

By: Representative Brown

To: Education

HOUSE BILL NO. 1121

1 AN ACT RELATING TO THE ADMINISTRATION AND GOVERNANCE OF LOCAL
2 SCHOOL DISTRICTS; TO CREATE A NEW SECTION TO BE CODIFIED AS
3 SECTION 37-7-301.1, MISSISSIPPI CODE OF 1972, TO GRANT HOME RULE
4 TO LOCAL SCHOOL DISTRICTS; TO AMEND SECTION 37-17-11, MISSISSIPPI
5 CODE OF 1972, TO AUTHORIZE THE STATE BOARD OF EDUCATION TO EXEMPT
6 SCHOOLS ACCREDITED AT LEVEL 4 OR 5 FROM COMPULSORY STANDARDS OF
7 ACCREDITATION WHICH ARE PRESCRIBED OTHER THAN BY LAW; TO CREATE A
8 NEW SECTION TO BE CODIFIED AS SECTION 37-17-12, MISSISSIPPI CODE
9 OF 1972, TO EXEMPT SCHOOLS MEETING LEVEL 4 OR LEVEL 5
10 ACCREDITATION STANDARDS FROM CERTAIN STATUTORY REQUIREMENTS AND
11 THE PROCESS STANDARDS SET FORTH IN THE MISSISSIPPI PUBLIC SCHOOLS
12 ACCOUNTABILITY MANUAL; TO AMEND SECTION 37-3-4, MISSISSIPPI CODE
13 OF 1972, TO EXEMPT PRINCIPALS AND ADMINISTRATORS IN SCHOOLS
14 ACCREDITED AT LEVEL 4 OR 5 FROM CERTAIN CONTINUING EDUCATION
15 REQUIREMENTS; TO AMEND SECTION 37-3-46, MISSISSIPPI CODE OF 1972,
16 TO EXEMPT SCHOOLS ACCREDITED AT LEVEL 4 OR 5 FROM THE REQUIREMENT
17 OF RECEIVING TECHNICAL ASSISTANCE FROM THE STATE DEPARTMENT OF
18 EDUCATION IN REGARD TO FINANCIAL AND PERSONNEL APPRAISAL AND
19 COMPENSATION SYSTEMS; TO AMEND SECTION 37-3-49, MISSISSIPPI CODE
20 OF 1972, TO EXEMPT SCHOOLS ACCREDITED AT LEVEL 4 OR 5 FROM CERTAIN
21 REQUIREMENTS RELATING TO INSTRUCTIONAL PROGRAMS; TO AMEND SECTION
22 37-7-337, MISSISSIPPI CODE OF 1972, TO EXEMPT SCHOOLS ACCREDITED
23 AT LEVEL 4 OR 5 FROM REQUIREMENTS RELATING TO THE CREATION OF
24 COMMUNITY INVOLVEMENT PLANS; TO AMEND SECTION 37-9-79, MISSISSIPPI
25 CODE OF 1972, TO EXEMPT SCHOOLS ACCREDITED AT LEVEL 4 OR 5 FROM
26 REQUIREMENTS RELATING TO SCHOOL GUIDANCE COUNSELORS; TO AMEND
27 SECTION 37-17-6, MISSISSIPPI CODE OF 1972, TO EXEMPT SCHOOLS
28 ACCREDITED AT LEVEL 4 OR 5 FROM REQUIREMENTS RELATING TO SCHOOL
29 LIBRARIANS; TO AMEND SECTION 37-17-8, MISSISSIPPI CODE OF 1972, TO
30 EXEMPT SCHOOLS ACCREDITED AT LEVEL 4 OR 5 FROM REQUIREMENTS
31 RELATING TO STAFF DEVELOPMENT PLANS; TO AMEND SECTION 37-21-7,
32 MISSISSIPPI CODE OF 1972, TO EXEMPT SCHOOLS ACCREDITED AT LEVEL 4
33 OR 5 FROM REQUIREMENT RELATED TO THE EMPLOYMENT OF ASSISTANT
34 TEACHERS; TO AMEND SECTIONS 37-13-61, 37-13-67 AND 37-13-69,
35 MISSISSIPPI CODE OF 1972, TO AUTHORIZE LOCAL SCHOOL BOARDS TO
36 DESIGNATE THE OPENING AND CLOSING DATES OF THE SCHOOL TERM, THE
37 NUMBER OF TEACHING HOURS PER SCHOOL DAY AND HOLIDAYS THAT ARE TO
38 BE OBSERVED IN THE DISTRICT; TO AMEND SECTION 37-41-53,
39 MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT SCHOOL
40 BOARDS REQUIRE SCHOOL TRANSPORTATION VEHICLES TO BE INSPECTED
41 ACCORDING TO STATE BOARD OF EDUCATION REGULATIONS; TO AMEND
42 SECTION 37-7-301, MISSISSIPPI CODE OF 1972, TO AUTHORIZE SCHOOL
43 DISTRICTS TO CONTRACT WITH PRIVATE ENTITIES TO PROVIDE CERTAIN
44 NONINSTRUCTIONAL SERVICES; TO AMEND SECTIONS 25-11-103 AND
45 25-11-127, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO
46 AMEND SECTION 37-151-77, MISSISSIPPI CODE OF 1972, TO EXEMPT
47 SCHOOLS ACCREDITED AT LEVEL 4 OR 5 FROM MAXIMUM PUPIL-TEACHER
48 RATIOS IN GRADES 1 THROUGH 4; AND FOR RELATED PURPOSES.

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

50 **SECTION 1.** The following shall be codified as Section
51 37-7-301.1, Mississippi Code of 1972:

52 37-7-301.1. The school board of a school district may adopt
53 any orders, resolutions or ordinances with respect to school
54 district affairs, property and finances which are not inconsistent
55 with the Mississippi Constitution of 1890, the Mississippi Code of
56 1972, or any other statute or law of the State of Mississippi.
57 Except as otherwise provided, the powers granted to the school
58 boards are complete without the existence of or reference to any
59 specific authority granted in any other statute or law of the
60 State of Mississippi and may be exercised unless specifically
61 prohibited by a statute or law of the State of Mississippi.
62 Unless such actions are specifically authorized by another statute
63 or law of the State of Mississippi, this section shall not
64 authorize a school board to: (a) levy taxes of any kind or
65 increase the levy of any authorized tax; (b) issue bonds of any
66 kind; or (c) enter into collective bargaining agreements. All
67 other powers of the school boards may be exercised unless
68 specifically prohibited by the statutes or laws of the State of
69 Mississippi.

70 **SECTION 2.** Section 37-17-11, Mississippi Code of 1972, is
71 amended as follows:

72 37-17-11. The State Board of Education, in its discretion,
73 may exempt any school * * * which meets Level 4 or 5 accreditation
74 from any compulsory standard of accreditation. * * * However, if
75 the standard of accreditation is an educational policy required by
76 statute, any such exemption shall only be made if specifically
77 authorized by law.

78 **SECTION 3.** The following shall be codified as Section
79 37-17-12, Mississippi Code of 1972:

80 37-17-12. (1) (a) Schools meeting Level 4 or 5
81 accreditation standards are exempt from the requirements
82 prescribed in Sections 37-3-4, 37-3-46, 37-3-49, 37-7-337,

83 37-9-79, 37-17-6, 37-17-8, 37-21-7 and 37-151-77 and the process
84 standards included in the Mississippi Public Schools
85 Accountability Manual which are not required by law.

86 (b) Each school initially meeting a Level 4 or 5
87 accreditation rating according to the official issuance of the
88 State Board of Education accreditation ratings shall have its
89 exemption status reevaluated every three (3) years. If a
90 previously exempted school's rating is reduced to Level 1, 2 or 3,
91 then that school automatically shall lose its exempt status until
92 it again achieves a Level 4 or 5 rating.

93 (2) For the purposes of this section, a Level 4 or 5 school
94 is defined as a school designated by the State Board of Education
95 as having such accreditation rating.

96 (3) Before December 1, 2006, the State Department of
97 Education shall provide a report of all exempted process standards
98 and nonexempted process standards to the Office of the Governor
99 and the Chairs of the Education Committees of the House of
100 Representatives and Senate.

101 **SECTION 4.** Section 37-3-4, Mississippi Code of 1972, is
102 amended as follows:

103 37-3-4. (1) There is established within the State
104 Department of Education, the School Executive Management
105 Institute. The director shall be appointed by the State Board of
106 Education upon recommendation by the State Superintendent of
107 Public Education. The State Superintendent of Public Education,
108 with the approval of the State Board of Education, shall assign
109 sufficient staff members from the State Department of Education to
110 the institute.

111 (2) It shall be the purpose and duty of the institute to
112 conduct thorough empirical studies and analyses of the school
113 management needs of the local school districts throughout the
114 state, to make recommendations to the State Board of Education
115 regarding standards and programs of training that aid in the

116 development of administrative and management skills of local
117 school administrators, and to conduct such programs related to
118 these purposes as they are implemented under guidelines
119 established by the State Board of Education.

120 (3) The State Board of Education shall develop and implement
121 through the School Executive Management Institute a program for
122 the development of administrative and management skills of local
123 school administrators under which all local school administrators
124 shall be required to participate. Subject to the extent of
125 appropriations available for such purpose, the School Executive
126 Management Institute or the Mississippi School Boards Association
127 shall be required to offer courses at least twice a year on the
128 uses of technology to principals, superintendents and other
129 administrative personnel. These courses shall relate to the
130 application of technology to learning, as well as administrative
131 problems.

132 (4) (a) The institute shall have an advisory board composed
133 of ten (10) qualified members appointed by the State Board of
134 Education after consultation with the State Superintendent of
135 Public Education. This advisory board will offer recommendations
136 to the institute on the types of training to be instituted and
137 supported. The membership of the advisory board shall be composed
138 of the following members, two (2) to be appointed from each
139 congressional district: three (3) school administrators; one (1)
140 representative of public community/junior colleges within the
141 state; one (1) representative of a school of education in an
142 institution of higher learning within the state; two (2) local
143 school board members; one (1) classroom teacher; and two (2) lay
144 persons. In making the initial appointments, three (3) members
145 shall be appointed for a term of one (1) year, three (3) members
146 shall be appointed for a term of two (2) years, two (2) members
147 shall be appointed for a term of three (3) years, and two (2)
148 members shall be appointed for a term of four (4) years.

149 Thereafter, all members shall be appointed for a term of four (4)
150 years. The advisory board shall meet when called by the director,
151 but in no event fewer than three (3) times per year. The members
152 of the advisory board shall be compensated at the per diem rate
153 authorized by Section 25-3-69 and reimbursed for actual and
154 necessary expenses as authorized by Section 25-3-41.

155 (b) Board members of the Oxford-Lafayette Business and
156 Industrial Complex shall be paid per diem and reimbursed for
157 expenses and mileage from local funds in accordance with Section
158 37-6-13.

