noninstructional position with comparable
291 experience, as established by the State Department of Education.
292 The school board of any local school district shall be authorized
293 to designate a personnel supervisor or another principal employed
294 by the school district to accept the recommendations of principals
295 or their designees for licensed employees or noninstructional
296 employees and to transmit approved recommendations to the local
297 school board; however, this authorization shall be restricted to
298 no more than two (2) positions for each employment period for each
299 school in the local school district.

300 When the licensed employees have been elected as provided in
301 the preceding paragraph, the superintendent of the district shall
302 enter into a contract with such persons in the manner provided in
303 this chapter.



304 If, at the commencement of the scholastic year, any licensed
305 employee shall present to the superintendent a license of a higher
306 grade than that specified in such individual's contract, such
307 individual may, if funds are available from minimum education
308 program funds of the district, or from district funds, be paid
309 from such funds the amount to which such higher grade license
310 would have entitled the individual, had the license been held at
311 the time the contract was executed.

312 (2) Superintendents/directors of schools under the purview
313 of the Mississippi Board of Education and the superintendent of
314 the local school district shall require that current criminal
315 records background checks and current child abuse registry checks
316 are obtained, and that such criminal record information and
317 registry checks are on file for any new hires applying for
318 employment as a licensed or nonlicensed employee at a school and
319 not previously employed in such school under the purview of the
320 Mississippi Board of Education or at such local school district
321 prior to July 1, 2000. In order to determine the applicant's
322 suitability for employment, the applicant shall be fingerprinted.
323 If no disqualifying record is identified at the state level, the
324 fingerprints shall be forwarded by the Department of Public Safety
325 to the FBI for a national criminal history record check. The fee
326 for such fingerprinting and criminal history record check shall be
327 paid by the applicant, not to exceed Fifty Dollars (\$50.00);
328 however, the Mississippi Board of Education or the school board of
329 the local school district, in its discretion, may elect to pay the
330 fee for the fingerprinting and criminal history record check on
331 behalf of any applicant. Under no circumstances shall a member of
332 the Mississippi Board of Education, superintendent/director of
333 schools under the purview of the Mississippi Board of Education,
334 local school district superintendent, local school board member or
335 any individual other than the subject of the criminal history
336 record checks disseminate information received through any such



337 checks except insofar as required to fulfill the purposes of this
338 section.

339 (3) If such fingerprinting or criminal record checks
340 disclose a felony conviction, guilty plea or plea of nolo
341 contendere to a felony of possession or sale of drugs, murder,
342 manslaughter, armed robbery, rape, sexual battery, sex offense
343 listed in Section 45-33-23(g), child abuse, arson, grand larceny,
344 burglary, gratification of lust or aggravated assault which has
345 not been reversed on appeal or for which a pardon has not been
346 granted, the new hire shall not be eligible to be employed at such
347 school. Any employment contract for a new hire executed by the
348 superintendent of the local school district or any employment of a
349 new hire by a superintendent/director of a new school under the
350 purview of the Mississippi Board of Education shall be voidable if
351 the new hire receives a disqualifying criminal record check.
352 However, the Mississippi Board of Education or the school board
353 may, in its discretion, allow any applicant aggrieved by the
354 employment decision under this section to appear before the
355 respective board, or before a hearing officer designated for such
356 purpose, to show mitigating circumstances which may exist and
357 allow the new hire to be employed at the school. The Mississippi
358 Board of Education or local school board may grant waivers for
359 such mitigating circumstances, which shall include, but not be
360 limited to: (a) age at which the crime was committed; (b)
361 circumstances surrounding the crime; (c) length of time since the
362 conviction and criminal history since the conviction; (d) work
363 history; (e) current employment and character references; (f)
364 other evidence demonstrating the ability of the person to perform
365 the employment responsibilities competently and that the person
366 does not pose a threat to the health or safety of the children at
367 the school.

368 (4) No local school district or local school district
369 employee or members of the Mississippi Board of Education or



370 employee of a school under the purview of the Mississippi Board of
371 Education shall be held liable in any employment discrimination
372 suit in which an allegation of discrimination is made regarding an
373 employment decision authorized under this Section 37-9-17.

374 **SECTION 4.** Section 37-9-105, Mississippi Code of 1972, is
375 amended as follows:

376 37-9-105. In the event that a recommendation is made by the
377 school district not to offer an employee a renewal contract for a
378 successive year, written notice of the proposed nonreemployment
379 stating the reasons for the proposed nonreemployment shall be
380 given no later than the following:

381 (a) If the employee is a principal, the superintendent,
382 without further board action, shall give notice of nonreemployment
383 on or before March 1; or

384 (b) If the employee is a teacher, administrator or
385 other professional educator covered under Sections 37-9-101
386 through 37-9-113, the superintendent, without further board
387 action, shall give notice of nonreemployment on or before April 30
388 or ten (10) business days after the adequate education program
389 appropriation bill is enacted into law, whichever is later.

390 An interim conservator appointed pursuant to the provisions
391 of Section 37-17-6(14) (a) or a school board acting on the
392 recommendation of a school district financial advisor appointed
393 pursuant to the provisions of Section 37-9-18 shall not be
394 required to comply with the time limitations prescribed in this
395 section for recommending the reemployment of principals, teachers,
396 administrators or other professional educators.

