

By: Senator(s) Chaney

To: Education;
Appropriations

SENATE BILL NO. 2329

1 AN ACT TO AMEND SECTION 37-17-6, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE STATE BOARD OF EDUCATION TO CONTRACT WITH AN
3 APPROPRIATE PRIVATE ENTITY TO PERFORM MANAGEMENT OVERSIGHT
4 FUNCTIONS FOR SCHOOL DISTRICTS UNDER STATE CONSERVATORSHIP; TO
5 REVISE SANCTIONS FOR SCHOOL DISTRICTS UNDER CONSERVATORSHIP TO
6 CONFORM TO THOSE APPLICABLE TO PRIORITY SCHOOLS; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** Section 37-17-6, Mississippi Code of 1972, is
10 amended as follows:

11 37-17-6. (1) The State Board of Education, acting through
12 the Commission on School Accreditation, shall establish and
13 implement a permanent performance-based accreditation system, and
14 all public elementary and secondary schools shall be accredited
15 under this system.

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

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

25	Number of Students	Number of Certified
26	Per School Library	School Librarians
27	0 - 499 Students	½ Full-time Equivalent
28		Certified Librarian

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

65 (f) A determination of which schools exceed their
66 standards and a plan for providing recognition and rewards to such
67 schools;

68 (g) A determination of which schools are failing to
69 meet their standards and a determination of the appropriate role
70 of the State Board of Education and the State Department of
71 Education in providing assistance and initiating possible
72 intervention;

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

75 (i) The State Board of Education may, based on a
76 written request that contains specific reasons for requesting a
77 waiver from the school districts affected by Hurricane Katrina of
78 2005, hold harmless school districts from assignment of district
79 and school level accountability ratings for the 2005-2006 school
80 year. The State Board of Education upon finding an extreme
81 hardship in the school district may grant the request. It is the
82 intent of the Legislature that all school districts maintain the
83 highest possible academic standards and instructional programs in
84 all schools as required by law and the State Board of Education.

85 The State Board of Education may continue to assign school
86 district performance levels by using a number classification and
87 may assign individual school performance levels by using a number
88 classification to be consistent with school district performance
89 levels.

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

93 (6) The State Board of Education shall create an
94 accreditation audit unit under the Commission on School

95 Accreditation to determine whether schools are complying with
96 accreditation standards.

97 (7) The State Board of Education shall be specifically
98 authorized and empowered to withhold adequate minimum education
99 program or adequate education program fund allocations, whichever
100 is applicable, to any public school district for failure to timely
101 report student, school personnel and fiscal data necessary to meet
102 state and/or federal requirements.

103 (8) Deleted.

104 (9) The State Board of Education shall establish, for those
105 school districts failing to meet accreditation standards, a
106 program of development to be complied with in order to receive
107 state funds, except as otherwise provided in subsection (14) of
108 this section when the Governor has declared a state of emergency
109 in a school district or as otherwise provided in Section 206,
110 Mississippi Constitution of 1890. The state board, in
111 establishing these standards, shall provide for notice to schools
112 and sufficient time and aid to enable schools to attempt to meet
113 these standards, unless procedures under subsection (14) of this
114 section have been invoked.

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

118 (a) Develop an impairment report for each district
119 failing to meet accreditation standards in conjunction with school
120 district officials;

121 (b) Notify any applicable school district failing to
122 meet accreditation standards that it is on probation until
123 corrective actions are taken or until the deficiencies have been
124 removed. The local school district shall develop a corrective
125 action plan to improve its deficiencies. For district academic
126 deficiencies, the corrective action plan for each such school
127 district shall be based upon a complete analysis of the following:

128 student test data, student grades, student attendance reports,
129 student drop-out data, existence and other relevant data. The
130 corrective action plan shall describe the specific measures to be
131 taken by the particular school district and school to improve:
132 (a) instruction; (b) curriculum; (c) professional development; (d)
133 personnel and classroom organization; (e) student incentives for
134 performance; (f) process deficiencies; and (g) reporting to the
135 local school board, parents and the community. The corrective
136 action plan shall describe the specific individuals responsible
137 for implementing each component of the recommendation and how each
138 will be evaluated. All corrective action plans shall be provided
139 to the State Board of Education as may be required. The decision
140 of the State Board of Education establishing the probationary
141 period of time shall be final;