159 (5) (a) Basic Education Course. Subject to the extent of
160 appropriations available for such purpose, the School Executive
161 Management Institute of the State Department of Education shall
162 prepare and conduct a course of training for basic education for
163 the local school board members of this state, in order for board
164 members to carry out their duties more effectively and be exposed
165 to new ideas involving school restructuring. The basic course
166 shall be known as the "School Board Member Training Course" and
167 shall consist of at least twelve (12) hours of training. The
168 School Executive Management Institute shall issue certificates of
169 completion to those school board members who complete the basic
170 education course.

171 (b) Continuing Education Course. The Mississippi
172 School Boards Association shall be responsible for preparing and
173 conducting a course of training for continuing education for the
174 local school board members of this state, in order for board
175 members to carry out their duties more effectively and be exposed
176 to new ideas involving school restructuring. The continuing
177 education course shall be known as the "Continuing Education
178 Course for School Board Members" and shall consist of at least six
179 (6) hours of training.

180 The Mississippi School Boards Association shall issue
181 certificates of completion to those school board members who

182 complete the continuing education course. All costs and expenses
183 for preparing and conducting the continuing education course
184 provided for in this paragraph shall be paid out of any funds
185 which are made available to the Mississippi School Boards
186 Association upon authorization and appropriation by the
187 Legislature to the State Department of Education.

188 (6) The Mississippi School Boards Association shall prepare
189 and submit a report each year to the State Board of Education and
190 to the respective Chairs of the House and Senate Education
191 Committees describing the activities and providing an evaluation
192 of the continuing education programs offered by the association
193 each year.

194 (7) The School Executive Management Institute of the State
195 Department of Education, or the Mississippi School Boards
196 Association with the oversight of the State Board of Education, at
197 least twice a year, shall prepare and conduct required courses of
198 training for continuing education for the elementary and secondary
199 school principals of this state, in order for principals to carry
200 out their duties more effectively and be exposed to new ideas
201 involving school management. The continuing education course
202 shall be known as the "Continuing Education Course for Principals"
203 and shall consist of at least six (6) hours of training. The
204 content of the continuing education courses and the time and place
205 such courses are to be conducted shall be determined by the School
206 Executive Management Institute or the Mississippi School Boards
207 Association; however, to the extent practicable, such training
208 sessions shall be held within geographical proximity of local
209 districts in order that travel times and costs shall not be
210 prohibitive.

211 The institute shall issue certificates of completion to those
212 principals who complete such courses. All costs and expenses for
213 preparing and conducting the basic and continuing education
214 courses provided for in this subsection shall be paid out of any

215 funds which are made available to the institute upon authorization
216 and appropriation by the Legislature.

217 (8) Principals and other administrators at schools meeting
218 Level 4 or 5 accreditation standards are exempt from the
219 requirements of this section.

220 **SECTION 5.** Section 37-3-46, Mississippi Code of 1972, is
221 amended as follows:

222 37-3-46. * * * The State Department of Education, in regard
223 to any school not meeting Level 4 or Level 5 accreditation
224 standards, shall:

225 (a) Provide to local school districts financial,
226 training and other assistance to implement and maintain a state
227 program of educational accountability and assessment of
228 performance.

229 (b) Provide to local school districts technical
230 assistance and training in the development, implementation and
231 administration of a personnel appraisal and compensation system
232 for all school employees. * * *

233 (c) Provide to local school districts technical
234 assistance in the development, implementation and administration
235 of programs designed to keep children in school voluntarily and to
236 prevent dropouts.

237 * * *

238 **SECTION 6.** Section 37-3-49, Mississippi Code of 1972, is
239 amended as follows:

240 37-3-49. (1) The State Department of Education shall
241 provide an instructional program and establish guidelines and
242 procedures for managing such program in the public schools as part
243 of the State Program of Educational Accountability and Assessment
244 of Performance as prescribed in Section 37-3-46. Public school
245 districts may (a) elect to adopt the instructional program and
246 management system provided by the State Department of Education,
247 or (b) elect to adopt an instructional program and management

248 system which meets or exceeds criteria established by the State
249 Department of Education for such. This provision shall begin with
250 the courses taught in Grades K-8 which contain skills tested
251 through the Mississippi Basic Skills Assessment Program and shall
252 proceed through all secondary school courses mandated for
253 graduation and all secondary school courses in the Mississippi
254 end-of-course testing program. Other state core objectives must
255 be included in the district's instructional program as they are
256 provided by the State Department of Education along with
257 instructional practices, resources, evaluation items and
258 management procedures. Districts are encouraged to adapt this
259 program and accompanying procedures to all other instructional
260 areas. The department shall provide that such program and
261 guidelines, or a program and guidelines developed by a local
262 school district which incorporates the core objectives from the
263 curriculum structure are enforced through the performance-based
264 accreditation system. It is the intent of the Legislature that
265 every effort be made to protect the instructional time in the
266 classroom and reduce the amount of paperwork which must be
267 completed by teachers. The State Department of Education shall
268 take steps to insure that school districts properly use staff
269 development time to work on the districts' instructional
270 management plans.

271 (2) The State Department of Education shall provide such
272 instructional program and management guidelines which shall
273 require for every public school district that:

274 (a) All courses taught in Grades K-8 which contain
275 skills which are tested through the Mississippi Basic Skills
276 Assessment Program, all secondary school courses mandated for
277 graduation, and all courses in the end-of-course testing program
278 shall include the State Department of Education's written list of
279 learning objectives.

280 (b) The local school board must adopt the objectives
281 that will form the core curriculum which will be systematically
282 delivered throughout the district.

283 (c) The set of objectives provided by the State
284 Department of Education must be accompanied by suggested
285 instructional practices and resources that would help teachers
286 organize instruction so as to promote student learning of the
287 objectives. Objectives added by the school district must also be
288 accompanied by suggested instructional practices and resources
289 that would help teachers organize instruction. The instructional
290 practices and resources that are identified are to be used as
291 suggestions and not as requirements that teachers must follow. The
292 goal of the program is to have students to achieve the desired
293 objective and not to limit teachers in the way they teach.

294 (d) Standards for student performance must be
295 established for each core objective in the local program and those
296 standards establish the district's definition of mastery for each
297 objective.

298 (e) There shall be an annual review of student
299 performance in the instructional program against locally
300 established standards. When weaknesses exist in the local
301 instructional program, the district shall take action to improve
302 student performance.

303 (3) The State Board of Education and the board of trustees
304 of each school district shall adopt policies to limit and reduce
305 the number and length of written reports that classroom teachers
306 are required to prepare.

307 (4) This section shall not be construed to limit teachers
308 from using their own professional skills to help students master
309 instructional objectives, nor shall it be construed as a call for
310 more detailed or complex lesson plans or any increase in testing
311 at the local school district level.

312 (5) Schools meeting Level 4 or 5 accreditation standards are
313 exempt from the requirements of this section.

314 **SECTION 7.** Section 37-7-337, Mississippi Code of 1972, is
315 amended as follows:

316 37-7-337. (1) The governing authorities of the county,
317 counties or city in which a school district is located and the
318 school board of each school district shall develop a five-year
319 plan to encourage community involvement with the schools in such
320 district. * * *

321 (2) Schools meeting Level 4 or 5 accreditation standards are
322 exempt from participating in the development of the community
323 involvement plan required under subsection (1) of this section.

324 **SECTION 8.** Section 37-9-79, Mississippi Code of 1972, is
325 amended as follows:

326 37-9-79. (1) * * * The assignment of K-12 School Guidance
327 Counselors to the particular schools within the district shall be
328 at the discretion of the local school board with the following
329 restrictions:

330 (a) No individual shall be employed as a school
331 guidance counselor without a minimum of a Master's Degree in
332 Guidance and Counseling, or in an emergency situation, an
333 appropriate certification as determined by the Commission on
334 Teacher and Administrator Education, Certification and Licensure
335 and Development; and

336 (b) School guidance counselors shall provide the
337 following comprehensive counseling services:

- 338 (i) Academic and personal/social counseling;
339 (ii) Student assessment and assessment counseling;
340 (iii) Career and educational counseling;
341 (iv) Individual and group counseling
342 (large/small);
343 (v) Crisis intervention and preventive counseling;
344 (vi) Referrals to community agencies;

345 (vii) Educational consultations and collaboration
346 with teachers, administrators, parents and community leaders;
347 (viii) Educational and career placement services;
348 (ix) Follow-up counseling services;
349 (x) Conflict resolution; and
350 (xi) Other counseling duties or other duties as
351 assigned by the school principal.

352 (2) School guidance counselors shall abide by the American
353 School Counselor Association Code of Ethics.

354 (3) The State Department of Education may adopt regulations
355 regarding the activities of the school guidance counselor as are
356 not inconsistent with this section.

357 (4) Schools meeting Level 4 or 5 accreditation standards are
358 exempt from the requirements relating to school guidance
359 counselors prescribed under this section.

360 **SECTION 9.** Section 37-17-6, Mississippi Code of 1972, is
361 amended as follows:

362 37-17-6. (1) The State Board of Education, acting through
363 the Commission on School Accreditation, shall establish and
364 implement a permanent performance-based accreditation system, and
365 all public elementary and secondary schools shall be accredited
366 under this system.

367 (2) No later than June 30, 1995, the State Board of
368 Education, acting through the Commission on School Accreditation,
369 shall require school districts to provide school classroom space
370 that is air conditioned as a minimum requirement for
371 accreditation.

372 (3) (a) Beginning with the 1994-1995 school year, the State
373 Board of Education, acting through the Commission on School
374 Accreditation, shall require that school districts employ
375 certified school librarians according to the following formula:

376	Number of Students	Number of Certified
377	Per School Library	School Librarians

410 (b) Strong accountability for results with appropriate
411 local flexibility for local implementation;

412 (c) A process to implement accountability at both the
413 school district level and the school level;

414 (d) Individual schools shall be held accountable for
415 student growth and performance;

416 (e) Set annual performance standards for each of the
417 schools of the state and measure the performance of each school
418 against itself through the standard that has been set for it;

419 (f) A determination of which schools exceed their
420 standards and a plan for providing recognition and rewards to such
421 schools;

422 (g) A determination of which schools are failing to
423 meet their standards and a determination of the appropriate role
424 of the State Board of Education and the State Department of
425 Education in providing assistance and initiating possible
426 intervention;

427 (h) Development of a comprehensive student assessment
428 system to implement these requirements; and

429 (i) The State Board of Education may, based on a
430 written request that contains specific reasons for requesting a
431 waiver from the school districts affected by Hurricane Katrina of
432 2005, hold harmless school districts from assignment of district
433 and school level accountability ratings for the 2005-2006 school
434 year. The State Board of Education upon finding an extreme
435 hardship in the school district may grant the request. It is the
436 intent of the Legislature that all school districts maintain the
437 highest possible academic standards and instructional programs in
438 all schools as required by law and the State Board of Education.

439 The State Board of Education may continue to assign school
440 district performance levels by using a number classification and
441 may assign individual school performance levels by using a number

442 classification to be consistent with school district performance
443 levels.

444 (5) Nothing in this section shall be deemed to require a
445 nonpublic school which receives no local, state or federal funds
446 for support to become accredited by the State Board of Education.