397 **SECTION 5.** Section 37-9-39, Mississippi Code of 1972, is
398 amended as follows:

399 Salary or wages paid to any employee of any school shall be
400 paid on a basis as determined by the local school board of each
401 school district, except for December, when salaries or wages shall
402 be paid by the last working day. Salaries or wages shall be paid



403 at a minimum on a monthly basis. Any school employee whose
404 employment ends during a school term, regardless of the reason(s)
405 the employment ended, shall be paid salary or wages only for that
406 portion of the school term that employee actually worked. Nothing
407 in this section shall be construed to entitle any employee to
408 payment of salary or wages when no work has been performed.

409 **SECTION 6.** Section 37-21-7, Mississippi Code of 1972, is
410 amended as follows:

411 37-21-7. (1) This section shall be referred to as the
412 "Mississippi Elementary Schools Assistant Teacher Program," the
413 purpose of which shall be to provide an early childhood education
414 program that assists in the instruction of basic skills. The
415 State Board of Education is authorized, empowered and directed to
416 implement a statewide system of assistant teachers in kindergarten
417 classes and in the first, second and third grades. The assistant
418 teacher shall assist pupils in actual instruction under the strict
419 supervision of a licensed teacher.

420 (2) (a) Except as otherwise authorized under subsection
421 (7), each school district shall employ the total number of
422 assistant teachers funded under subsection (6) of this section.
423 The superintendent of each district shall assign the assistant
424 teachers to the kindergarten, first-, second- and third-grade
425 classes in the district in a manner that will promote the maximum
426 efficiency, as determined by the superintendent, in the
427 instruction of skills such as verbal and linguistic skills,
428 logical and mathematical skills, and social skills.

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



436 any teacher other than the licensed teacher to whom that assistant
437 teacher has been assigned.

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

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

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

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

452 (b) Additionally, each school district shall:

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

458 (ii) Hold periodic workshops for administrators
459 and teachers on the effective use and supervision of assistant
460 teachers;

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

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

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

468 (5) The State Department of Education shall:



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

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

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

494 (6) In addition to other funds allotted under the Minimum
495 Education or Adequate Education Program, each school district
496 shall be allotted sufficient funding for the purpose of employing
497 assistant teachers. Nothing contained in this subsection shall be
498 interpreted to entitle any assistant teacher to any wage or
499 benefit when no work has been performed.



500 For the 2003-2004 school year, the minimum hourly rate of pay
501 for assistant teachers shall be based on an annual wage of Ten
502 Thousand Five Hundred Dollars (\$10,500.00).

503 For the 2004-2005 school year, the minimum hourly rate of pay
504 for assistant teachers shall be based on an annual wage of Eleven
505 Thousand Two Hundred Dollars (\$11,200.00).

506 For the 2005-2006 school year and school years thereafter,
507 the minimum hourly rate of pay for assistant teachers shall be
508 based on an annual wage of Twelve Thousand Dollars (\$12,000.00).

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

524 (7) (a) As an alternative to employing assistant teachers,
525 any school district may use the allotment provided under
526 subsection (6) of this section for the purpose of employing
527 licensed teachers for kindergarten, first-, second- and
528 third-grade classes; however, no school district shall be
529 authorized to use the allotment for assistant teachers for the
530 purpose of employing licensed teachers unless the district has
531 established that the employment of licensed teachers using such
532 funds will reduce the teacher:student ratio in the kindergarten,



533 first-, second- and third-grade classes. All state funds for
534 assistant teachers shall be applied to reducing teacher:student
535 ratio in Kindergarten through Grade 3.

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

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

546 **SECTION 7.** Section 37-61-19, Mississippi Code of 1972, is
547 amended as follows:

548 37-61-19. It shall be the duty of the superintendents of
549 schools or administrative superintendents, and the school boards
550 of all school districts, to limit the expenditure of school funds
551 during the fiscal year to the resources available. It shall be
552 unlawful for any school district to budget expenditures from a
553 fund in excess of the resources available within that fund

554 * * *. Furthermore, it shall be unlawful for any contract to be
555 entered into or any obligation incurred or expenditure made in
556 excess of the resources available * * * for such fiscal year. Any
557 member of the school board, superintendent of schools, or other
558 school official, who shall knowingly enter into any contract,
559 incur any obligation, or make any expenditure in excess of the
560 amount available * * * for the fiscal year shall be personally
561 liable for the amount of such excess. However, no school board
562 member, superintendent or other school official shall be
563 personally liable (a) in the event of any reduction in adequate
564 education program payments by action of the Governor acting
565 through the Department of Finance and Administration, or (b) for



566 claims, damages, awards or judgments, on account of any wrongful
567 or tortious act or omission or breach of implied term or condition
568 of any warranty or contract; provided, however, that the foregoing
569 immunity provisions shall not be a defense in cases of fraud,
570 criminal action or an intentional breach of fiduciary obligations
571 imposed by statute.

