AN ACT TO AMEND CERTAIN STATUTES RELATING TO THE ADMINISTRATION OF SCHOOL DISTRICTS; TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972, TO AUTHORIZE LOCAL SCHOOL DISTRICTS TO PRESCRIBE MEETINGS QUALIFYING FOR PROFESSIONAL LEAVE, TO PROVIDE THAT SCHOOL DISTRICT SUBSTITUTE EMPLOYEES MAY BE PAID FROM ANY SCHOOL DISTRICT FUNDS, TO CLARIFY CERTAIN PROVISIONS IN THE SCHOOL DISTRICT EMPLOYEE CATASTROPHIC INJURY OR ILLNESS LEAVE LAW, TO CLARIFY THE DEDUCTION FROM A SCHOOL DISTRICT EMPLOYEE'S COMPENSATION DUE TO THE EMPLOYMENT OF A SUBSTITUTE AND TO AUTHORIZE SCHOOL DISTRICTS TO EMPLOY SUBSTITUTE EMPLOYEES FOR PERSONNEL IN ADDITION TO TEACHERS; TO AMEND SECTION 37-151-103, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE DEPARTMENT OF EDUCATION TO TRANSFER STATE FUNDS ON DATES OTHER THAN DECEMBER 15 IF IT IS IN THE BEST INTEREST OF THE SCHOOL DISTRICT; TO AMEND SECTION 37-9-39, MISSISSIPPI CODE OF 1972, TO AUTHORIZE LOCAL SCHOOL DISTRICTS TO ADOPT A POLICY ON THE TIME BASIS FOR PAYING SALARIES AND WAGES TO ITS EMPLOYEES; TO AMEND SECTIONS 37-61-18 AND 37-61-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SCHOOL DISTRICT EXPENDITURES SHALL BE LIMITED TO REVENUE RESOURCES AVAILABLE AND NOT LIMITED TO BUDGET FUNDS AND TO PROVIDE A DATE FOR FINAL BUDGET REVISIONS; TO AMEND SECTION 37-151-5, MISSISSIPPI CODE OF 1972, TO CLARIFY THE TERM "YEAR OF TEACHING EXPERIENCE" UNDER THE ADEQUATE EDUCATION PROGRAM FOR SALARY EXPERIENCE INCREMENT PURPOSES AND TO INCLUDE PUBLIC SCHOOL SPEECH-LANGUAGE PATHOLOGISTS' AND AUDIOLOGISTS' PROFESSIONAL EXPERIENCE IN CLINICAL SETTINGS IN THE DEFINITION OF THE TERM "YEAR OF TEACHING EXPERIENCE" AS USED FOR DETERMINING THEIR SALARIES IN THE PUBLIC SCHOOLS; TO AMEND SECTION 37-9-17, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ACCREDITED PRIVATE SCHOOLS MAY UTILIZE THE CRIMINAL BACKGROUND CHECK PROCEDURES FOR EMPLOYEES PROVIDED FOR PUBLIC SCHOOLS; TO AMEND SECTION 37-43-24, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AND DIRECT THE STATE DEPARTMENT OF EDUCATION TO PLACE TEXTBOOK, EQUIPMENT AND SUPPLY ORDERS FOR STUDENTS ATTENDING SCHOOLS ADMINISTERED BY THE STATE BOARD OF EDUCATION PRIOR TO THE BEGINNING OF THE FISCAL YEAR FOR WHICH FUNDS ARE APPROPRIATED FOR SUCH PURPOSE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 37-7-307, Mississippi Code of 1972, as amended by Senate Bill No. 2313, 2003 Regular Session, is amended as follows:

[Through June 30, 2003, Section 37-7-307 shall read as follows:]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Any school district employee may donate a portion of his or her unused accumulated personal leave or sick leave to another employee of the same or another school district who is suffering from a catastrophic injury or illness or who has a member of his or her immediate family suffering from a catastrophic injury or illness, in accordance with the following:

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

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

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

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

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

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

[From and after July 1, 2003, Section 37-7-307 shall read as follows:]

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

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

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

(b) Any unused portion of the total sick leave allowance shall be carried over to the next school year and credited to such licensed employee and teacher assistants if the licensed employee or teachers assistant remains employed in the same school district. In the event any public school licensed
employee or teacher assistant transfers from one public school
district in Mississippi to another, any unused portion of the
total sick leave allowance credited to such licensed employee or
teacher assistant shall be credited to such licensed employee or
teacher assistant in the computation of unused leave for
retirement purposes under Section 25-11-109. Accumulation of sick
leave allowed under this section shall be unlimited.