447 (6) The State Board of Education shall create an
448 accreditation audit unit under the Commission on School
449 Accreditation to determine whether schools are complying with
450 accreditation standards.

451 (7) The State Board of Education shall be specifically
452 authorized and empowered to withhold adequate minimum education
453 program or adequate education program fund allocations, whichever
454 is applicable, to any public school district for failure to timely
455 report student, school personnel and fiscal data necessary to meet
456 state and/or federal requirements.

457 (8) Deleted.

458 (9) The State Board of Education shall establish, for those
459 school districts failing to meet accreditation standards, a
460 program of development to be complied with in order to receive
461 state funds, except as otherwise provided in subsection (14) of
462 this section when the Governor has declared a state of emergency
463 in a school district or as otherwise provided in Section 206,
464 Mississippi Constitution of 1890. The state board, in
465 establishing these standards, shall provide for notice to schools
466 and sufficient time and aid to enable schools to attempt to meet
467 these standards, unless procedures under subsection (14) of this
468 section have been invoked.

469 (10) Beginning July 1, 1998, the State Board of Education
470 shall be charged with the implementation of the program of
471 development in each applicable school district as follows:

472 (a) Develop an impairment report for each district
473 failing to meet accreditation standards in conjunction with school
474 district officials;

475 (b) Notify any applicable school district failing to
476 meet accreditation standards that it is on probation until
477 corrective actions are taken or until the deficiencies have been
478 removed. The local school district shall develop a corrective
479 action plan to improve its deficiencies. For district academic
480 deficiencies, the corrective action plan for each such school
481 district shall be based upon a complete analysis of the following:
482 student test data, student grades, student attendance reports,
483 student drop-out data, existence and other relevant data. The
484 corrective action plan shall describe the specific measures to be
485 taken by the particular school district and school to improve:
486 (a) instruction; (b) curriculum; (c) professional development; (d)
487 personnel and classroom organization; (e) student incentives for
488 performance; (f) process deficiencies; and (g) reporting to the
489 local school board, parents and the community. The corrective
490 action plan shall describe the specific individuals responsible
491 for implementing each component of the recommendation and how each
492 will be evaluated. All corrective action plans shall be provided
493 to the State Board of Education as may be required. The decision
494 of the State Board of Education establishing the probationary
495 period of time shall be final;

496 (c) Offer, during the probationary period, technical
497 assistance to the school district in making corrective actions.
498 Beginning July 1, 1998, subject to the availability of funds, the
499 State Department of Education shall provide technical and/or
500 financial assistance to all such school districts in order to
501 implement each measure identified in that district's corrective
502 action plan through professional development and on-site
503 assistance. Each such school district shall apply for and utilize
504 all available federal funding in order to support its corrective
505 action plan in addition to state funds made available under this
506 paragraph;

507 (d) Contract, in its discretion, with the institutions
508 of higher learning or other appropriate private entities to assist
509 school districts;

510 (e) Provide for publication of public notice at least
511 one (1) time during the probationary period, in a newspaper
512 published within the jurisdiction of the school district failing
513 to meet accreditation standards, or if no newspaper is published
514 therein, then in a newspaper having a general circulation therein.
515 The publication shall include the following: declaration of
516 school system's status as being on probation; all details relating
517 to the impairment report, and other information as the State Board
518 of Education deems appropriate. Public notices issued under this
519 section shall be subject to Section 13-3-31 and not contrary to
520 other laws regarding newspaper publication.

521 (11) (a) If the recommendations for corrective action are
522 not taken by the local school district or if the deficiencies are
523 not removed by the end of the probationary period, the Commission
524 on School Accreditation shall conduct a hearing to allow such
525 affected school district to present evidence or other reasons why
526 its accreditation should not be withdrawn. Subsequent to its
527 consideration of the results of such hearing, the Commission on
528 School Accreditation shall be authorized, with the approval of the
529 State Board of Education, to withdraw the accreditation of a
530 public school district, and issue a request to the Governor that a
531 state of emergency be declared in that district.

532 (b) If the State Board of Education and the Commission
533 on School Accreditation determine that an extreme emergency
534 situation exists in a school district which jeopardizes the
535 safety, security or educational interests of the children enrolled
536 in the schools in that district and such emergency situation is
537 believed to be related to a serious violation or violations of
538 accreditation standards or state or federal law, the State Board
539 of Education may request the Governor to declare a state of

540 emergency in that school district. For purposes of this
541 paragraph, such declarations of a state of emergency shall not be
542 limited to those instances when a school district's impairments
543 are related to a lack of financial resources, but also shall
544 include serious failure to meet minimum academic standards, as
545 evidenced by a continued pattern of poor student performance.

546 (c) Whenever the Governor declares a state of emergency
547 in a school district in response to a request made under paragraph
548 (a) or (b) of this subsection, the State Board of Education may
549 take one or more of the following actions:

550 (i) Declare a state of emergency, under which some
551 or all of state funds can be escrowed except as otherwise provided
552 in Section 206, Constitution of 1890, until the board determines
553 corrective actions are being taken or the deficiencies have been
554 removed, or that the needs of students warrant the release of
555 funds. Such funds may be released from escrow for any program
556 which the board determines to have been restored to standard even
557 though the state of emergency may not as yet be terminated for the
558 district as a whole;

559 (ii) Override any decision of the local school
560 board or superintendent of education, or both, concerning the
561 management and operation of the school district, or initiate and
562 make decisions concerning the management and operation of the
563 school district;

564 (iii) Assign an interim conservator who will have
565 those powers and duties prescribed in subsection (14) of this
566 section;

567 (iv) Grant transfers to students who attend this
568 school district so that they may attend other accredited schools
569 or districts in a manner which is not in violation of state or
570 federal law;

571 (v) For states of emergency declared under
572 paragraph (a) only, if the accreditation deficiencies are related

573 to the fact that the school district is too small, with too few
574 resources, to meet the required standards and if another school
575 district is willing to accept those students, abolish that
576 district and assign that territory to another school district or
577 districts. If the school district has proposed a voluntary
578 consolidation with another school district or districts, then if
579 the State Board of Education finds that it is in the best interest
580 of the pupils of the district for such consolidation to proceed,
581 the voluntary consolidation shall have priority over any such
582 assignment of territory by the State Board of Education;

583 (vi) For states of emergency declared under
584 paragraph (b) only, reduce local supplements paid to school
585 district employees, including, but not limited to, instructional
586 personnel, assistant teachers and extracurricular activities
587 personnel, if the district's impairment is related to a lack of
588 financial resources, but only to an extent which will result in
589 the salaries being comparable to districts similarly situated, as
590 determined by the State Board of Education;

591 (vii) For states of emergency declared under
592 paragraph (b) only, the State Board of Education must take such
593 action as prescribed in Section 37-17-13.

594 (d) At such time as satisfactory corrective action has
595 been taken in a school district in which a state of emergency has
596 been declared, the State Board of Education may request the
597 Governor to declare that the state of emergency no longer exists
598 in the district.

599 (e) Not later than July 1 of each year, the State
600 Department of Education shall develop an itemized accounting of
601 the expenditures associated with the management of the conservator
602 process with regard to each school district in which a conservator
603 has been appointed, and an assessment as to the extent to which
604 the conservator has achieved, or failed to achieve, the goals for

605 which the conservator was appointed to guide the local school
606 district.

607 (12) Upon the declaration of a state of emergency in a
608 school district under subsection (11) of this section, the
609 Commission on School Accreditation shall be responsible for public
610 notice at least once a week for at least three (3) consecutive
611 weeks in a newspaper published within the jurisdiction of the
612 school district failing to meet accreditation standards, or if no
613 newspaper is published therein, then in a newspaper having a
614 general circulation therein. The size of such notice shall be no
615 smaller than one-fourth (1/4) of a standard newspaper page and
616 shall be printed in bold print. If a conservator has been
617 appointed for the school district, such notice shall begin as
618 follows: "By authority of Section 37-17-6, Mississippi Code of
619 1972, as amended, adopted by the Mississippi Legislature during
620 the 1991 Regular Session, this school district (name of school
621 district) is hereby placed under the jurisdiction of the State
622 Department of Education acting through its appointed conservator
623 (name of conservator)."

624 The notice also shall include, in the discretion of the State
625 Board of Education, any or all details relating to the school
626 district's emergency status, including the declaration of a state
627 of emergency in the school district and a description of the
628 district's impairment deficiencies, conditions of any
629 conservatorship and corrective actions recommended and being
630 taken. Public notices issued under this section shall be subject
631 to Section 13-3-31 and not contrary to other laws regarding
632 newspaper publication.

633 Upon termination of the state of emergency in a school
634 district, the Commission on School Accreditation shall cause
635 notice to be published in the school district in the same manner
636 provided in this section, to include any or all details relating

637 to the corrective action taken in the school district which
638 resulted in the termination of the state of emergency.

639 (13) The State Board of Education or the Commission on
640 School Accreditation shall have the authority to require school
641 districts to produce the necessary reports, correspondence,
642 financial statements, and any other documents and information
643 necessary to fulfill the requirements of this section.

644 Nothing in this section shall be construed to grant any
645 individual, corporation, board or conservator the authority to
646 levy taxes except in accordance with presently existing statutory
647 provisions.

648 (14) (a) Whenever the Governor declares a state of
649 emergency in a school district in response to a request made under
650 subsection (11) of this section, the State Board of Education, in
651 its discretion, may assign an interim conservator to the school
652 district who will be responsible for the administration,
653 management and operation of the school district, including, but
654 not limited to, the following activities:

655 (i) Approving or disapproving all financial
656 obligations of the district, including, but not limited to, the
657 employment, termination, nonrenewal and reassignment of all
658 certified and noncertified personnel, contractual agreements and
659 purchase orders, and approving or disapproving all claim dockets
660 and the issuance of checks; in approving or disapproving
661 employment contracts of superintendents, assistant superintendents
662 or principals, the interim conservator shall not be required to
663 comply with the time limitations prescribed in Sections 37-9-15
664 and 37-9-105;

665 (ii) Supervising the day-to-day activities of the
666 district's staff, including reassigning the duties and
667 responsibilities of personnel in a manner which, in the
668 determination of the conservator, will best suit the needs of the
669 district;

- 670 (iii) Reviewing the district's total financial
671 obligations and operations and making recommendations to the
672 district for cost savings, including, but not limited to,
673 reassigning the duties and responsibilities of staff;
- 674 (iv) Attending all meetings of the district's
675 school board and administrative staff;
- 676 (v) Approving or disapproving all athletic, band
677 and other extracurricular activities and any matters related to
678 those activities;
- 679 (vi) Maintaining a detailed account of
680 recommendations made to the district and actions taken in response
681 to those recommendations;
- 682 (vii) Reporting periodically to the State Board of
683 Education on the progress or lack of progress being made in the
684 district to improve the district's impairments during the state of
685 emergency; and
- 686 (viii) Appointing a parent advisory committee,
687 comprised of parents of students in the school district, which may
688 make recommendations to the conservator concerning the
689 administration, management and operation of the school district.

