

By: Senator(s) Carmichael, Baria, Browning,
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To: Education;
Appropriations

SENATE BILL NO. 2628

1 AN ACT ENTITLED THE "CHILDREN FIRST ACT OF 2009"; TO AMEND
2 SECTION 37-17-6, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AND DIRECT
3 THE STATE BOARD OF EDUCATION TO DEFINE UNDERPERFORMING SCHOOLS AND
4 SCHOOL DISTRICTS UNDER CERTAIN STANDARDS, TO REQUIRE SCHOOL
5 DISTRICTS TO DEVELOP AND PUBLISH CERTAIN ANNUAL REPORTS PRESCRIBED
6 BY THE STATE BOARD OF EDUCATION, TO AUTHORIZE THE STATE BOARD OF
7 EDUCATION TO REQUEST THE GOVERNOR TO DECLARE A STATE OF EMERGENCY
8 IN A SCHOOL DISTRICT WHICH MEETS THE DEFINITION OF AN
9 UNDERPERFORMING SCHOOL DISTRICT FOR TWO CONSECUTIVE YEARS AND TO
10 ESTABLISH A MISSISSIPPI RECOVERY SCHOOL DISTRICT WITHIN THE STATE
11 DEPARTMENT OF EDUCATION UNDER THE DIRECTION OF A DEPUTY STATE
12 SUPERINTENDENT OF EDUCATION TO PROVIDE MANAGEMENT AND OVERSIGHT
13 FOR ALL SCHOOL DISTRICTS THAT ARE SUBJECT TO STATE CONSERVATORSHIP
14 AND TO HEAR CERTAIN APPEALS FROM SUCH SCHOOL DISTRICTS; TO AMEND
15 SECTION 7-7-211, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
16 ANNUAL AUDIT OF PUBLIC SCHOOL DISTRICTS UNDER THE DIRECTION OF THE
17 STATE AUDITOR; TO AMEND SECTION 37-9-18, MISSISSIPPI CODE OF 1972,
18 TO DIRECT THE STATE AUDITOR TO CONDUCT A REVIEW OF THE FINANCES OF
19 ANY SCHOOL DISTRICT DETERMINED BY THE STATE SUPERINTENDENT OF
20 EDUCATION TO BE IN A SERIOUS FINANCIAL CONDITION AND MAKE AN
21 IMMEDIATE REPORT THEREON; TO AMEND SECTION 37-3-4, MISSISSIPPI
22 CODE OF 1972, TO PRESCRIBE TRAINING REQUIREMENTS FOR SCHOOL BOARD
23 MEMBERS AND SCHOOL SUPERINTENDENTS IN UNDERPERFORMING SCHOOL
24 DISTRICTS; TO AMEND SECTION 37-3-46, MISSISSIPPI CODE OF 1972, TO
25 REQUIRE SCHOOL DISTRICTS RECEIVING ACCREDITATION ASSISTANCE FROM
26 THE STATE DEPARTMENT OF EDUCATION TO IMPLEMENT PROGRAMS SPECIFIED
27 BY THE STATE SUPERINTENDENT OF EDUCATION; TO AMEND SECTIONS
28 37-9-23 AND 37-9-59, MISSISSIPPI CODE OF 1972, TO INCLUDE THE
29 EMERGENCY TAKEOVER OF A SCHOOL DISTRICT AS GROUNDS FOR DISMISSAL
30 OF LICENSED SCHOOL EMPLOYEES; TO AMEND SECTION 37-9-103,
31 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE EDUCATION EMPLOYMENT
32 PROCEDURES LAW SHALL NOT APPLY TO ANY CATEGORY OF EMPLOYEE IN A
33 SCHOOL DISTRICT SUBJECT TO A STATE CONSERVATORSHIP; TO AMEND
34 SECTION 37-18-5, MISSISSIPPI CODE OF 1972, TO REQUIRE SCHOOL
35 DISTRICTS WITH SCHOOLS DETERMINED TO BE UNDERPERFORMING TO
36 ESTABLISH COMMUNITY-BASED EDUCATION COUNCILS WHICH ARE ACCOUNTABLE
37 TO THE COMMUNITY; AND FOR RELATED PURPOSES.