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

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

(3) Beginning with the school year 1983-1984, each licensed
employee at the beginning of each school year shall be credited
with a minimum personal leave allowance, with pay, of two (2) days
for absences caused by personal reasons during that school year.
Such personal leave shall not be taken on the first day of the
school term, the last day of the school term, on a day previous to
a holiday or a day after a holiday. Personal leave may be used
for professional purposes, including absences caused by attendance
of such licensed employee at a seminar, class, training program,
professional association or other functions designed for educators. No deduction from the pay of such licensed employee may be made because of absence of such licensed employee caused by personal reasons until after all personal leave allowance credited to such licensed employee has been used. However, the superintendent of a school district, in his discretion, may allow a licensed employee personal leave in addition to any minimum personal leave allowance, under the condition that there shall be deducted from the salary of such licensed employee the actual amount of any compensation paid to any person as a substitute, necessitated because of the absence of the licensed employee. Any unused portion of the total personal leave allowance up to five (5) days shall be carried over to the next school year and credited to such licensed employee if the licensed employee remains employed in the same school district.

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

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

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

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

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

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

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

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

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

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

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

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

(b) Any school district employee may donate a portion of his or her unused accumulated personal leave or sick leave to another employee of the same or another school district who is suffering from a catastrophic injury or illness or who has a member of his or her immediate family suffering from a catastrophic injury or illness, in accordance with the following:

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

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

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

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

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

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

SECTION 2. Section 37-151-103, Mississippi Code of 1972, is
amended as follows:
37-151-103. (1) Funds due each school district under the terms of this chapter from the Adequate Education Program Fund shall be paid in the following manner: On the twenty-fifth day of each month, or the next business date after that date, there shall be paid to each school district by electronic funds transfer one-twelfth (1/12) of the funds to which the district is entitled from funds appropriated for the Adequate Education Program Fund. However, in December those payments shall be made on December 15th or the next business day after that date. In addition, the State Department of Education may pay school districts from the common school fund and the Adequate Education Program Fund on a date earlier than provided for by this section if it is determined that it is in the best interest of school districts to do so.

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

(2) Notwithstanding any provision of this chapter or any other law requiring the number of children in average daily attendance or the average daily attendance of transported children to be determined on the basis of the preceding year, the State Board of Education is hereby authorized and empowered to make proper adjustments in allotments in cases where major changes in the number of children in average daily attendance or the average daily attendance of transported children occurs from one (1) year to another as a result of changes or alterations in the boundaries of school districts, the sending of children from one (1) county or district to another upon a contract basis, the termination or discontinuance of a contract for the sending of children from one
(1) county or district to another, a change in or relocation of attendance centers, or for any other reason which would result in a major decrease or increase in the number of children in average daily attendance or the average daily attendance of transported children during the current school year as compared with the preceding year.

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

SECTION 3. Section 37-9-39, Mississippi Code of 1972, is amended as follows:

37-9-39. Salary or wages paid to any employee of any school shall be paid on a basis as determined by the local school board of each school district, except for December, when salaries or wages shall be paid by the last working day. Salaries or wages shall be paid at a minimum on a monthly basis. Any school employee whose employment ends during a school term, regardless of the reason(s) the employment ended, shall be paid salary or wages only for that portion of the school term that employee actually worked. Nothing in this section shall be construed to entitle any employee to payment of salary or wages when no work has been performed.