142 (c) Offer, during the probationary period, technical
143 assistance to the school district in making corrective actions.
144 Beginning July 1, 1998, subject to the availability of funds, the
145 State Department of Education shall provide technical and/or
146 financial assistance to all such school districts in order to
147 implement each measure identified in that district's corrective
148 action plan through professional development and on-site
149 assistance. Each such school district shall apply for and utilize
150 all available federal funding in order to support its corrective
151 action plan in addition to state funds made available under this
152 paragraph;

153 (d) Assign department personnel or contract, in its
154 discretion, with the institutions of higher learning or other
155 appropriate private entities with experience in the academic,
156 finance and other operational functions of schools to assist
157 school districts;

158 (e) Provide for publication of public notice at least
159 one (1) time during the probationary period, in a newspaper
160 published within the jurisdiction of the school district failing

161 to meet accreditation standards, or if no newspaper is published
162 therein, then in a newspaper having a general circulation therein.
163 The publication shall include the following: declaration of
164 school system's status as being on probation; all details relating
165 to the impairment report, and other information as the State Board
166 of Education deems appropriate. Public notices issued under this
167 section shall be subject to Section 13-3-31 and not contrary to
168 other laws regarding newspaper publication.

169 (11) (a) If the recommendations for corrective action are
170 not taken by the local school district or if the deficiencies are
171 not removed by the end of the probationary period, the Commission
172 on School Accreditation shall conduct a hearing to allow such
173 affected school district to present evidence or other reasons why
174 its accreditation should not be withdrawn. Subsequent to its
175 consideration of the results of such hearing, the Commission on
176 School Accreditation shall be authorized, with the approval of the
177 State Board of Education, to withdraw the accreditation of a
178 public school district, and issue a request to the Governor that a
179 state of emergency be declared in that district.

180 (b) If the State Board of Education and the Commission
181 on School Accreditation determine that an extreme emergency
182 situation exists in a school district which jeopardizes the
183 safety, security or educational interests of the children enrolled
184 in the schools in that district and such emergency situation is
185 believed to be related to a serious violation or violations of
186 accreditation standards or state or federal law, the State Board
187 of Education may request the Governor to declare a state of
188 emergency in that school district. For purposes of this
189 paragraph, such declarations of a state of emergency shall not be
190 limited to those instances when a school district's impairments
191 are related to a lack of financial resources, but also shall
192 include serious failure to meet minimum academic standards, as
193 evidenced by a continued pattern of poor student performance.

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

198 (i) Declare a state of emergency, under which some
199 or all of state funds can be escrowed except as otherwise provided
200 in Section 206, Constitution of 1890, until the board determines
201 corrective actions are being taken or the deficiencies have been
202 removed, or that the needs of students warrant the release of
203 funds. Such funds may be released from escrow for any program
204 which the board determines to have been restored to standard even
205 though the state of emergency may not as yet be terminated for the
206 district as a whole;

207 (ii) Override any decision of the local school
208 board or superintendent of education, or both, concerning the
209 management and operation of the school district, or initiate and
210 make decisions concerning the management and operation of the
211 school district;

212 (iii) Assign an interim conservator, or in its
213 discretion, contract with a private entity with experience in the
214 academic, finance and other operational functions of schools and
215 school districts, who will have those powers and duties prescribed
216 in subsection (14) of this section;

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

221 (v) Issue a written request with documentation to
222 the Governor asking that the office of the superintendent of such
223 school district be subject to recall. Whenever the Governor
224 declares that the office of the superintendent of such school
225 district is subject to recall, the local school board or the

226 county election commission, as the case may be, shall take the
227 following action:

228 1. If the office of superintendent is an
229 elected office, in those years in which there is no general
230 election, the name shall be submitted by the State Board of
231 Education to the county election commission at least sixty (60)
232 days before the next regular special election, and the county
233 election commission shall submit the question at the next regular
234 special election to the voters eligible to vote for the office of
235 superintendent within the county. The ballot shall read
236 substantially as follows:

237 "Shall county superintendent of education _____ (here
238 the name of the superintendent shall be inserted) of the _____
239 (here the title of the school district shall be inserted) be
240 retained in office? Yes _____ No _____."

241 If a majority of those voting on the question votes against
242 retaining the superintendent in office, a vacancy shall exist
243 which shall be filled in the manner provided by law; otherwise the
244 superintendent shall remain in office for the term of such office,
245 and at the expiration of such term shall be eligible for
246 qualification and election to another term or terms.

