

By: Senator(s) Harden

To: Education;
Appropriations

SENATE BILL NO. 2395

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 Provided, however, that in December said payments shall be made on
220 December 15th or the next business day after that date. Provided
221 further, that the State Department of Education shall be
222 authorized to pay school districts from the common school fund and
223 the adequate education program fund on a date earlier than
224 provided for by this section if it is determined that it is in the
225 best interest of school 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 year to
241 another as a result of changes or alterations in the boundaries of
242 school districts, the sending of children from one county or
243 district to another upon a contract basis, the termination or
244 discontinuance of a contract for the sending of children from one
245 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 program
262 appropriation bill is enacted into law, whichever is later, the
263 principal of each school shall recommend to the superintendent of
264 the local school district the licensed employees or
265 noninstructional employees to be employed for the school involved
266 except those licensed employees or noninstructional employees who
267 have been previously employed and who have a contract valid for
268 the ensuing scholastic year. If such recommendations meet with
269 the approval of the superintendent, the superintendent shall
270 recommend the employment of such licensed employees or



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

301 When the licensed employees have been elected as provided in
302 the preceding paragraph, the superintendent of the district shall



303 enter into a contract with such persons in the manner provided in
304 this chapter.

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

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



336 any individual other than the subject of the criminal history
337 record checks disseminate information received through any such
338 checks except insofar as required to fulfill the purposes of this
339 section.

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



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

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

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

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

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

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

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



401 37-9-39. Salaries and wages paid to any employee of any
402 school shall be paid on a basis as determined by the local school
403 board of each school district, except for December when salaries
404 or wages shall be paid by the last working day. Salaries or wages
405 shall be paid at a minimum on a monthly basis. Any school
406 employee whose employment ends during a school term, regardless of
407 the reason(s) the employment ended, shall be paid salary or wages
408 only for that portion of the school term that employee has
409 actually worked. Nothing in this statute shall be construed to
410 entitle any employee to payment of salary or wages when no work
411 has been performed. * * *

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

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

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

432 (b) If a licensed teacher to whom an assistant teacher
433 has been assigned is required to be absent from the classroom, the



434 assistant teacher may assume responsibility for the classroom in
435 lieu of a substitute teacher. However, no assistant teacher shall
436 assume sole responsibility of the classroom for more than three
437 (3) consecutive school days. Further, in no event shall any
438 assistant teacher be assigned to serve as a substitute teacher for
439 any teacher other than the licensed teacher to whom that assistant
440 teacher has been assigned.

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

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

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

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

455 (b) Additionally, each school district shall:

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

461 (ii) Hold periodic workshops for administrators
462 and teachers on the effective use and supervision of assistant
463 teachers;

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



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

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

471 (5) The State Department of Education shall:

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

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

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

497 (6) In addition to other funds allotted under the Minimum
498 Education or Adequate Education Program, each school district



499 shall be allotted sufficient funding for the purpose of employing
500 assistant teachers. * * * Nothing contained herein shall be
501 interpreted to entitle any assistant teacher to any wage or
502 benefit when no work has been performed.

503 For the 2001-2002 school year, the minimum hourly rate of pay
504 for assistant teachers shall be based on an annual wage of Nine
505 Thousand Three Hundred Sixty-five Dollars (\$9,365.00).

506 For the 2002-2003 school year, the minimum hourly rate of pay
507 for assistant teachers shall be based on an annual wage of Nine
508 Thousand Nine Hundred Dollars (\$9,900.00).

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

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

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

518 In addition, for each one percent (1%) that the Sine Die
519 General Fund Revenue Estimate Growth exceeds five percent (5%) in
520 fiscal year 2003, 2004, 2005 or 2006, as certified by the
521 Legislative Budget Office to the State Board of Education and
522 subject to the specific appropriation therefor by the Legislature,
523 the State Board of Education shall revise the salary scale in the
524 appropriate year to provide an additional one percent (1%) across
525 the board increase in the base salaries for assistant teachers.
526 The State Board of Education shall revise the salaries prescribed
527 above for assistant teachers to conform to any adjustments made in
528 prior fiscal years due to revenue growth over and above five
529 percent (5%). The assistant teachers shall not be restricted to
530 working only in the grades for which the funds were allotted, but



531 may be assigned to other classes as provided in subsection (2)(a)
532 of this section.