690 Except when, in the determination of the State Board of
691 Education, the school district's impairment is related to a lack
692 of financial resources, the cost of the salary of the conservator
693 and any other actual and necessary costs related to the
694 conservatorship paid by the State Department of Education shall be
695 reimbursed by the local school district from nonminimum program
696 funds. The department shall submit an itemized statement to the
697 superintendent of the local school district for reimbursement
698 purposes, and any unpaid balance may be withheld from the
699 district's minimum or adequate education program funds.

700 At such time as the Governor, pursuant to the request of the
701 State Board of Education, declares that the state of emergency no
702 longer exists in a school district, the powers and

703 responsibilities of the interim conservator assigned to such
704 district shall cease.

705 (b) In order to provide loans to school districts under
706 a state of emergency which have impairments related to a lack of
707 financial resources, the School District Emergency Assistance Fund
708 is created as a special fund in the State Treasury into which
709 monies may be transferred or appropriated by the Legislature from
710 any available public education funds. The maximum amount that may
711 be appropriated or transferred to the School District Emergency
712 Assistance Fund for any one (1) emergency shall be Two Million
713 Dollars (\$2,000,000.00), and the maximum amount that may be
714 appropriated during any fiscal year shall be Three Million Dollars
715 (\$3,000,000.00).

716 The State Board of Education may loan monies from the School
717 District Emergency Assistance Fund to a school district that is
718 under a state of emergency in such amounts, as determined by the
719 board, which are necessary to correct the district's impairments
720 related to a lack of financial resources. The loans shall be
721 evidenced by an agreement between the school district and the
722 State Board of Education and shall be repayable in principal,
723 without necessity of interest, to the State General Fund or the
724 Education Enhancement Fund, depending on the source of funding for
725 such loan, by the school district from any allowable funds that
726 are available. The total amount loaned to the district shall be
727 due and payable within five (5) years after the impairments
728 related to a lack of financial resources are corrected. If a
729 school district fails to make payments on the loan in accordance
730 with the terms of the agreement between the district and the State
731 Board of Education, the State Department of Education, in
732 accordance with rules and regulations established by the State
733 Board of Education, may withhold that district's minimum program
734 funds in an amount and manner that will effectuate repayment
735 consistent with the terms of the agreement; such funds withheld by

736 the department shall be deposited into the State General Fund or
737 the Education Enhancement Fund, as the case may be.

738 If the State Board of Education determines that an extreme
739 emergency exists, simultaneous with the powers exercised in this
740 subsection, it shall take immediate action against all parties
741 responsible for the affected school districts having been
742 determined to be in an extreme emergency. Such action shall
743 include, but not be limited to, initiating civil actions to
744 recover funds and criminal actions to account for criminal
745 activity. Any funds recovered by the State Auditor or the State
746 Board of Education from the surety bonds of school officials or
747 from any civil action brought under this subsection shall be
748 applied toward the repayment of any loan made to a school district
749 hereunder.

750 (15) In the event a majority of the membership of the school
751 board of any school district resigns from office, the State Board
752 of Education shall be authorized to assign an interim conservator,
753 who shall be responsible for the administration, management and
754 operation of the school district until such time as new board
755 members are selected or the Governor declares a state of emergency
756 in that school district under subsection (11), whichever occurs
757 first. In such case, the State Board of Education, acting through
758 the interim conservator, shall have all powers which were held by
759 the previously existing school board, and may take such action as
760 prescribed in Section 37-17-13 and/or one or more of the actions
761 authorized in this section.

762 (16) Beginning with the school district audits conducted for
763 the 1997-1998 fiscal year, the State Board of Education, acting
764 through the Commission on School Accreditation, shall require each
765 school district to comply with standards established by the State
766 Department of Audit for the verification of fixed assets and the
767 auditing of fixed assets records as a minimum requirement for
768 accreditation.

769 (17) Before December 1, 1999, the State Board of Education
770 shall recommend a program to the Education Committees of the House
771 of Representatives and the Senate for identifying and rewarding
772 public schools that improve or are high performing. The program
773 shall be described by the board in a written report, which shall
774 include criteria and a process through which improving schools and
775 high-performing schools will be identified and rewarded.

776 The State Superintendent of Education and the State Board of
777 Education also shall develop a comprehensive accountability plan
778 to ensure that local school boards, superintendents, principals
779 and teachers are held accountable for student achievement. A
780 written report on the accountability plan shall be submitted to
781 the Education Committees of both houses of the Legislature before
782 December 1, 1999, with any necessary legislative recommendations.

783 **SECTION 10.** Section 37-17-8, Mississippi Code of 1972, is
784 amended as follows:

785 37-17-8. (1) The State Board of Education, through the
786 Commission on School Accreditation, shall establish criteria for
787 comprehensive in-service staff development plans. These criteria
788 shall: (a) include, but not be limited to, formula and guidelines
789 for allocating available state funds for in-service training to
790 local school districts; (b) require that a portion of the plans be
791 devoted exclusively for the purpose of providing staff development
792 training for beginning teachers within that local school district
793 and for no other purpose; and (c) require that a portion of the
794 school district's in-service training for administrators and
795 teachers be dedicated to the application and utilization of
796 various disciplinary techniques. The board shall each year make
797 recommendations to the Legislature concerning the amount of funds
798 which shall be appropriated for this purpose.

799 (2) * * * School districts shall not be required to submit
800 staff development plans to the Commission on School Accreditation
801 for approval. However, any school district accredited at Level 1

802 or Level 2 shall include, as a part of any required corrective
803 action plan, provisions to address staff development in accordance
804 with State Board of Education requirements. All school districts,
805 unless specifically exempt from this section, must maintain on
806 file staff development plans as required under this section. The
807 plan shall have been prepared by a district committee appointed by
808 the district superintendent and consisting of teachers,
809 administrators, school board members, and lay people, and it shall
810 have been approved by the district superintendent.

811 (3) In order to insure that teachers are not overburdened
812 with paperwork and written reports, local school districts and
813 the State Board of Education shall take such steps as may be
814 necessary to further the reduction of paperwork requirements on
815 teachers.

816 (4) Schools meeting Level 4 or 5 accreditation standards are
817 exempt from the requirements relating to staff development plans
818 prescribed under subsection (2) of this section.

819 **SECTION 11.** Section 37-21-7, Mississippi Code of 1972, is
820 amended as follows:

821 37-21-7. (1) This section shall be referred to as the
822 "Mississippi Elementary Schools Assistant Teacher Program," the
823 purpose of which shall be to provide an early childhood education
824 program that assists in the instruction of basic skills. The
825 State Board of Education is authorized, empowered and directed to
826 implement a statewide system of assistant teachers in kindergarten
827 classes and in the first, second and third grades. The assistant
828 teacher shall assist pupils in actual instruction under the strict
829 supervision of a licensed teacher.

830 (2) (a) Except as otherwise authorized under subsection
831 (7), each school district shall employ the total number of
832 assistant teachers funded under subsection (6) of this section.
833 The superintendent of each district shall assign the assistant
834 teachers to the kindergarten, first-, second- and third-grade

835 classes in the district in a manner that will promote the maximum
836 efficiency, as determined by the superintendent, in the
837 instruction of skills such as verbal and linguistic skills,
838 logical and mathematical skills, and social skills.

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

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

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

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

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

862 (b) Additionally, each school district shall:

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

868 (ii) Hold periodic workshops for administrators
869 and teachers on the effective use and supervision of assistant
870 teachers;

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

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

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

878 (5) The State Department of Education shall:

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

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

897 (c) Promulgate rules, regulations and such other
898 standards deemed necessary to effectuate the purposes of this
899 section. Noncompliance with the provisions of this section and
900 any rules, regulations or standards adopted by the department may

901 result in a violation of compulsory accreditation standards as
902 established by the State Board of Education and Commission on
903 School Accreditation.

904 (6) In addition to other funds allotted under the Minimum
905 Education or Adequate Education Program, each school district
906 shall be allotted sufficient funding for the purpose of employing
907 assistant teachers. No assistant teacher shall be paid less than
908 the amount he or she received in the prior school year. No school
909 district shall receive any funds under this section for any school
910 year during which the aggregate amount of the local contribution
911 to the salaries of assistant teachers by the district shall have
912 been reduced below such amount for the previous year.

913 * * *

914 For the 2005-2006 school year and school years thereafter,
915 the minimum salary for assistant teachers shall be Twelve Thousand
916 Dollars (\$12,000.00).

917 In addition, for each one percent (1%) that the Sine Die
918 General Fund Revenue Estimate Growth exceeds five percent (5%) in
919 fiscal year * * * 2006, as certified by the Legislative Budget
920 Office to the State Board of Education and subject to the specific
921 appropriation therefor by the Legislature, the State Board of
922 Education shall revise the salary scale in the appropriate year to
923 provide an additional one percent (1%) across the board increase
924 in the base salaries for assistant teachers. The State Board of
925 Education shall revise the salaries prescribed above for assistant
926 teachers to conform to any adjustments made in prior fiscal years
927 due to revenue growth over and above five percent (5%). The
928 assistant teachers shall not be restricted to working only in the
929 grades for which the funds were allotted, but may be assigned to
930 other classes as provided in subsection (2)(a) of this section.

931 (7) (a) As an alternative to employing assistant teachers,
932 any school district may use the allotment provided under
933 subsection (6) of this section for the purpose of employing

934 licensed teachers for kindergarten, first-, second- and
935 third-grade classes; however, no school district shall be
936 authorized to use the allotment for assistant teachers for the
937 purpose of employing licensed teachers unless the district has
938 established that the employment of licensed teachers using such
939 funds will reduce the teacher:student ratio in the kindergarten,
940 first-, second- and third-grade classes. All state funds for
941 assistant teachers shall be applied to reducing teacher:student
942 ratio in Grades K-3.

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

948 (b) Schools meeting Level 4 or 5 accreditation
949 standards are exempt from the requirements of this section.

950 **SECTION 12.** Section 37-13-61, Mississippi Code of 1972, is
951 amended as follows:

952 37-13-61. The local school board shall have the power and
953 authority to fix the date for the opening and closing of the
954 school term, subject to the minimum number of days which schools
955 must be in session during a scholastic year, as prescribed under
956 Section 37-13-63. * * * However, * * * local school boards are
957 authorized to keep school in session in excess of the minimum
958 number of days prescribed in Section 37-13-63.

959 **SECTION 13.** Section 37-13-67, Mississippi Code of 1972, is
960 amended as follows:

961 37-13-67. * * * The number of hours of actual teaching which
962 shall constitute a school day shall be determined and fixed by the
963 board of trustees of the school district at not less than five (5)
964 hours * * *.

965 **SECTION 14.** Section 37-13-69, Mississippi Code of 1972, is
966 amended as follows:

967 37-13-69. All public schools of this state may observe such
968 legal holidays as may be designated by the local school board, and
969 no sessions of school shall be held on holidays so designated and
970 observed. However, all schools shall operate for the full minimum
971 term required by law exclusive of the holidays authorized by this
972 section. The holidays thus observed shall not be deducted from
973 the reports of the superintendents, principals and teachers, and
974 such superintendents, principals and teachers shall be allowed pay
975 for full time as though they had taught on those holidays.
976 However, such holidays shall not be counted or included in any way
977 in determining the average daily attendance of the school.