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

39 **SECTION 1.** This act shall be entitled and may be cited as
40 the "Children First Act of 2009."

41 **SECTION 2.** Section 37-17-6, Mississippi Code of 1972, is
42 amended as follows:



43 37-17-6. (1) The State Board of Education, acting through
44 the Commission on School Accreditation, shall establish and
45 implement a permanent performance-based accreditation system, and
46 all public elementary and secondary schools shall be accredited
47 under this system.

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

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

57 Number of Students	Number of Certified
58 Per School Library	School Librarians
59 0 - 499 Students	$\frac{1}{2}$ Full-time Equivalent 60 Certified Librarian
61 500 or More Students	1 Full-time Certified 62 Librarian

63 (b) The State Board of Education, however, may increase
64 the number of positions beyond the above requirements.

65 (c) The assignment of such school librarians to the
66 particular schools shall be at the discretion of the local school
67 district. No individual shall be employed as a certified school
68 librarian without appropriate training and certification as a
69 school librarian by the State Department of Education.

70 (d) School librarians in such district shall spend at
71 least fifty percent (50%) of direct work time in a school library
72 and shall devote no more than one-fourth (1/4) of the workday to
73 administrative activities which are library related.



74 (e) Nothing in this subsection shall prohibit any
75 school district from employing more certified school librarians
76 than are provided for in this section.

77 (f) Any additional mileage levied to fund school
78 librarians required for accreditation under this subsection shall
79 be included in the tax increase limitation set forth in Sections
80 37-57-105 and 37-57-107 and shall not be deemed a new program for
81 purposes of the limitation.

82 (4) On or before December 31, 2002, the State Board of
83 Education shall implement the performance-based accreditation
84 system for school districts and for individual schools which shall
85 include the following:

86 (a) High expectations for students and high standards
87 for all schools, with a focus on the basic curriculum;

88 (b) Strong accountability for results with appropriate
89 local flexibility for local implementation;

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

92 (d) Individual schools shall be held accountable for
93 student growth and performance;

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

97 (f) A determination of which schools exceed their
98 standards and a plan for providing recognition and rewards to such
99 schools;

100 (g) A determination of which schools are failing to
101 meet their standards and a determination of the appropriate role
102 of the State Board of Education and the State Department of
103 Education in providing assistance and initiating possible
104 intervention. The State Board of Education shall define
105 underperforming schools and districts and may include the
106 following factors in such definition: student assessment data to



107 include both absolute achievement and meeting growth expectation,
108 graduation rate, dropout rate, completion rate, and any other
109 factors deemed appropriate by the State Board of Education.

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

112 (i) The State Board of Education may, based on a
113 written request that contains specific reasons for requesting a
114 waiver from the school districts affected by Hurricane Katrina of
115 2005, hold harmless school districts from assignment of district
116 and school level accountability ratings for the 2005-2006 school
117 year. The State Board of Education upon finding an extreme
118 hardship in the school district may grant the request. It is the
119 intent of the Legislature that all school districts maintain the
120 highest possible academic standards and instructional programs in
121 all schools as required by law and the State Board of Education.

122 The State Board of Education may continue to assign school
123 district performance levels by using a number classification and
124 may assign individual school performance levels by using a number
125 classification to be consistent with school district performance
126 levels.

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

130 (6) The State Board of Education shall create an
131 accreditation audit unit under the Commission on School
132 Accreditation to determine whether schools are complying with
133 accreditation standards.

134 (7) The State Board of Education shall be specifically
135 authorized and empowered to withhold adequate education program
136 fund allocations, whichever is applicable, to any public school
137 district for failure to timely report student, school personnel
138 and fiscal data necessary to meet state and/or federal
139 requirements.