SECTION 4. Section 37-61-19, Mississippi Code of 1972, is amended as follows:

37-61-19. It shall be the duty of the superintendents of schools or administrative superintendents, and the school boards of all school districts, to limit the expenditure of school funds during the fiscal year to the resources available. It shall be unlawful for any school district to budget expenditures from a...
fund in excess of the resources available within that fund. Furthermore, it shall be unlawful for any contract to be entered into or any obligation incurred or expenditure made in excess of the resources available for such fiscal year. Any member of the school board, superintendent of schools, or other school official, who shall knowingly enter into any contract, incur any obligation, or make any expenditure in excess of the amount available for the fiscal year shall be personally liable for the amount of such excess. However, no school board member, superintendent or other school official shall be personally liable (a) in the event of any reduction in adequate education program payments by action of the Governor acting through the Department of Finance and Administration, or (b) for claims, damages, awards or judgments, on account of any wrongful or tortious act or omission or breach of implied term or condition of any warranty or contract; provided, however, that the foregoing immunity provisions shall not be a defense in cases of fraud, criminal action or an intentional breach of fiduciary obligations imposed by statute.

SECTION 5. Section 37-61-21, Mississippi Code of 1972, is amended as follows:

37-61-21. If it should appear to the superintendent of schools or administrative superintendent or the school board of any school district that the amounts to be received from state appropriations, taxation or any other source will be more than the amount estimated in the budget filed and approved, or if it should appear that such amounts shall be less than the amount estimated, the school board of the school district, with assistance from the superintendent, may revise the budget at any time during the fiscal year by increasing or decreasing the fund budget, in proportion to the increase or decrease in the estimated amounts. If it should appear to the superintendent of schools, or administrative superintendent or the school board of a school
district that some function of the budget as filed is in excess of
the requirement of that function and that the entire amount
budgeted for such function will not be needed for expenditures
therefor during the fiscal year, the school board of the school
district, with assistance from the superintendent, may transfer
resources to and from functions and funds within the budget when
and where needed; however, no such transfer shall be made from
fund to fund or from function to function which will result in the
expenditure of any money for any purpose different from that for
which the money was appropriated, allotted, collected or otherwise
made available or for a purpose which is not authorized by law.
No revision of any budget under the provisions hereof shall be
made which will permit a fund expenditure in excess of the
resources available for such purpose. The revised portions of the
budgets shall be incorporated in the minutes of the school board
by spreading them on the minutes or by attaching them as an
addendum. Final budget revisions, pertinent to a fiscal year,
shall be approved on or before the date set by the State Board of
Education for the school district to submit its financial
information for that fiscal year.

SECTION 6. 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 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.

(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. 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. If a teacher exceeds the number of days established by the State Board of Education that a teacher may not be under contract but may still be employed, that teacher shall not be credited with a year of teaching experience. 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. In determining the salaries of teachers who have experience in any branch of the military, the term "year of teaching experience" shall include each complete year of actual classroom instruction while serving in the military. In determining the experience of speech-language pathologists and audiologists, each complete year of continuous full-time post master's degree employment in an educational setting in this or some other state shall be considered a year of teaching experience.

(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 7.** Section 37-9-17, Mississippi Code of 1972, is amended as follows:

37-9-17. (1) On or before April 1 of each year, the principal of each school shall recommend to the superintendent of the local school district the licensed employees or noninstructional employees to be employed for the school involved except those licensed employees or noninstructional employees who have been previously employed and who have a contract valid for the ensuing scholastic year. If such recommendations meet with the approval of the superintendent, the superintendent shall recommend the employment of such licensed employees or noninstructional employees to the local school board, and, unless good reason to the contrary exists, the board shall elect the employees so recommended. If, for any reason, the local school board shall decline to elect any employee so recommended, additional recommendations for the places to be filled shall be made by the principal to the superintendent and then by the superintendent to the local school board as provided above. The school board of any local school district shall be authorized to
designate a personnel supervisor or another principal employed by
the school district to recommend to the superintendent licensed
employees or noninstructional employees; however, this
authorization shall be restricted to no more than two (2)
positions for each employment period for each school in the local
school district. Any noninstructional employee employed upon the
recommendation of a personnel supervisor or another principal
employed by the local school district must have been employed by
the local school district at the time the superintendent was
elected or appointed to office; a noninstructional employee
employed under this authorization may not be paid compensation in
excess of the statewide average compensation for such
noninstructional position with comparable experience, as
established by the State Department of Education. The school
board of any local school district shall be authorized to
designate a personnel supervisor or another principal employed by
the school district to accept the recommendations of principals or
their designees for licensed employees or noninstructional
employees and to transmit approved recommendations to the local
school board; however, this authorization shall be restricted to
no more than two (2) positions for each employment period for each
school in the local school district.