978 **SECTION 15.** Section 37-41-53, Mississippi Code of 1972, is
979 amended as follows:

980 37-41-53. (1) Each school board, person, firm or
981 corporation transporting public school children on the public
982 roads, streets and highways of the state with motor vehicles shall
983 have the motor vehicles inspected according to the laws of the
984 state * * *. Each motor vehicle shall be inspected by a competent
985 mechanic to be safe for transporting pupils on the roads, streets
986 and highways of the state before it is released for such purpose.
987 If such motor vehicle is found to be unsafe for transporting
988 pupils, then it shall be properly repaired or adjusted as
989 necessary before being used to transport pupils. The provisions
990 of this subsection shall not apply to vehicles owned by
991 individuals and under private contract to the school district and
992 used exclusively for transporting members of their immediate
993 families.

994 (2) The State Department of Education may inspect, at its
995 discretion, * * * any school bus used for transporting pupils to
996 and from the public schools or for activity purposes to determine
997 the safety of such motor vehicle for operation on the roads,
998 streets and highways of this state. In the event a vehicle is
999 inspected and is found to be unsafe for transporting pupils, a

1000 report shall be filed with the appropriate school official
1001 indicating its deficiencies with recommendations for correcting
1002 such deficiencies.

1003 (3) If it is determined that any buses are in such defective
1004 condition as to constitute an emergency safety hazard, those buses
1005 may be condemned and removed from service and shall not be
1006 returned to service until adequate repairs are completed and such
1007 buses are reinspected by the State Department of Education. Any
1008 school official who approves the operation of any school bus that
1009 has been removed from service under the conditions listed above,
1010 prior to being reinspected by the State Department of Education,
1011 shall be guilty of a misdemeanor and upon conviction shall be
1012 punished by imprisonment in the county jail for a period not to
1013 exceed sixty (60) days, or a fine of not less than Five Hundred
1014 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
1015 or by both such fine and imprisonment, in the discretion of the
1016 court.

1017 **SECTION 16.** Section 37-7-301, Mississippi Code of 1972, is
1018 amended as follows:

1019 37-7-301. The school boards of all school districts shall
1020 have the following powers, authority and duties in addition to all
1021 others imposed or granted by law, to wit:

1022 (a) To organize and operate the schools of the district
1023 and to make such division between the high school grades and
1024 elementary grades as, in their judgment, will serve the best
1025 interests of the school;

1026 (b) To introduce public school music, art, manual
1027 training and other special subjects into either the elementary or
1028 high school grades, as the board shall deem proper;

1029 (c) To be the custodians of real and personal school
1030 property and to manage, control and care for same, both during the
1031 school term and during vacation;

1032 (d) To have responsibility for the erection, repairing
1033 and equipping of school facilities and the making of necessary
1034 school improvements;

1035 (e) To suspend or to expel a pupil or to change the
1036 placement of a pupil to the school district's alternative school
1037 or home-bound program for misconduct in the school or on school
1038 property, as defined in Section 37-11-29, on the road to and from
1039 school, or at any school-related activity or event, or for conduct
1040 occurring on property other than school property or other than at
1041 a school-related activity or event when such conduct by a pupil,
1042 in the determination of the school superintendent or principal,
1043 renders that pupil's presence in the classroom a disruption to the
1044 educational environment of the school or a detriment to the best
1045 interest and welfare of the pupils and teacher of such class as a
1046 whole, and to delegate such authority to the appropriate officials
1047 of the school district;

1048 (f) To visit schools in the district, in their
1049 discretion, in a body for the purpose of determining what can be
1050 done for the improvement of the school in a general way;

1051 (g) To support, within reasonable limits, the
1052 superintendent, principal and teachers where necessary for the
1053 proper discipline of the school;

1054 (h) To exclude from the schools students with what
1055 appears to be infectious or contagious diseases; provided,
1056 however, such student may be allowed to return to school upon
1057 presenting a certificate from a public health officer, duly
1058 licensed physician or nurse practitioner that the student is free
1059 from such disease;

1060 (i) To require those vaccinations specified by the
1061 State Health Officer as provided in Section 41-23-37;

1062 (j) To see that all necessary utilities and services
1063 are provided in the schools at all times when same are needed;

1064 (k) To authorize the use of the school buildings and
1065 grounds for the holding of public meetings and gatherings of the
1066 people under such regulations as may be prescribed by said board;

1067 (l) To prescribe and enforce rules and regulations not
1068 inconsistent with law or with the regulations of the State Board
1069 of Education for their own government and for the government of
1070 the schools, and to transact their business at regular and special
1071 meetings called and held in the manner provided by law;

1072 (m) To maintain and operate all of the schools under
1073 their control for such length of time during the year as may be
1074 required;

1075 (n) To enforce in the schools the courses of study and
1076 the use of the textbooks prescribed by the proper authorities;

1077 (o) To make orders directed to the superintendent of
1078 schools for the issuance of pay certificates for lawful purposes
1079 on any available funds of the district and to have full control of
1080 the receipt, distribution, allotment and disbursement of all funds
1081 provided for the support and operation of the schools of such
1082 school district whether such funds be derived from state
1083 appropriations, local ad valorem tax collections, or otherwise.
1084 The local school board shall be authorized and empowered to
1085 promulgate rules and regulations that specify the types of claims
1086 and set limits of the dollar amount for payment of claims by the
1087 superintendent of schools to be ratified by the board at the next
1088 regularly scheduled meeting after payment has been made;

1089 (p) To select all school district personnel in the
1090 manner provided by law, and to provide for such employee fringe
1091 benefit programs, including accident reimbursement plans, as may
1092 be deemed necessary and appropriate by the board;

1093 (q) To provide athletic programs and other school
1094 activities and to regulate the establishment and operation of such
1095 programs and activities;

1096 (r) To join, in their discretion, any association of
1097 school boards and other public school-related organizations, and
1098 to pay from local funds other than minimum foundation funds, any
1099 membership dues;

1100 (s) To expend local school activity funds, or other
1101 available school district funds, other than minimum education
1102 program funds, for the purposes prescribed under this paragraph.
1103 "Activity funds" shall mean all funds received by school officials
1104 in all school districts paid or collected to participate in any
1105 school activity, such activity being part of the school program
1106 and partially financed with public funds or supplemented by public
1107 funds. The term "activity funds" shall not include any funds
1108 raised and/or expended by any organization unless commingled in a
1109 bank account with existing activity funds, regardless of whether
1110 the funds were raised by school employees or received by school
1111 employees during school hours or using school facilities, and
1112 regardless of whether a school employee exercises influence over
1113 the expenditure or disposition of such funds. Organizations shall
1114 not be required to make any payment to any school for the use of
1115 any school facility if, in the discretion of the local school
1116 governing board, the organization's function shall be deemed to be
1117 beneficial to the official or extracurricular programs of the
1118 school. For the purposes of this provision, the term
1119 "organization" shall not include any organization subject to the
1120 control of the local school governing board. Activity funds may
1121 only be expended for any necessary expenses or travel costs,
1122 including advances, incurred by students and their chaperons in
1123 attending any in-state or out-of-state school-related programs,
1124 conventions or seminars and/or any commodities, equipment, travel
1125 expenses, purchased services or school supplies which the local
1126 school governing board, in its discretion, shall deem beneficial
1127 to the official or extracurricular programs of the district,
1128 including items which may subsequently become the personal

1129 property of individuals, including yearbooks, athletic apparel,
1130 book covers and trophies. Activity funds may be used to pay
1131 travel expenses of school district personnel. The local school
1132 governing board shall be authorized and empowered to promulgate
1133 rules and regulations specifically designating for what purposes
1134 school activity funds may be expended. The local school governing
1135 board shall provide (i) that such school activity funds shall be
1136 maintained and expended by the principal of the school generating
1137 the funds in individual bank accounts, or (ii) that such school
1138 activity funds shall be maintained and expended by the
1139 superintendent of schools in a central depository approved by the
1140 board. The local school governing board shall provide that such
1141 school activity funds be audited as part of the annual audit
1142 required in Section 37-9-18. The State Department of Education
1143 shall prescribe a uniform system of accounting and financial
1144 reporting for all school activity fund transactions;

1145 (t) To contract, on a shared savings, lease or
1146 lease-purchase basis, for energy efficiency services and/or
1147 equipment as provided for in Section 31-7-14, not to exceed ten
1148 (10) years;

1149 (u) To maintain accounts and issue pay certificates on
1150 school food service bank accounts;

1151 (v) (i) To lease a school building from an individual,
1152 partnership, nonprofit corporation or a private for-profit
1153 corporation for the use of such school district, and to expend
1154 funds therefor as may be available from any nonminimum program
1155 sources. The school board of the school district desiring to
1156 lease a school building shall declare by resolution that a need
1157 exists for a school building and that the school district cannot
1158 provide the necessary funds to pay the cost or its proportionate
1159 share of the cost of a school building required to meet the
1160 present needs. The resolution so adopted by the school board
1161 shall be published once each week for three (3) consecutive weeks

1162 in a newspaper having a general circulation in the school district
1163 involved, with the first publication thereof to be made not less
1164 than thirty (30) days prior to the date upon which the school
1165 board is to act on the question of leasing a school building. If
1166 no petition requesting an election is filed prior to such meeting
1167 as hereinafter provided, then the school board may, by resolution
1168 spread upon its minutes, proceed to lease a school building. If
1169 at any time prior to said meeting a petition signed by not less
1170 than twenty percent (20%) or fifteen hundred (1500), whichever is
1171 less, of the qualified electors of the school district involved
1172 shall be filed with the school board requesting that an election
1173 be called on the question, then the school board shall, not later
1174 than the next regular meeting, adopt a resolution calling an
1175 election to be held within such school district upon the question
1176 of authorizing the school board to lease a school building. Such
1177 election shall be called and held, and notice thereof shall be
1178 given, in the same manner for elections upon the questions of the
1179 issuance of the bonds of school districts, and the results thereof
1180 shall be certified to the school board. If at least three-fifths
1181 (3/5) of the qualified electors of the school district who voted
1182 in such election shall vote in favor of the leasing of a school
1183 building, then the school board shall proceed to lease a school
1184 building. The term of the lease contract shall not exceed twenty
1185 (20) years, and the total cost of such lease shall be either the
1186 amount of the lowest and best bid accepted by the school board
1187 after advertisement for bids or an amount not to exceed the
1188 current fair market value of the lease as determined by the
1189 averaging of at least two (2) appraisals by certified general
1190 appraisers licensed by the State of Mississippi. The term "school
1191 building" as used in this paragraph (v)(i) shall be construed to
1192 mean any building or buildings used for classroom purposes in
1193 connection with the operation of schools and shall include the
1194 site therefor, necessary support facilities, and the equipment

1195 thereof and appurtenances thereto such as heating facilities,
1196 water supply, sewage disposal, landscaping, walks, drives and
1197 playgrounds. The term "lease" as used in this paragraph (v)(i)
1198 may include a lease/purchase contract;