247 2. If the office of superintendent is an
248 appointive office, the name of the superintendent shall be
249 submitted by the president of the local school board at the next
250 regular meeting of the school board for retention in office or
251 dismissal from office. If a majority of the school board voting
252 on the question vote against retaining the superintendent in
253 office, a vacancy shall exist which shall be filled as provided by
254 law. Otherwise the superintendent shall remain in office for the
255 duration of his employment contract.

256 (vi) Issue a written request with documentation to
257 the Governor that the membership of the school board of such
258 school district shall be subject to recall. Whenever the Governor

259 declares that the membership of the school board shall be subject
260 to recall, the county election commission or the local governing
261 authorities, as the case may be, shall take the following action:

262 1. If the members of the local school board
263 are elected to office, in those years in which the specific
264 member's office is not up for election, the name of the school
265 board member shall be admitted by the State Board of Education to
266 the county election commission at least sixty (60) days before the
267 next regular special election, and the county election commission
268 at the next regular special election shall submit the question to
269 the voters eligible to vote for the particular member's office
270 within the county or school district, as the case may be. The
271 ballot shall read substantially as follows:

272 "Members of the _____ (here the title of the school
273 district shall be inserted) School Board who are not up for
274 election this year are subject to recall because of the Governor's
275 declaration of an emergency in the school district. Shall the
276 member of the school board representing this area, _____
277 (here the name of the school board member holding the office shall
278 be inserted), be retained in office? Yes _____ No _____."

279 If a majority of those voting on the question vote against
280 retaining the member of the school board in office, a vacancy in
281 that board member's office shall exist which shall be filled in
282 the manner provided by law; otherwise, the school board member
283 shall remain in office for the term of such office, and at the
284 expiration of the term of office, the member shall be eligible for
285 qualification and election to another term or terms of office.
286 However, if a majority of the school board members are recalled in
287 the regular special election, the Governor shall authorize the
288 board of supervisors of the county in which the school district is
289 situated to appoint members to fill the offices of the members
290 recalled. The board of supervisors shall make such appointments
291 in the manner provided by law for filling vacancies on the school

292 board, and the appointed members shall serve until the office is
293 filled at the next regular special or general election.

294 2. If the local school board is an appointed
295 school board, the name of all school board members shall be
296 submitted as a collective board by the president of the municipal
297 or county governing authority, as the case may be, at the next
298 regular meeting of the governing authority for retention in office
299 or dismissal from office. If a majority of the governing
300 authority voting on the question vote against retaining the board
301 in office, a vacancy shall exist in each school board member's
302 office, which shall be filled as provided by law; otherwise, the
303 members of the appointed school board shall remain in office for
304 the duration of their term of appointment, and such members may be
305 reappointed.

306 3. If the local school board is comprised of
307 both elected and appointed members, the elected members shall be
308 the subject to recall in the manner provided in item 1 of this
309 subsection. Appointed members shall be subject to recall in the
310 manner provided in item 2.

311 (vii) For states of emergency declared under
312 paragraph (a) only, if the accreditation deficiencies are related
313 to the fact that the school district is too small, with too few
314 resources, to meet the required standards and if another school
315 district is willing to accept those students, abolish that
316 district and assign that territory to another school district or
317 districts. If the school district has proposed a voluntary
318 consolidation with another school district or districts, then if
319 the State Board of Education finds that it is in the best interest
320 of the pupils of the district for such consolidation to proceed,
321 the voluntary consolidation shall have priority over any such
322 assignment of territory by the State Board of Education;

323 (viii) For states of emergency declared under
324 paragraph (b) only, reduce local supplements paid to school

325 district employees, including, but not limited to, instructional
326 personnel, assistant teachers and extracurricular activities
327 personnel, if the district's impairment is related to a lack of
328 financial resources, but only to an extent which will result in
329 the salaries being comparable to districts similarly situated, as
330 determined by the State Board of Education;

331 (ix) For states of emergency declared under
332 paragraph (b) only, the State Board of Education must take such
333 action as prescribed in Section 37-17-13.

334 (d) At such time as satisfactory corrective action has
335 been taken in a school district in which a state of emergency has
336 been declared, the State Board of Education may request the
337 Governor to declare that the state of emergency no longer exists
338 in the district.

339 (e) Not later than July 1 of each year, the State
340 Department of Education shall develop an itemized accounting of
341 the expenditures associated with the management of the conservator
342 process with regard to each school district in which a conservator
343 has been appointed, and an assessment as to the extent to which
344 the conservator has achieved, or failed to achieve, the goals for
345 which the conservator was appointed to guide the local school
346 district.