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

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

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

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

557 37-61-19. It shall be the duty of the superintendents of
558 schools or administrative superintendents, and the school boards
559 of all school districts, to limit the expenditure of school funds
560 during the fiscal year to the resources available. It shall be
561 unlawful for any school district to budget expenditures from a
562 fund in excess of the resources available within that fund * * *.
563 Furthermore, it shall be unlawful for any contract to be entered



564 into or any obligation incurred or expenditure made in excess of
565 the resources available * * * for such fiscal year. Any member of
566 the school board, superintendent of schools, or other school
567 official, who shall knowingly enter into any contract, incur any
568 obligation, or make any expenditure in excess of the amount
569 available * * * for the fiscal year shall be personally liable for
570 the amount of such excess. However, no school board member,
571 superintendent or other school official shall be personally liable
572 (a) in the event of any reduction in adequate education program
573 payments by action of the Governor acting through the Department
574 of Finance and Administration, or (b) for claims, damages, awards
575 or judgments, on account of any wrongful or tortious act or
576 omission or breach of implied term or condition of any warranty or
577 contract; provided, however, that the foregoing immunity
578 provisions shall not be a defense in cases of fraud, criminal
579 action or an intentional breach of fiduciary obligations imposed
580 by statute.

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

583 37-61-21. If it should appear to the superintendent of
584 schools or administrative superintendent or the school board of
585 any school district that the amounts to be received from state
586 appropriations, taxation or any other source will be more than the
587 amount estimated in the budget filed and approved, or if it should
588 appear that such amounts shall be less than the amount estimated,
589 the school board of the school district, with assistance from the
590 superintendent, may revise the budget at any time during the
591 fiscal year by increasing or decreasing the fund budget, in
592 proportion to the increase or decrease in the estimated amounts.
593 If it should appear to the superintendent of schools, or
594 administrative superintendent or the school board of a school
595 district that some function of the budget as filed is in excess of
596 the requirement of that function and that the entire amount



597 budgeted for such function will not be needed for expenditures
598 therefor during the fiscal year, the school board of the school
599 district, with assistance from the superintendent, may transfer
600 resources to and from functions and funds within the budget when
601 and where needed; however, no such transfer shall be made from
602 fund to fund or from function to function which will result in the
603 expenditure of any money for any purpose different from that for
604 which the money was appropriated, allotted, collected or otherwise
605 made available or for a purpose which is not authorized by law. No
606 revision of any budget under the provisions hereof shall be made
607 which will permit a fund expenditure in excess of the resources
608 available for such purpose. The revised portions of the budgets
609 shall be incorporated in the minutes of the school board by
610 spreading them on the minutes or by attaching them as an addendum.
611 Final budget revisions, pertinent to a fiscal year, shall be
612 approved on or before the date set by the State Board of Education
613 for the school district to submit its financial information for
614 that fiscal year.

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

617 37-151-5. As used in Sections 37-151-3, 37-151-5 and
618 37-151-7:

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

627 (b) "Educational programs or elements of programs not
628 included in the adequate education program calculations, but which



629 may be included in appropriations and transfers to school
630 districts" shall mean:

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

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

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

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

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

652 (d) "Base student cost" shall mean the funding level
653 necessary for providing an adequate education program for one (1)
654 base student, subject to any minimum amounts prescribed in Section
655 37-151-7(1).

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

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



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

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

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

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

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

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

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

685 (f) "Teacher" shall include any employee of a local
686 school who is required by law to obtain a teacher's license from
687 the State Board of Education and who is assigned to an
688 instructional area of work as defined by the State Department of
689 Education.

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

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



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

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

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

712 (l) The term "transported children" shall mean children
713 being transported to school who live within legal limits for
714 transportation and who are otherwise qualified for being
715 transported to school at public expense as fixed by Mississippi
716 state law.

717 (m) The term "year of teaching experience" shall mean
718 nine (9) months of actual teaching in the public or private
719 schools. * * * In no case shall more than one (1) year of
720 teaching experience be given for all services in one (1) calendar
721 or school year. In determining a teacher's experience, no
722 deduction shall be made because of the temporary absence of the
723 teacher because of illness or other good cause, and the teacher
724 shall be given credit therefor. The State Board of Education
725 shall fix a number of days, not to exceed twenty-five (25)
726 consecutive school days, during which a teacher may not be under



727 contract of employment during any school year and still be
728 considered to have been in full-time employment for a regular
729 scholastic term. If a teacher exceeds the number of days
730 established by the State Board of Education that a teacher may not
731 be under contract but may still be employed, that teacher shall
732 not be credited with a year of teaching experience. In
733 determining the experience of school librarians, each complete
734 year of continuous, full-time employment as a professional
735 librarian in a public library in this or some other state shall be
736 considered a year of teaching experience. If a full-time school
737 administrator returns to actual teaching in the public schools,
738 the term "year of teaching experience" shall include the period of
739 time he or she served as a school administrator. In determining
740 the salaries of teachers who have experience in any branch of the
741 military, the term "year of teaching experience" shall include
742 each complete year of actual classroom instruction while serving
743 in the military.

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

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

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



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

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

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

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