140 (8) Deleted.

141 (9) (a) Each local school district shall be required to
142 develop and publish an annual report as prescribed by the State
143 Board of Education. By November 1 of each year, as prescribed by
144 the State Board of Education, the report shall be published in a
145 newspaper having general circulation in the county and posted on
146 the school district's Web site in a printable format. The public
147 notice shall include information on the report's availability on
148 the district's Web site, with the Web site address, and the
149 location(s) at the school district which a copy of the report can
150 be obtained.

151 (b) The State Board of Education shall establish, for
152 those school districts failing to meet accreditation standards, a
153 program of development to be complied with in order to receive
154 state funds, except as otherwise provided in subsection (14) of
155 this section when the Governor has declared a state of emergency
156 in a school district or as otherwise provided in Section 206,
157 Mississippi Constitution of 1890. The state board, in
158 establishing these standards, shall provide for notice to schools
159 and sufficient time and aid to enable schools to attempt to meet
160 these standards, unless procedures under subsection (14) of this
161 section have been invoked.

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

165 (a) Develop an impairment report for each district
166 failing to meet accreditation standards in conjunction with school
167 district officials;

168 (b) Notify any applicable school district failing to
169 meet accreditation standards that it is on probation until
170 corrective actions are taken or until the deficiencies have been
171 removed. The local school district shall develop a corrective
172 action plan to improve its deficiencies. For district academic



173 deficiencies, the corrective action plan for each such school
174 district shall be based upon a complete analysis of the following:
175 student test data, student grades, student attendance reports,
176 student dropout data, existence and other relevant data. The
177 corrective action plan shall describe the specific measures to be
178 taken by the particular school district and school to improve:
179 (i) instruction; (ii) curriculum; (iii) professional development;
180 (iv) personnel and classroom organization; (v) student incentives
181 for performance; (vi) process deficiencies; and (vii) reporting to
182 the local school board, parents and the community. The corrective
183 action plan shall describe the specific individuals responsible
184 for implementing each component of the recommendation and how each
185 will be evaluated. All corrective action plans shall be provided
186 to the State Board of Education as may be required. The decision
187 of the State Board of Education establishing the probationary
188 period of time shall be final;

189 (c) Offer, during the probationary period, technical
190 assistance to the school district in making corrective actions.
191 Beginning July 1, 1998, subject to the availability of funds, the
192 State Department of Education shall provide technical and/or
193 financial assistance to all such school districts in order to
194 implement each measure identified in that district's corrective
195 action plan through professional development and on-site
196 assistance. Each such school district shall apply for and utilize
197 all available federal funding in order to support its corrective
198 action plan in addition to state funds made available under this
199 paragraph;

200 (d) Assign department personnel or contract, in its
201 discretion, with the institutions of higher learning or other
202 appropriate private entities with experience in the academic,
203 finance and other operational functions of schools to assist
204 school districts;



205 (e) Provide for publication of public notice at least
206 one (1) time during the probationary period, in a newspaper
207 published within the jurisdiction of the school district failing
208 to meet accreditation standards, or if no newspaper is published
209 therein, then in a newspaper having a general circulation therein.
210 The publication shall include the following: declaration of
211 school system's status as being on probation; all details relating
212 to the impairment report, and other information as the State Board
213 of Education deems appropriate. Public notices issued under this
214 section shall be subject to Section 13-3-31 and not contrary to
215 other laws regarding newspaper publication.

216 (11) (a) If the recommendations for corrective action are
217 not taken by the local school district or if the deficiencies are
218 not removed by the end of the probationary period, the Commission
219 on School Accreditation shall conduct a hearing to allow such
220 affected school district to present evidence or other reasons why
221 its accreditation should not be withdrawn. Subsequent to its
222 consideration of the results of such hearing, the Commission on
223 School Accreditation shall be authorized, with the approval of the
224 State Board of Education, to withdraw the accreditation of a
225 public school district, and issue a request to the Governor that a
226 state of emergency be declared in that district.