1199 (ii) If two (2) or more school districts propose
1200 to enter into a lease contract jointly, then joint meetings of the
1201 school boards having control may be held but no action taken shall
1202 be binding on any such school district unless the question of
1203 leasing a school building is approved in each participating school
1204 district under the procedure hereinabove set forth in paragraph
1205 (v)(i). All of the provisions of paragraph (v)(i) regarding the
1206 term and amount of the lease contract shall apply to the school
1207 boards of school districts acting jointly. Any lease contract
1208 executed by two (2) or more school districts as joint lessees
1209 shall set out the amount of the aggregate lease rental to be paid
1210 by each, which may be agreed upon, but there shall be no right of
1211 occupancy by any lessee unless the aggregate rental is paid as
1212 stipulated in the lease contract. All rights of joint lessees
1213 under the lease contract shall be in proportion to the amount of
1214 lease rental paid by each;

1215 (w) To employ all noninstructional and noncertificated
1216 employees and fix the duties and compensation of such personnel
1217 deemed necessary pursuant to the recommendation of the
1218 superintendent of schools;

1219 (x) To employ and fix the duties and compensation of
1220 such legal counsel as deemed necessary;

1221 (y) Subject to rules and regulations of the State Board
1222 of Education, to purchase, own and operate trucks, vans and other
1223 motor vehicles, which shall bear the proper identification
1224 required by law;

1225 (z) To expend funds for the payment of substitute
1226 teachers and to adopt reasonable regulations for the employment
1227 and compensation of such substitute teachers;

1228 (aa) To acquire in its own name by purchase all real
1229 property which shall be necessary and desirable in connection with
1230 the construction, renovation or improvement of any public school
1231 building or structure. Whenever the purchase price for such real
1232 property is greater than Fifty Thousand Dollars (\$50,000.00), the
1233 school board shall not purchase the property for an amount
1234 exceeding the fair market value of such property as determined by
1235 the average of at least two (2) independent appraisals by
1236 certified general appraisers licensed by the State of Mississippi.
1237 If the board shall be unable to agree with the owner of any such
1238 real property in connection with any such project, the board shall
1239 have the power and authority to acquire any such real property by
1240 condemnation proceedings pursuant to Section 11-27-1 et seq.,
1241 Mississippi Code of 1972, and for such purpose, the right of
1242 eminent domain is hereby conferred upon and vested in said board.
1243 Provided further, that the local school board is authorized to
1244 grant an easement for ingress and egress over sixteenth section
1245 land or lieu land in exchange for a similar easement upon
1246 adjoining land where the exchange of easements affords substantial
1247 benefit to the sixteenth section land; provided, however, the
1248 exchange must be based upon values as determined by a competent
1249 appraiser, with any differential in value to be adjusted by cash
1250 payment. Any easement rights granted over sixteenth section land
1251 under such authority shall terminate when the easement ceases to
1252 be used for its stated purpose. No sixteenth section or lieu land
1253 which is subject to an existing lease shall be burdened by any
1254 such easement except by consent of the lessee or unless the school
1255 district shall acquire the unexpired leasehold interest affected
1256 by the easement;

1257 (bb) To charge reasonable fees related to the
1258 educational programs of the district, in the manner prescribed in
1259 Section 37-7-335;

1260 (cc) Subject to rules and regulations of the State
1261 Board of Education, to purchase relocatable classrooms for the use
1262 of such school district, in the manner prescribed in Section
1263 37-1-13;

1264 (dd) Enter into contracts or agreements with other
1265 school districts, political subdivisions or governmental entities
1266 to carry out one or more of the powers or duties of the school
1267 board, or to allow more efficient utilization of limited resources
1268 for providing services to the public;

1269 (ee) To provide for in-service training for employees
1270 of the district * * *;

1271 (ff) As part of their duties to prescribe the use of
1272 textbooks, to provide that parents and legal guardians shall be
1273 responsible for the textbooks and for the compensation to the
1274 school district for any books which are not returned to the proper
1275 schools upon the withdrawal of their dependent child. If a
1276 textbook is lost or not returned by any student who drops out of
1277 the public school district, the parent or legal guardian shall
1278 also compensate the school district for the fair market value of
1279 the textbooks;

1280 (gg) To conduct fund-raising activities on behalf of
1281 the school district that the local school board, in its
1282 discretion, deems appropriate or beneficial to the official or
1283 extracurricular programs of the district; provided that:

1284 (i) Any proceeds of the fund-raising activities
1285 shall be treated as "activity funds" and shall be accounted for as
1286 are other activity funds under this section; and

1287 (ii) Fund-raising activities conducted or
1288 authorized by the board for the sale of school pictures, the
1289 rental of caps and gowns or the sale of graduation invitations for
1290 which the school board receives a commission, rebate or fee shall
1291 contain a disclosure statement advising that a portion of the

1292 proceeds of the sales or rentals shall be contributed to the
1293 student activity fund;

1294 (hh) To allow individual lessons for music, art and
1295 other curriculum-related activities for academic credit or
1296 nonacademic credit during school hours and using school equipment
1297 and facilities, subject to uniform rules and regulations adopted
1298 by the school board;

1299 (ii) To charge reasonable fees for participating in an
1300 extracurricular activity for academic or nonacademic credit for
1301 necessary and required equipment such as safety equipment, band
1302 instruments and uniforms;

1303 (jj) To conduct or participate in any fund-raising
1304 activities on behalf of or in connection with a tax-exempt
1305 charitable organization;

1306 (kk) To exercise such powers as may be reasonably
1307 necessary to carry out the provisions of this section;

1308 (ll) To expend funds for the services of nonprofit arts
1309 organizations or other such nonprofit organizations who provide
1310 performances or other services for the students of the school
1311 district;

1312 (mm) To expend federal No Child Left Behind Act funds,
1313 or any other available funds that are expressly designated and
1314 authorized for that use, to pay training, educational expenses,
1315 salary incentives and salary supplements to employees of local
1316 school districts; except that incentives shall not be considered
1317 part of the local supplement as defined in Section 37-151-5(o),
1318 nor shall incentives be considered part of the local supplement
1319 paid to an individual teacher for the purposes of Section
1320 37-19-7(1). Mississippi Adequate Education Program funds or any
1321 other state funds may not be used for salary incentives or salary
1322 supplements as provided in this paragraph (mm);

1323 (nn) To use any available funds, not appropriated or
1324 designated for any other purpose, for reimbursement to the

1325 state-licensed employees from both in-state and out-of-state, who
1326 enter into a contract for employment in a school district, for the
1327 expense of moving when the employment necessitates the relocation
1328 of the licensed employee to a different geographical area than
1329 that in which the licensed employee resides before entering into
1330 the contract. The reimbursement shall not exceed One Thousand
1331 Dollars (\$1,000.00) for the documented actual expenses incurred in
1332 the course of relocating, including the expense of any
1333 professional moving company or persons employed to assist with the
1334 move, rented moving vehicles or equipment, mileage in the amount
1335 authorized for county and municipal employees under Section
1336 25-3-41 if the licensed employee used his personal vehicle or
1337 vehicles for the move, meals and such other expenses associated
1338 with the relocation. No licensed employee may be reimbursed for
1339 moving expenses under this section on more than one (1) occasion
1340 by the same school district. Nothing in this section shall be
1341 construed to require the actual residence to which the licensed
1342 employee relocates to be within the boundaries of the school
1343 district that has executed a contract for employment in order for
1344 the licensed employee to be eligible for reimbursement for the
1345 moving expenses. However, the licensed employee must relocate
1346 within the boundaries of the State of Mississippi. Any individual
1347 receiving relocation assistance through the Critical Teacher
1348 Shortage Act as provided in Section 37-159-5 shall not be eligible
1349 to receive additional relocation funds as authorized in this
1350 paragraph;

1351 (oo) To use any available funds, not appropriated or
1352 designated for any other purpose, to reimburse persons who
1353 interview for employment as a licensed employee with the district
1354 for the mileage and other actual expenses incurred in the course
1355 of travel to and from the interview at the rate authorized for
1356 county and municipal employees under Section 25-3-41;

1357 (pp) Consistent with the report of the Task Force to
1358 Conduct a Best Financial Management Practices Review, to improve
1359 school district management and use of resources and identify cost
1360 savings as established in Section 8 of Chapter 610, Laws of 2002,
1361 local school boards are encouraged to conduct independent reviews
1362 of the management and efficiency of schools and school districts.
1363 Such management and efficiency reviews shall provide state and
1364 local officials and the public with the following:

1365 (i) An assessment of a school district's
1366 governance and organizational structure;

1367 (ii) An assessment of the school district's
1368 financial and personnel management;

1369 (iii) An assessment of revenue levels and sources;

1370 (iv) An assessment of facilities utilization,
1371 planning and maintenance;

1372 (v) An assessment of food services, transportation
1373 and safety/security systems;

1374 (vi) An assessment of instructional and
1375 administrative technology;

1376 (vii) A review of the instructional management and
1377 the efficiency and effectiveness of existing instructional
1378 programs; and

1379 (viii) Recommended methods for increasing
1380 efficiency and effectiveness in providing educational services to
1381 the public;

1382 (qq) To enter into agreements with other local school
1383 boards for the establishment of an educational service agency
1384 (ESA) to provide for the cooperative needs of the region in which
1385 the school district is located, as provided in Section 37-7-345.
1386 This paragraph shall repeal on July 1, 2007;

1387 (rr) To implement a financial literacy program for
1388 students in Grades 10 and 11. The board may review the national
1389 programs and obtain free literature from various nationally

1390 recognized programs. After review of the different programs, the
1391 board may certify a program that is most appropriate for the
1392 school districts' needs. If a district implements a financial
1393 literacy program, then any student in Grade 10 or 11 may
1394 participate in the program. The financial literacy program shall
1395 include, but is not limited to, instruction in the same areas of
1396 personal business and finance as required under Section
1397 37-1-3(2)(b). The school board may coordinate with volunteer
1398 teachers from local community organizations, including, but not
1399 limited to, the following: United States Department of
1400 Agriculture Rural Development, United States Department of Housing
1401 and Urban Development, Junior Achievement, bankers and other
1402 nonprofit organizations. Nothing in this paragraph shall be
1403 construed as to require school boards to implement a financial
1404 literacy program;

1405 (ss) To collaborate with the State Board of Education,
1406 Community Action Agencies or the Department of Human Services to
1407 develop and implement a voluntary program to provide services for
1408 a full-day prekindergarten program that addresses the cognitive,
1409 social, and emotional needs of four-year-old and three-year-old
1410 children. The school board may utilize nonstate source special
1411 funds, grants, donations or gifts to fund the voluntary program;

1412 (tt) With respect to any lawful, written obligation of
1413 a school district, including, but not limited to, leases
1414 (excluding leases of sixteenth section public school trust land),
1415 bonds, notes, or other agreement, to agree in writing with the
1416 obligee that the State Tax Commission or any state agency,
1417 department or commission created under state law may:

1418 (i) Withhold all or any part (as agreed by the
1419 school board) of any monies which such local school board is
1420 entitled to receive from time to time under any law and which is
1421 in the possession of the State Tax Commission, or any state
1422 agency, department or commission created under state law; and

1423 (ii) Pay the same over to any financial
1424 institution, trustee or other obligee, as directed in writing by
1425 the school board, to satisfy all or part of such obligation of the
1426 school district.