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

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

(2) Superintendents/directors of schools under the purview
of the Mississippi Board of Education and the superintendent of
the local school district shall require that current criminal
records background checks and current child abuse registry checks
are obtained, and that such criminal record information and
registry checks are on file for any new hires applying for
employment as a licensed or nonlicensed employee at a school and
not previously employed in such school under the purview of the
Mississippi Board of Education or at such local school district
prior to July 1, 2000. In order to determine the applicant’s
suitability for employment, the applicant shall be fingerprinted.
If no disqualifying record is identified at the state level, the
fingerprints shall be forwarded by the Department of Public Safety
to the FBI for a national criminal history record check. The fee
for such fingerprinting and criminal history record check shall be
paid by the applicant, not to exceed Fifty Dollars ($50.00);
however, the Mississippi Board of Education or the school board of
the local school district, in its discretion, may elect to pay the
fee for the fingerprinting and criminal history record check on
behalf of any applicant. Under no circumstances shall a member of
the Mississippi Board of Education, superintendent/director of
schools under the purview of the Mississippi Board of Education,
local school district superintendent, local school board member or
any individual other than the subject of the criminal history
record checks disseminate information received through any such
checks except insofar as required to fulfill the purposes of this
section. Any nonpublic school which is accredited or approved by
the Mississippi Board of Education may avail itself of the
procedures provided for herein and shall be responsible for the
same fee charged in the case of local public schools of this
state.
(3) If such fingerprinting or criminal record checks disclose a felony conviction, guilty plea or plea of nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, sex offense listed in Section 45-33-23(g), child abuse, arson, grand larceny, burglary, gratification of lust or aggravated assault which has not been reversed on appeal or for which a pardon has not been granted, the new hire shall not be eligible to be employed at such school. Any employment contract for a new hire executed by the superintendent of the local school district or any employment of a new hire by a superintendent/director of a new school under the purview of the Mississippi Board of Education shall be voidable if the new hire receives a disqualifying criminal record check. However, the Mississippi Board of Education or the school board may, in its discretion, allow any applicant aggrieved by the employment decision under this section to appear before the respective board, or before a hearing officer designated for such purpose, to show mitigating circumstances which may exist and allow the new hire to be employed at the school. The Mississippi Board of Education or local school board may grant waivers for such mitigating circumstances, which shall include, but not be limited to: (a) age at which the crime was committed; (b) circumstances surrounding the crime; (c) length of time since the conviction and criminal history since the conviction; (d) work history; (e) current employment and character references; (f) other evidence demonstrating the ability of the person to perform the employment responsibilities competently and that the person does not pose a threat to the health or safety of the children at the school.

(4) No local school district or local school district employee or members of the Mississippi Board of Education or employee of a school under the purview of the Mississippi Board of Education shall be held liable in any employment discrimination.
suit in which an allegation of discrimination is made regarding an employment decision authorized under this Section 37-9-17.

SECTION 8. Section 37-43-24, Mississippi Code of 1972, is amended as follows:

37-43-24. (1) This section shall be referred to and may be cited as the "Timely Acquisition of Braille and Large Print Textbooks Act of 2002."

(2) The State Department of Education is hereby authorized and directed to place textbook procurement orders for visually impaired and hearing impaired students in the schools of this state prior to the beginning of the fiscal year for which the expenditure for such order has been authorized by the Legislature. After June 1 of any year, the State Department of Education may order additional books, as needed. In addition, the State Department of Education is authorized and directed to place textbook, equipment and school supply procurement orders for students attending the state supported schools administered by the State Board of Education prior to the beginning of the fiscal year for which the expenditure for such order has been authorized by the Legislature, and may order additional books, equipment and supplies at a later date, as needed. The department shall insure that the appropriate procedures for textbook procurement are followed according to state law and board policy as described in the Textbook Administration Handbook.

SECTION 9. This act shall take effect and be in force from and after its passage.