227 (b) If the State Board of Education and the Commission
228 on School Accreditation determine that an extreme emergency
229 situation exists in a school district which jeopardizes the
230 safety, security or educational interests of the children enrolled
231 in the schools in that district and such emergency situation is
232 believed to be related to a serious violation or violations of
233 accreditation standards or state or federal law, or when a school
234 district meets the State Board of Education's definition of an
235 underperforming school district for two (2) consecutive full
236 school years, the State Board of Education may request the
237 Governor to declare a state of emergency in that school district.



238 For purposes of this paragraph, such declarations of a state of
239 emergency shall not be limited to those instances when a school
240 district's impairments are related to a lack of financial
241 resources, but also shall include serious failure to meet minimum
242 academic standards, as evidenced by a continued pattern of poor
243 student performance.

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

248 (i) Declare a state of emergency, under which some
249 or all of state funds can be escrowed except as otherwise provided
250 in Section 206, Constitution of 1890, until the board determines
251 corrective actions are being taken or the deficiencies have been
252 removed, or that the needs of students warrant the release of
253 funds. Such funds may be released from escrow for any program
254 which the board determines to have been restored to standard even
255 though the state of emergency may not as yet be terminated for the
256 district as a whole;

257 (ii) Override any decision of the local school
258 board or superintendent of education, or both, concerning the
259 management and operation of the school district, or initiate and
260 make decisions concerning the management and operation of the
261 school district;

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

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



271 (v) For states of emergency declared under
272 paragraph (a) only, if the accreditation deficiencies are related
273 to the fact that the school district is too small, with too few
274 resources, to meet the required standards and if another school
275 district is willing to accept those students, abolish that
276 district and assign that territory to another school district or
277 districts. If the school district has proposed a voluntary
278 consolidation with another school district or districts, then if
279 the State Board of Education finds that it is in the best interest
280 of the pupils of the district for such consolidation to proceed,
281 the voluntary consolidation shall have priority over any such
282 assignment of territory by the State Board of Education;

283 (vi) For states of emergency declared under
284 paragraph (b) only, reduce local supplements paid to school
285 district employees, including, but not limited to, instructional
286 personnel, assistant teachers and extracurricular activities
287 personnel, if the district's impairment is related to a lack of
288 financial resources, but only to an extent which will result in
289 the salaries being comparable to districts similarly situated, as
290 determined by the State Board of Education;

291 (vii) For states of emergency declared under
292 paragraph (b) only, the State Board of Education may take such
293 action as prescribed in Section 37-17-13.

294 (d) At such time as satisfactory corrective action has
295 been taken in a school district in which a state of emergency has
296 been declared, the State Board of Education may request the
297 Governor to declare that the state of emergency no longer exists
298 in the district.

299 (e) Not later than July 1 of each year, the State
300 Department of Education shall develop an itemized accounting of
301 the expenditures associated with the management of the conservator
302 process with regard to each school district in which a conservator
303 has been appointed, and an assessment as to the extent to which



304 the conservator has achieved, or failed to achieve, the goals for
305 which the conservator was appointed to guide the local school
306 district.

307 (f) There is hereby established a Mississippi Recovery
308 School District within the State Department of Education under the
309 management and supervision of a Deputy Superintendent who is
310 appointed by the State Superintendent of Education. The
311 Mississippi Recovery School District shall provide leadership,
312 management and oversight of all school districts that are subject
313 to state conservatorship, as defined in Article 37, Chapters 17
314 and 18, Mississippi Code of 1972, and shall have all the authority
315 granted under these two (2) chapters. The Mississippi Department
316 of Education, with the approval of the State Board of Education,
317 shall develop policies for the operation and management of the
318 Mississippi Recovery School District. The Deputy State
319 Superintendent responsible for the Mississippi Recovery School
320 District shall be authorized to oversee the administration of the
321 Mississippi Recovery School District, supervise conservators
322 assigned by the State Board of Education to a local school
323 district, hear appeals from school districts under conservatorship
324 that would normally be filed by students, parents or employees and
325 heard by a local school board, and perform other related duties as
326 assigned by the State Superintendent of Education.