347 (12) Upon the declaration of a state of emergency in a
348 school district under subsection (11) of this section, the
349 Commission on School Accreditation shall be responsible for public
350 notice at least once a week for at least three (3) consecutive
351 weeks in a newspaper published within the jurisdiction of the
352 school district failing to meet accreditation standards, or if no
353 newspaper is published therein, then in a newspaper having a
354 general circulation therein. The size of such notice shall be no
355 smaller than one-fourth (1/4) of a standard newspaper page and
356 shall be printed in bold print. If a conservator has been
357 appointed for the school district, such notice shall begin as

358 follows: "By authority of Section 37-17-6, Mississippi Code of
359 1972, as amended, adopted by the Mississippi Legislature during
360 the 1991 Regular Session, this school district (name of school
361 district) is hereby placed under the jurisdiction of the State
362 Department of Education acting through its appointed conservator
363 (name of conservator)."

364 The notice also shall include, in the discretion of the State
365 Board of Education, any or all details relating to the school
366 district's emergency status, including the declaration of a state
367 of emergency in the school district and a description of the
368 district's impairment deficiencies, conditions of any
369 conservatorship and corrective actions recommended and being
370 taken. Public notices issued under this section shall be subject
371 to Section 13-3-31 and not contrary to other laws regarding
372 newspaper publication.

373 Upon termination of the state of emergency in a school
374 district, the Commission on School Accreditation shall cause
375 notice to be published in the school district in the same manner
376 provided in this section, to include any or all details relating
377 to the corrective action taken in the school district which
378 resulted in the termination of the state of emergency.

379 (13) The State Board of Education or the Commission on
380 School Accreditation shall have the authority to require school
381 districts to produce the necessary reports, correspondence,
382 financial statements, and any other documents and information
383 necessary to fulfill the requirements of this section.

384 Nothing in this section shall be construed to grant any
385 individual, corporation, board or conservator the authority to
386 levy taxes except in accordance with presently existing statutory
387 provisions.

388 (14) (a) Whenever the Governor declares a state of
389 emergency in a school district in response to a request made under
390 subsection (11) of this section, the State Board of Education, in

391 its discretion, may assign an interim conservator to the school
392 district, or in its discretion, may contract with an appropriate
393 private entity with experience in the academic, finance and other
394 operational functions of schools and school districts, who will be
395 responsible for the administration, management and operation of
396 the school district, including, but not limited to, the following
397 activities:

398 (i) Approving or disapproving all financial
399 obligations of the district, including, but not limited to, the
400 employment, termination, nonrenewal and reassignment of all
401 certified and noncertified personnel, contractual agreements and
402 purchase orders, and approving or disapproving all claim dockets
403 and the issuance of checks; in approving or disapproving
404 employment contracts of superintendents, assistant superintendents
405 or principals, the interim conservator shall not be required to
406 comply with the time limitations prescribed in Sections 37-9-15
407 and 37-9-105;

408 (ii) Supervising the day-to-day activities of the
409 district's staff, including reassigning the duties and
410 responsibilities of personnel in a manner which, in the
411 determination of the conservator, will best suit the needs of the
412 district;

413 (iii) Reviewing the district's total financial
414 obligations and operations and making recommendations to the
415 district for cost savings, including, but not limited to,
416 reassigning the duties and responsibilities of staff;

417 (iv) Attending all meetings of the district's
418 school board and administrative staff;

419 (v) Approving or disapproving all athletic, band
420 and other extracurricular activities and any matters related to
421 those activities;

422 (vi) Maintaining a detailed account of
423 recommendations made to the district and actions taken in response
424 to those recommendations;

425 (vii) Reporting periodically to the State Board of
426 Education on the progress or lack of progress being made in the
427 district to improve the district's impairments during the state of
428 emergency; and

429 (viii) Appointing a parent advisory committee,
430 comprised of parents of students in the school district, which may
431 make recommendations to the conservator concerning the
432 administration, management and operation of the school district.

433 Except when, in the determination of the State Board of
434 Education, the school district's impairment is related to a lack
435 of financial resources, the cost of the salary of the conservator
436 and any other actual and necessary costs related to the
437 conservatorship paid by the State Department of Education shall be
438 reimbursed by the local school district from nonminimum program
439 funds. The department shall submit an itemized statement to the
440 superintendent of the local school district for reimbursement
441 purposes, and any unpaid balance may be withheld from the
442 district's minimum or adequate education program funds.