1427 The school board may make such written agreement to withhold
1428 and transfer funds irrevocable for the term of the written
1429 obligation and may include in the written agreement any other
1430 terms and provisions acceptable to the school board. If the
1431 school board files a copy of such written agreement with the State
1432 Tax Commission, or any state agency, department or commission
1433 created under state law then the State Tax Commission or any state
1434 agency, department or commission created under state law shall
1435 immediately make the withholdings provided in such agreement from
1436 the amounts due the local school board and shall continue to pay
1437 the same over to such financial institution, trustee or obligee
1438 for the term of the agreement.

1439 This paragraph (tt) shall not grant any extra authority to a
1440 school board to issue debt in any amount exceeding statutory
1441 limitations on assessed value of taxable property within such
1442 school district or the statutory limitations on debt maturities,
1443 and shall not grant any extra authority to impose, levy or collect
1444 a tax which is not otherwise expressly provided for, and shall not
1445 be construed to apply to sixteenth section public school trust
1446 land;

1447 (uu) With respect to any matter or transaction that is
1448 competitively bid by a school district, to accept from any bidder
1449 as a good faith deposit or bid bond or bid surety, the same type
1450 of good faith deposit or bid bond or bid surety that may be
1451 accepted by the state or any other political subdivision on
1452 similar competitively bid matters or transactions. This paragraph
1453 (uu) shall not be construed to apply to sixteenth section public
1454 school trust land. The school board may authorize the investment
1455 of any school district funds in the same kind and manner of

1456 investments, including pooled investments, as any other political
1457 subdivision, including community hospitals; * * *

1458 (vv) To utilize the alternate method for the conveyance
1459 or exchange of unused school buildings and/or land, reserving a
1460 partial or other undivided interest in the property, as
1461 specifically authorized and provided in Section 37-7-485,
1462 Mississippi Code of 1972; and

1463 (ww) To delegate, privatize or otherwise enter into a
1464 contract with private entities for the operation of any and all
1465 functions of nonacademic school process, procedures and operations
1466 including, but not limited to, cafeteria workers, janitorial
1467 services, transportation, professional development, achievement
1468 and instructional consulting services materials and products,
1469 purchasing cooperatives, insurance, business manager services,
1470 auditing and accounting services, school safety/risk prevention,
1471 data processing and student records, and other staff services.
1472 Local school districts, working through their regional education
1473 service agency, are encouraged to enter into buying consortia with
1474 other member districts for the purposes of more efficient use of
1475 state resources as described in Section 37-7-345.

1476 **SECTION 17.** Section 25-11-103, Mississippi Code of 1972, is
1477 amended as follows:

1478 25-11-103. The following words and phrases as used in
1479 Articles 1 and 3, unless a different meaning is plainly required
1480 by the context, have the following meanings:

1481 (a) "Accumulated contributions" means the sum of all
1482 the amounts deducted from the compensation of a member and
1483 credited to his individual account in the annuity savings account,
1484 together with regular interest as provided in Section 25-11-123.

1485 (b) "Actuarial cost" means the amount of funds
1486 presently required to provide future benefits as determined by the
1487 board based on applicable tables and formulas provided by the
1488 actuary.

1489 (c) "Actuarial equivalent" means a benefit of equal
1490 value to the accumulated contributions, annuity or benefit, as the
1491 case may be, when computed upon the basis of such mortality tables
1492 as adopted by the board of trustees, and regular interest.

1493 (d) "Actuarial tables" means such tables of mortality
1494 and rates of interest as adopted by the board in accordance with
1495 the recommendation of the actuary.

1496 (e) "Agency" means any governmental body employing
1497 persons in the state service.

1498 (f) "Average compensation" means the average of the
1499 four (4) highest years of earned compensation reported for an
1500 employee in a fiscal or calendar year period, or combination
1501 thereof that do not overlap, or the last forty-eight (48)
1502 consecutive months of earned compensation reported for an
1503 employee. The four (4) years need not be successive or joined
1504 years of service. In no case shall the average compensation so
1505 determined be in excess of One Hundred Fifty Thousand Dollars
1506 (\$150,000.00). In computing the average compensation, any amount
1507 lawfully paid in a lump sum for personal leave or major medical
1508 leave shall be included in the calculation to the extent that the
1509 amount does not exceed an amount that is equal to thirty (30) days
1510 of earned compensation and to the extent that it does not cause
1511 the employees' earned compensation to exceed the maximum
1512 reportable amount specified in Section 25-11-103(k); however, this
1513 thirty-day limitation shall not prevent the inclusion in the
1514 calculation of leave earned under federal regulations before July
1515 1, 1976, and frozen as of that date as referred to in Section
1516 25-3-99. Only the amount of lump-sum pay for personal leave due
1517 and paid upon the death of a member attributable for up to one
1518 hundred fifty (150) days shall be used in the deceased member's
1519 average compensation calculation in determining the beneficiary's
1520 benefits. In computing the average compensation, no amounts shall
1521 be used that are in excess of the amount on which contributions

1522 were required and paid, and no nontaxable amounts paid by the
1523 employer for health or life insurance premiums for the employee
1524 shall be used. If any member who is or has been granted any
1525 increase in annual salary or compensation of more than eight
1526 percent (8%) retires within twenty-four (24) months from the date
1527 that the increase becomes effective, then the board shall exclude
1528 that part of the increase in salary or compensation that exceeds
1529 eight percent (8%) in calculating that member's average
1530 compensation for retirement purposes. The board may enforce this
1531 provision by rule or regulation. However, increases in
1532 compensation in excess of eight percent (8%) per year granted
1533 within twenty-four (24) months of the date of retirement may be
1534 included in the calculation of average compensation if
1535 satisfactory proof is presented to the board showing that the
1536 increase in compensation was the result of an actual change in the
1537 position held or services rendered, or that the compensation
1538 increase was authorized by the State Personnel Board or was
1539 increased as a result of statutory enactment, and the employer
1540 furnishes an affidavit stating that the increase granted within
1541 the last twenty-four (24) months was not contingent on a promise
1542 or agreement of the employee to retire. Nothing in Section
1543 25-3-31 shall affect the calculation of the average compensation
1544 of any member for the purposes of this article. The average
1545 compensation of any member who retires before July 1, 1992, shall
1546 not exceed the annual salary of the Governor.

1547 (g) "Beneficiary" means any person entitled to receive
1548 a retirement allowance, an annuity or other benefit as provided by
1549 Articles 1 and 3. The term "beneficiary" may also include an
1550 organization, estate, trust or entity; however, a beneficiary
1551 designated or entitled to receive monthly payments under an
1552 optional settlement based on life contingency or pursuant to a
1553 statutory monthly benefit may only be a natural person. In the
1554 event of the death before retirement of any member whose spouse

1555 and/or children are not entitled to a retirement allowance on the
1556 basis that the member has less than four (4) years of service
1557 credit and/or has not been married for a minimum of one (1) year
1558 or the spouse has waived his or her entitlement to a retirement
1559 allowance under Section 25-11-114, the lawful spouse of a member
1560 at the time of the death of the member shall be the beneficiary of
1561 the member unless the member has designated another beneficiary
1562 after the date of marriage in writing, and filed that writing in
1563 the office of the executive director of the board of trustees. No
1564 designation or change of beneficiary shall be made in any other
1565 manner.

1566 (h) "Board" means the board of trustees provided in
1567 Section 25-11-15 to administer the retirement system created under
1568 this article.

1569 (i) "Creditable service" means "prior service,"
1570 "retroactive service" and all lawfully credited unused leave not
1571 exceeding the accrual rates and limitations provided in Section
1572 25-3-91 et seq., as of the date of withdrawal from service plus
1573 "membership service" for which credit is allowable as provided in
1574 Section 25-11-109. Except to limit creditable service reported to
1575 the system for the purpose of computing an employee's retirement
1576 allowance or annuity or benefits provided in this article, nothing
1577 in this paragraph shall limit or otherwise restrict the power of
1578 the governing authority of a municipality or other political
1579 subdivision of the state to adopt such vacation and sick leave
1580 policies as it deems necessary.

1581 (j) "Child" means either a natural child of the member,
1582 a child that has been made a child of the member by applicable
1583 court action before the death of the member, or a child under the
1584 permanent care of the member at the time of the latter's death,
1585 which permanent care status shall be determined by evidence
1586 satisfactory to the board.

1587 (k) "Earned compensation" means the full amount earned
1588 by an employee for a given pay period including any maintenance
1589 furnished up to a maximum of One Hundred Fifty Thousand Dollars
1590 (\$150,000.00) per year, and proportionately for less than one (1)
1591 year of service. The value of that maintenance when not paid in
1592 money shall be fixed by the employing state agency, and, in case
1593 of doubt, by the board of trustees as defined in Section 25-11-15.
1594 Earned compensation shall not include any nontaxable amounts paid
1595 by the employer for health or life insurance premiums for an
1596 employee. In any case, earned compensation shall be limited to
1597 the regular periodic compensation paid, exclusive of litigation
1598 fees, bond fees, and other similar extraordinary nonrecurring
1599 payments. In addition, any member in a covered position, as
1600 defined by Public Employees' Retirement System laws and
1601 regulations, who is also employed by another covered agency or
1602 political subdivision shall have the earnings of that additional
1603 employment reported to the Public Employees' Retirement System
1604 regardless of whether the additional employment is sufficient in
1605 itself to be a covered position. In addition, computation of
1606 earned compensation shall be governed by the following:

1607 (i) In the case of constables, the net earnings
1608 from their office after deduction of expenses shall apply, except
1609 that in no case shall earned compensation be less than the total
1610 direct payments made by the state or governmental subdivisions to
1611 the official.

1612 (ii) In the case of chancery or circuit clerks,
1613 the net earnings from their office after deduction of expenses
1614 shall apply as expressed in Section 25-11-123(f)(4).

1615 (iii) In the case of members of the State
1616 Legislature, all remuneration or amounts paid, except mileage
1617 allowance, shall apply.

1618 (iv) The amount by which an eligible employee's
1619 salary is reduced under a salary reduction agreement authorized

1620 under Section 25-17-5 shall be included as earned compensation
1621 under this paragraph, provided this inclusion does not conflict
1622 with federal law, including federal regulations and federal
1623 administrative interpretations under the federal law, pertaining
1624 to the Federal Insurance Contributions Act or to Internal Revenue
1625 Code Section 125 cafeteria plans.

1626 (v) Compensation in addition to an employee's base
1627 salary that is paid to the employee under the vacation and sick
1628 leave policies of a municipality or other political subdivision of
1629 the state that employs him that exceeds the maximums authorized by
1630 Section 25-3-91 et seq. shall be excluded from the calculation of
1631 earned compensation under this article.

1632 (vi) The maximum salary applicable for retirement
1633 purposes before July 1, 1992, shall be the salary of the Governor.