327 (12) Upon the declaration of a state of emergency in a
328 school district under subsection (11) of this section, the
329 Commission on School Accreditation shall be responsible for public
330 notice at least once a week for at least three (3) consecutive
331 weeks in a newspaper published within the jurisdiction of the
332 school district failing to meet accreditation standards, or if no
333 newspaper is published therein, then in a newspaper having a
334 general circulation therein. The size of such notice shall be no
335 smaller than one-fourth (1/4) of a standard newspaper page and
336 shall be printed in bold print. If a conservator has been



337 appointed for the school district, such notice shall begin as
338 follows: "By authority of Section 37-17-6, Mississippi Code of
339 1972, as amended, adopted by the Mississippi Legislature during
340 the 1991 Regular Session, this school district (name of school
341 district) is hereby placed under the jurisdiction of the State
342 Department of Education acting through its appointed conservator
343 (name of conservator)."

344 The notice also shall include, in the discretion of the State
345 Board of Education, any or all details relating to the school
346 district's emergency status, including the declaration of a state
347 of emergency in the school district and a description of the
348 district's impairment deficiencies, conditions of any
349 conservatorship and corrective actions recommended and being
350 taken. Public notices issued under this section shall be subject
351 to Section 13-3-31 and not contrary to other laws regarding
352 newspaper publication.

353 Upon termination of the state of emergency in a school
354 district, the Commission on School Accreditation shall cause
355 notice to be published in the school district in the same manner
356 provided in this section, to include any or all details relating
357 to the corrective action taken in the school district which
358 resulted in the termination of the state of emergency.

359 (13) The State Board of Education or the Commission on
360 School Accreditation shall have the authority to require school
361 districts to produce the necessary reports, correspondence,
362 financial statements, and any other documents and information
363 necessary to fulfill the requirements of this section.

364 Nothing in this section shall be construed to grant any
365 individual, corporation, board or conservator the authority to
366 levy taxes except in accordance with presently existing statutory
367 provisions.

368 (14) (a) Whenever the Governor declares a state of
369 emergency in a school district in response to a request made under



370 subsection (11) of this section, the State Board of Education, in
371 its discretion, may assign an interim conservator to the school
372 district, or in its discretion, may contract with an appropriate
373 private entity with experience in the academic, finance and other
374 operational functions of schools and school districts, who will be
375 responsible for the administration, management and operation of
376 the school district, including, but not limited to, the following
377 activities:

378 (i) Approving or disapproving all financial
379 obligations of the district, including, but not limited to, the
380 employment, termination, nonrenewal and reassignment of all
381 licensed and nonlicensed personnel, contractual agreements and
382 purchase orders, and approving or disapproving all claim dockets
383 and the issuance of checks; in approving or disapproving
384 employment contracts of superintendents, assistant superintendents
385 or principals, the interim conservator shall not be required to
386 comply with the time limitations prescribed in Sections 37-9-15
387 and 37-9-105;

388 (ii) Supervising the day-to-day activities of the
389 district's staff, including reassigning the duties and
390 responsibilities of personnel in a manner which, in the
391 determination of the conservator, will best suit the needs of the
392 district;

393 (iii) Reviewing the district's total financial
394 obligations and operations and making recommendations to the
395 district for cost savings, including, but not limited to,
396 reassigning the duties and responsibilities of staff;

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

399 (v) Approving or disapproving all athletic, band
400 and other extracurricular activities and any matters related to
401 those activities;



402 (vi) Maintaining a detailed account of
403 recommendations made to the district and actions taken in response
404 to those recommendations;

405 (vii) Reporting periodically to the State Board of
406 Education on the progress or lack of progress being made in the
407 district to improve the district's impairments during the state of
408 emergency; and

409 (viii) Appointing a parent advisory committee,
410 comprised of parents of students in the school district, which may
411 make recommendations to the conservator concerning the
412 administration, management and operation of the school district.