443 At such time as the Governor, pursuant to the request of the
444 State Board of Education, declares that the state of emergency no
445 longer exists in a school district, the powers and
446 responsibilities of the interim conservator assigned to such
447 district shall cease.

448 (b) In order to provide loans to school districts under
449 a state of emergency which have impairments related to a lack of
450 financial resources, the School District Emergency Assistance Fund
451 is created as a special fund in the State Treasury into which
452 monies may be transferred or appropriated by the Legislature from
453 any available public education funds. The maximum amount that may
454 be appropriated or transferred to the School District Emergency

455 Assistance Fund for any one (1) emergency shall be Two Million
456 Dollars (\$2,000,000.00), and the maximum amount that may be
457 appropriated during any fiscal year shall be Three Million Dollars
458 (\$3,000,000.00).

459 The State Board of Education may loan monies from the School
460 District Emergency Assistance Fund to a school district that is
461 under a state of emergency in such amounts, as determined by the
462 board, which are necessary to correct the district's impairments
463 related to a lack of financial resources. The loans shall be
464 evidenced by an agreement between the school district and the
465 State Board of Education and shall be repayable in principal,
466 without necessity of interest, to the State General Fund or the
467 Education Enhancement Fund, depending on the source of funding for
468 such loan, by the school district from any allowable funds that
469 are available. The total amount loaned to the district shall be
470 due and payable within five (5) years after the impairments
471 related to a lack of financial resources are corrected. If a
472 school district fails to make payments on the loan in accordance
473 with the terms of the agreement between the district and the State
474 Board of Education, the State Department of Education, in
475 accordance with rules and regulations established by the State
476 Board of Education, may withhold that district's minimum program
477 funds in an amount and manner that will effectuate repayment
478 consistent with the terms of the agreement; such funds withheld by
479 the department shall be deposited into the State General Fund or
480 the Education Enhancement Fund, as the case may be.

481 If the State Board of Education determines that an extreme
482 emergency exists, simultaneous with the powers exercised in this
483 subsection, it shall take immediate action against all parties
484 responsible for the affected school districts having been
485 determined to be in an extreme emergency. Such action shall
486 include, but not be limited to, initiating civil actions to
487 recover funds and criminal actions to account for criminal

488 activity. Any funds recovered by the State Auditor or the State
489 Board of Education from the surety bonds of school officials or
490 from any civil action brought under this subsection shall be
491 applied toward the repayment of any loan made to a school district
492 hereunder.

493 (15) In the event a majority of the membership of the school
494 board of any school district resigns from office, the State Board
495 of Education shall be authorized to assign an interim conservator,
496 who shall be responsible for the administration, management and
497 operation of the school district until such time as new board
498 members are selected or the Governor declares a state of emergency
499 in that school district under subsection (11), whichever occurs
500 first. In such case, the State Board of Education, acting through
501 the interim conservator, shall have all powers which were held by
502 the previously existing school board, and may take such action as
503 prescribed in Section 37-17-13 and/or one or more of the actions
504 authorized in this section.

505 (16) Beginning with the school district audits conducted for
506 the 1997-1998 fiscal year, the State Board of Education, acting
507 through the Commission on School Accreditation, shall require each
508 school district to comply with standards established by the State
509 Department of Audit for the verification of fixed assets and the
510 auditing of fixed assets records as a minimum requirement for
511 accreditation.

512 (17) Before December 1, 1999, the State Board of Education
513 shall recommend a program to the Education Committees of the House
514 of Representatives and the Senate for identifying and rewarding
515 public schools that improve or are high performing. The program
516 shall be described by the board in a written report, which shall
517 include criteria and a process through which improving schools and
518 high-performing schools will be identified and rewarded.

519 The State Superintendent of Education and the State Board of
520 Education also shall develop a comprehensive accountability plan

521 to ensure that local school boards, superintendents, principals
522 and teachers are held accountable for student achievement. A
523 written report on the accountability plan shall be submitted to
524 the Education Committees of both houses of the Legislature before
525 December 1, 1999, with any necessary legislative recommendations.

526 **SECTION 2.** The Attorney General of the State of Mississippi
527 shall submit this act, immediately upon approval by the Governor,
528 or upon approval by the Legislature subsequent to a veto, to the
529 Attorney General of the United States or to the United States
530 District Court for the District of Columbia in accordance with the
531 provisions of the Voting Rights Act of 1965, as amended and
532 extended.

533 **SECTION 3.** This act shall take effect and be in force from
534 and after the date it is effectuated under Section 5 of the Voting
535 Rights Act of 1965, as amended and extended.