572 **SECTION 8.** Section 37-61-21, Mississippi Code of 1972, is
573 amended as follows:

574 37-61-21. If it should appear to the superintendent of
575 schools or administrative superintendent or the school board of
576 any school district that the amounts to be received from state
577 appropriations, taxation or any other source will be more than the
578 amount estimated in the budget filed and approved, or if it should
579 appear that such amounts shall be less than the amount estimated,
580 the school board of the school district, with assistance from the
581 superintendent, may revise the budget at any time during the
582 fiscal year by increasing or decreasing the fund budget, in
583 proportion to the increase or decrease in the estimated amounts.
584 If it should appear to the superintendent of schools, or
585 administrative superintendent or the school board of a school
586 district that some function of the budget as filed is in excess of
587 the requirement of that function and that the entire amount
588 budgeted for such function will not be needed for expenditures
589 therefor during the fiscal year, the school board of the school
590 district, with assistance from the superintendent, may transfer
591 resources to and from functions and funds within the budget when
592 and where needed; however, no such transfer shall be made from
593 fund to fund or from function to function which will result in the
594 expenditure of any money for any purpose different from that for
595 which the money was appropriated, allotted, collected or otherwise
596 made available or for a purpose which is not authorized by law.
597 No revision of any budget under the provisions hereof shall be
598 made which will permit a fund expenditure in excess of the



599 resources available for such purpose. The revised portions of the
600 budgets shall be incorporated in the minutes of the school board
601 by spreading them on the minutes or by attaching them as an
602 addendum. Final budget revisions, pertinent to a fiscal year,
603 shall be approved on or before the date set by the State Board of
604 Education for the school district to submit its financial
605 information for that fiscal year.

606 **SECTION 9.** Section 37-151-5, Mississippi Code of 1972, is
607 amended as follows:

608 37-151-5. As used in Sections 37-151-3, 37-151-5 and
609 37-151-7:

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

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

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

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



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

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

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

643 (d) "Base student cost" shall mean the funding level
644 necessary for providing an adequate education program for one (1)
645 base student, subject to any minimum amounts prescribed in Section
646 37-151-7(1).

647 (e) "Add-on program costs" shall mean those items which
648 are included in the adequate education program appropriations and
649 are outside of the program calculations:

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

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

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

661 (iv) "Gifted education program" shall mean those
662 programs for the instruction of intellectually or academically



663 gifted children as defined and provided for in Section 37-23-175
664 et seq.

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

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

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

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

676 (f) "Teacher" shall include any employee of a local
677 school who is required by law to obtain a teacher's license from
678 the State Board of Education and who is assigned to an
679 instructional area of work as defined by the State Department of
680 Education.

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

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

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

688 (j) "Minimum school term" shall mean a term of at least
689 one hundred eighty (180) days of school in which both teachers and
690 pupils are in regular attendance for scheduled classroom
691 instruction for not less than sixty percent (60%) of the normal
692 school day. It is the intent of the Legislature that any tax
693 levies generated to produce additional local funds required by any
694 school district to operate school terms in excess of one hundred
695 seventy-five (175) days shall not be construed to constitute a new



696 program for the purposes of exemption from the limitation on tax
697 revenues as allowed under Sections 27-39-321 and 37-57-107 for new
698 programs mandated by the Legislature.

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

703 (l) The term "transported children" shall mean children
704 being transported to school who live within legal limits for
705 transportation and who are otherwise qualified for being
706 transported to school at public expense as fixed by Mississippi
707 state law.

708 (m) The term "year of teaching experience" shall mean
709 nine (9) months of actual teaching in the public or private
710 schools * * *. In no case shall more than one (1) year of
711 teaching experience be given for all services in one (1) calendar
712 or school year. In determining a teacher's experience, no
713 deduction shall be made because of the temporary absence of the
714 teacher because of illness or other good cause, and the teacher
715 shall be given credit therefor. The State Board of Education
716 shall fix a number of days, not to exceed twenty-five (25)
717 consecutive school days, during which a teacher may not be under
718 contract of employment during any school year and still be
719 considered to have been in full-time employment for a regular
720 scholastic term. If a teacher exceeds the number of days
721 established by the State Board of Education that a teacher may not
722 be under contract but may still be employed, that teacher shall
723 not be credited with a year of teaching experience. In
724 determining the experience of school librarians, each complete
725 year of continuous, full-time employment as a professional
726 librarian in a public library in this or some other state shall be
727 considered a year of teaching experience. If a full-time school
728 administrator returns to actual teaching in the public schools,



729 the term "year of teaching experience" shall include the period of
730 time he or she served as a school administrator. In determining
731 the salaries of teachers who have experience in any branch of the
732 military, the term "year of teaching experience" shall include
733 each complete year of actual classroom instruction while serving
734 in the military.

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

745 (o) The term "local supplement" shall mean the amount
746 paid to an individual teacher over and above the adequate
747 education program salary schedule for regular teaching duties.

748 (p) The term "aggregate amount of support from ad
749 valorem taxation" shall mean the amounts produced by the
750 district's total tax levies for operations.

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

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

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

759 **SECTION 10.** This act shall take effect and be in force from
760 and after July 1, 2003.