413 Except when, in the determination of the State Board of
414 Education, the school district's impairment is related to a lack
415 of financial resources, the cost of the salary of the conservator
416 and any other actual and necessary costs related to the
417 conservatorship paid by the State Department of Education shall be
418 reimbursed by the local school district from funds other than
419 adequate education program funds. The department shall submit an
420 itemized statement to the superintendent of the local school
421 district for reimbursement purposes, and any unpaid balance may be
422 withheld from the district's adequate education program funds.

423 At such time as the Governor, pursuant to the request of the
424 State Board of Education, declares that the state of emergency no
425 longer exists in a school district, the powers and
426 responsibilities of the interim conservator assigned to such
427 district shall cease.

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



435 Assistance Fund for any one (1) emergency shall be Two Million
436 Dollars (\$2,000,000.00), and the maximum amount that may be
437 appropriated during any fiscal year shall be Three Million Dollars
438 (\$3,000,000.00).

439 The State Board of Education may loan monies from the School
440 District Emergency Assistance Fund to a school district that is
441 under a state of emergency in such amounts, as determined by the
442 board, which are necessary to correct the district's impairments
443 related to a lack of financial resources. The loans shall be
444 evidenced by an agreement between the school district and the
445 State Board of Education and shall be repayable in principal,
446 without necessity of interest, to the State General Fund or the
447 Education Enhancement Fund, depending on the source of funding for
448 such loan, by the school district from any allowable funds that
449 are available. The total amount loaned to the district shall be
450 due and payable within five (5) years after the impairments
451 related to a lack of financial resources are corrected. If a
452 school district fails to make payments on the loan in accordance
453 with the terms of the agreement between the district and the State
454 Board of Education, the State Department of Education, in
455 accordance with rules and regulations established by the State
456 Board of Education, may withhold that district's adequate
457 education program funds in an amount and manner that will
458 effectuate repayment consistent with the terms of the agreement;
459 such funds withheld by the department shall be deposited into the
460 State General Fund or the Education Enhancement Fund, as the case
461 may be.

462 The State Board of Education shall develop a protocol that
463 will outline the performance standards and requisite time line
464 deemed necessary for extreme emergency measures. If the State
465 Board of Education determines that an extreme emergency exists,
466 simultaneous with the powers exercised in this subsection, it
467 shall take immediate action against all parties responsible for



468 the affected school districts having been determined to be in an
469 extreme emergency. Such action shall include, but not be limited
470 to, initiating civil actions to recover funds and criminal actions
471 to account for criminal activity. Any funds recovered by the
472 State Auditor or the State Board of Education from the surety
473 bonds of school officials or from any civil action brought under
474 this subsection shall be applied toward the repayment of any loan
475 made to a school district hereunder.

476 (15) In the event a majority of the membership of the school
477 board of any school district resigns from office, the State Board
478 of Education shall be authorized to assign an interim conservator,
479 who shall be responsible for the administration, management and
480 operation of the school district until such time as new board
481 members are selected or the Governor declares a state of emergency
482 in that school district under subsection (11), whichever occurs
483 first. In such case, the State Board of Education, acting through
484 the interim conservator, shall have all powers which were held by
485 the previously existing school board, and may take such action as
486 prescribed in Section 37-17-13 and/or one or more of the actions
487 authorized in this section.