1634 (vii) Nothing in Section 25-3-31 shall affect the
1635 determination of the earned compensation of any member for the
1636 purposes of this article.

1637 (1) "Employee" means any person legally occupying a
1638 position in the state service, and shall include the employees of
1639 the retirement system created under this article. The term
1640 "employee" does not include any employee of a private entity that
1641 leases staff to a local school board to provide noninstructional
1642 services pursuant to Section 37-7-301(ww).

1643 (m) "Employer" means the State of Mississippi or any of
1644 its departments, agencies or subdivisions from which any employee
1645 receives his compensation.

1646 (n) "Executive director" means the secretary to the
1647 board of trustees, as provided in Section 25-11-15(9), and the
1648 administrator of the Public Employees' Retirement System and all
1649 systems under the management of the board of trustees. Wherever
1650 the term "Executive Secretary of the Public Employees' Retirement
1651 System" or "executive secretary" appears in this article or in any

1652 other provision of law, it shall be construed to mean the
1653 Executive Director of the Public Employees' Retirement System.

1654 (o) "Fiscal year" means the period beginning on July 1
1655 of any year and ending on June 30 of the next succeeding year.

1656 (p) "Medical board" means the board of physicians or
1657 any governmental or nongovernmental disability determination
1658 service designated by the board of trustees that is qualified to
1659 make disability determinations as provided for in Section
1660 25-11-119.

1661 (q) "Member" means any person included in the
1662 membership of the system as provided in Section 25-11-105.

1663 (r) "Membership service" means service as an employee
1664 rendered while a member of the retirement system.

1665 (s) "Position" means any office or any employment in
1666 the state service, or two (2) or more of them, the duties of which
1667 call for services to be rendered by one (1) person, including
1668 positions jointly employed by federal and state agencies
1669 administering federal and state funds. The employer shall
1670 determine upon initial employment and during the course of
1671 employment of an employee who does not meet the criteria for
1672 coverage in the Public Employees' Retirement System based on the
1673 position held, whether the employee is or becomes eligible for
1674 coverage in the Public Employees' Retirement System based upon any
1675 other employment in a covered agency or political subdivision. If
1676 or when the employee meets the eligibility criteria for coverage
1677 in the other position, then the employer must withhold
1678 contributions and report wages from the noncovered position in
1679 accordance with the provisions for reporting of earned
1680 compensation. Failure to deduct and report those contributions
1681 shall not relieve the employee or employer of liability thereof.
1682 The board shall adopt such rules and regulations as necessary to
1683 implement and enforce this provision.

1684 (t) "Prior service" means service rendered before
1685 February 1, 1953, for which credit is allowable under Sections
1686 25-11-105 and 25-11-109, and which shall allow prior service for
1687 any person who is now or becomes a member of the Public Employees'
1688 Retirement System and who does contribute to the system for a
1689 minimum period of four (4) years.

1690 (u) "Regular interest" means interest compounded
1691 annually at such a rate as determined by the board in accordance
1692 with Section 25-11-121.

1693 (v) "Retirement allowance" means an annuity for life as
1694 provided in this article, payable each year in twelve (12) equal
1695 monthly installments beginning as of the date fixed by the board.
1696 The retirement allowance shall be calculated in accordance with
1697 Section 25-11-111. However, any spouse who received a spouse
1698 retirement benefit in accordance with Section 25-11-111(d) before
1699 March 31, 1971, and those benefits were terminated because of
1700 eligibility for a social security benefit, may again receive his
1701 spouse retirement benefit from and after making application with
1702 the board of trustees to reinstate the spouse retirement benefit.

1703 (w) "Retroactive service" means service rendered after
1704 February 1, 1953, for which credit is allowable under Section
1705 25-11-105(b) and Section 25-11-105(k).

1706 (x) "System" means the Public Employees' Retirement
1707 System of Mississippi established and described in Section
1708 25-11-101.

1709 (y) "State" means the State of Mississippi or any
1710 political subdivision thereof or instrumentality of the state.

1711 (z) "State service" means all offices and positions of
1712 trust or employment in the employ of the state, or any political
1713 subdivision or instrumentality of the state, that elect to
1714 participate as provided by Section 25-11-105(f), including the
1715 position of elected or fee officials of the counties and their
1716 deputies and employees performing public services or any

1717 department, independent agency, board or commission thereof, and
1718 also includes all offices and positions of trust or employment in
1719 the employ of joint state and federal agencies administering state
1720 and federal funds and service rendered by employees of the public
1721 schools. Effective July 1, 1973, all nonprofessional public
1722 school employees, such as bus drivers, janitors, maids,
1723 maintenance workers and cafeteria employees, shall have the option
1724 to become members in accordance with Section 25-11-105(b), and
1725 shall be eligible to receive credit for services before July 1,
1726 1973, provided that the contributions and interest are paid by the
1727 employee in accordance with that section; in addition, the county
1728 or municipal separate school district may pay the employer
1729 contribution and pro rata share of interest of the retroactive
1730 service from available funds. From and after July 1, 1998,
1731 retroactive service credit shall be purchased at the actuarial
1732 cost in accordance with Section 25-11-105(b).

1733 (aa) "Withdrawal from service" or "termination from
1734 service" means complete severance of employment in the state
1735 service of any member by resignation, dismissal or discharge.

1736 (bb) The masculine pronoun, wherever used, includes the
1737 feminine pronoun.

1738 **SECTION 18.** Section 25-11-127, Mississippi Code of 1972, is
1739 amended as follows:

1740 25-11-127. (1) (a) No person who is being paid a
1741 retirement allowance or a pension after retirement under this
1742 article shall be employed or paid for any service by the State of
1743 Mississippi, except as provided in this section.

1744 (b) No retiree of this retirement system who is
1745 reemployed or is reelected to office after retirement shall
1746 continue to draw retirement benefits while so reemployed, except
1747 as provided in this section.

1748 (c) No person employed or elected under the exceptions
1749 provided for in this section shall become a member under Article 3
1750 of the retirement system.

1751 (2) Any person who has been retired under the provisions of
1752 Article 3 and who is later reemployed in service covered by this
1753 article shall cease to receive benefits under this article and
1754 shall again become a contributing member of the retirement system.
1755 When the person retires again, if the reemployment exceeds six (6)
1756 months, the person shall have his or her benefit recomputed,
1757 including service after again becoming a member, provided that the
1758 total retirement allowance paid to the retired member in his or
1759 her previous retirement shall be deducted from the member's
1760 retirement reserve and taken into consideration in recalculating
1761 the retirement allowance under a new option selected.

1762 (3) The board shall have the right to prescribe rules and
1763 regulations for carrying out the provisions of this section.

1764 (4) The provisions of this section shall not be construed to
1765 prohibit any retiree, regardless of age, from being employed and
1766 drawing a retirement allowance either:

1767 (a) For a period of time not to exceed one-half (1/2)
1768 of the normal working days for the position in any fiscal year
1769 during which the retiree will receive no more than one-half (1/2)
1770 of the salary in effect for the position at the time of
1771 employment, or

1772 (b) For a period of time in any fiscal year sufficient
1773 in length to permit a retiree to earn not in excess of twenty-five
1774 percent (25%) of retiree's average compensation.

1775 To determine the normal working days for a position under
1776 paragraph (a) of this subsection, the employer shall determine the
1777 required number of working days for the position on a full-time
1778 basis and the equivalent number of hours representing the
1779 full-time position. The retiree then may work up to one-half
1780 (1/2) of the required number of working days or up to one-half

1781 (1/2) of the equivalent number of hours and receive up to one-half
1782 (1/2) of the salary for the position. In the case of employment
1783 with multiple employers, the limitation shall equal one-half (1/2)
1784 of the number of days or hours for a single full-time position.

1785 Notice shall be given in writing to the executive director,
1786 setting forth the facts upon which the employment is being made,
1787 and the notice shall be given within five (5) days from the date
1788 of employment and also from the date of termination of the
1789 employment.

1790 (5) Any member may continue in municipal or county elected
1791 office or be elected to a municipal or county office, provided
1792 that the person:

1793 (a) Files annually, in writing, in the office of the
1794 employer and the office of the executive director of the system
1795 before the person takes office or as soon as possible after
1796 retirement, a waiver of all salary or compensation and elects to
1797 receive in lieu of that salary or compensation a retirement
1798 allowance as provided in this section, in which event no salary or
1799 compensation shall thereafter be due or payable for those
1800 services; however, any such officer or employee may receive, in
1801 addition to the retirement allowance, office expense allowance,
1802 mileage or travel expense authorized by any statute of the State
1803 of Mississippi; or

1804 (b) Elects to receive compensation for that elective
1805 office in an amount not to exceed twenty-five percent (25%) of the
1806 retiree's average compensation. As used in this paragraph, the
1807 term "compensation" shall not include office expense allowance,
1808 mileage or travel expense authorized by a statute of the State of
1809 Mississippi. In order to receive compensation as allowed in this
1810 paragraph, the member shall file annually, in writing, in the
1811 office of the employer and the office of the executive director of
1812 the system, an election to receive, in addition to a retirement
1813 allowance, compensation as allowed in this paragraph.

1814 This section may not be construed to mean that any employee
1815 of a private entity that leases staff to local school boards to
1816 provide noninstructional services, as authorized in Section
1817 37-7-301(ww), may become a member of the retirement system.

1818 **SECTION 19.** Section 37-151-77, Mississippi Code of 1972, is
1819 amended as follows:

1820 37-151-77. To qualify for funds provided in this chapter,
1821 each school district shall not exceed a pupil-teacher ratio based
1822 on enrollment in Grades 1, 2, 3 and 4 as follows: 27:1.

1823 For Grades kindergarten and 5 through 12, pupil-teacher ratio
1824 shall be determined based on appropriate accreditation standards
1825 developed by the Mississippi Commission on School Accreditation.

1826 Any local district may apply to the State Board of Education
1827 for approval of a waiver to this section by submitting and
1828 justifying an alternative educational program to serve the needs
1829 of enrollment in Grades kindergarten and 1 through 4. The State
1830 Board of Education shall approve or disapprove of such waiver
1831 forty-five (45) days after receipt of such application. If a
1832 school district violates the provisions of this section, the state
1833 aid for the ensuing fiscal year to such school district shall be
1834 reduced by the percentage variance that the actual pupil-teacher
1835 ratios in such school district has to the required pupil-teacher
1836 ratios mandated in this section. However, notwithstanding the
1837 provisions of this section, the State Board of Education is
1838 authorized to waive the pupil-teacher requirements specified
1839 herein upon a finding that a good faith effort is being made by
1840 the school district concerned to comply with the ratio provisions
1841 but that for lack of classroom space which was beyond its control
1842 it is physically impossible for the district to comply, and the
1843 cost of temporary classroom space cannot be justified. In the
1844 event any school * * * meets Level 4 or 5 accreditation standards,
1845 the * * * school is exempt from the maximum pupil-teacher ratio in
1846 Grades 1, 2, 3 and 4 prescribed in this section.

1847 **SECTION 20.** This act shall take effect and be in force from
1848 and after July 1, 2006.