488 (16) (a) If the Governor declares a state of emergency in a
489 school district, the State Board of Education may take all such
490 action pertaining to that school district as is authorized under
491 subsection (11) or (14) of Section 37-17-6, including the
492 appointment of an interim conservator. The State Board of
493 Education shall also have the authority to issue a written request
494 with documentation to the Governor asking that the office of the
495 superintendent of such school district be subject to recall. If
496 the Governor declares that the office of the superintendent of
497 such school district is subject to recall, the local school board
498 or the county election commission, as the case may be, shall take
499 the following action:



500 (i) If the office of superintendent is an elected
501 office, in those years in which there is no general election, the
502 name shall be submitted by the State Board of Education to the
503 county election commission, and the county election commission
504 shall submit the question at a special election to the voters
505 eligible to vote for the office of superintendent within the
506 county, and such special election shall be held within sixty (60)
507 days from notification by the State Board of Education. The
508 ballot shall read substantially as follows:

509 "Shall County Superintendent of Education _____ (here the
510 name of the superintendent shall be inserted) of the _____
511 (here the title of the school district shall be inserted) be
512 retained in office? Yes _____ No _____"

513 If a majority of those voting on the question votes against
514 retaining the superintendent in office, a vacancy shall exist
515 which shall be filled in the manner provided by law; otherwise,
516 the superintendent shall remain in office for the term of such
517 office, and at the expiration of such term shall be eligible for
518 qualification and election to another term or terms.

519 (ii) If the office of superintendent is an
520 appointive office, the name of the superintendent shall be
521 submitted by the president of the local school board at the next
522 regular meeting of the school board for retention in office or
523 dismissal from office. If a majority of the school board voting
524 on the question vote against retaining the superintendent in
525 office, a vacancy shall exist which shall be filled as provided by
526 law, otherwise the superintendent shall remain in office for the
527 duration of his employment contract.

528 (b) The State Board of Education may issue a written
529 request with documentation to the Governor asking that the
530 membership of the school board of such school district shall be
531 subject to recall. Whenever the Governor declares that the
532 membership of the school board is subject to recall, the county



533 election commission or the local governing authorities, as the
534 case may be, shall take the following action:

535 (i) If the members of the local school board are
536 elected to office, in those years in which the specific member's
537 office is not up for election, the name of the school board member
538 shall be submitted by the State Board of Education to the county
539 election commission, and the county election commission at a
540 special election shall submit the question to the voters eligible
541 to vote for the particular member's office within the county or
542 school district, as the case may be, and such special election
543 shall be held within sixty (60) days from notification by the
544 State Board of Education. The ballot shall read substantially as
545 follows:

546 "Members of the _____ (here the title of the school
547 district shall be inserted) School Board who are not up for
548 election this year are subject to recall because of the school
549 district's failure to meet critical accountability standards as
550 defined in the letter of notification to the Governor from the
551 State Board of Education. Shall the member of the school board
552 representing this area, _____ (here the name of the school
553 board member holding the office shall be inserted), be retained in
554 office? Yes _____ No _____"

555 If a majority of those voting on the question vote against
556 retaining the member of the school board in office, a vacancy in
557 that board member's office shall exist which shall be filled in
558 the manner provided by law; otherwise, the school board member
559 shall remain in office for the term of such office, and at the
560 expiration of the term of office, the member shall be eligible for
561 qualification and election to another term or terms of office.
562 However, if a majority of the school board members are recalled in
563 the special election, the Governor shall authorize the board of
564 supervisors of the county in which the school district is situated
565 to appoint members to fill the offices of the members recalled.



566 The board of supervisors shall make such appointments in the
567 manner provided by law for filling vacancies on the school board,
568 and the appointed members shall serve until the office is filled
569 at the next regular special election or general election.

570 (ii) If the local school board is an appointed
571 school board, the name of all school board members shall be
572 submitted as a collective board by the president of the municipal
573 or county governing authority, as the case may be, at the next
574 regular meeting of the governing authority for retention in office
575 or dismissal from office. If a majority of the governing
576 authority voting on the question vote against retaining the board
577 in office, a vacancy shall exist in each school board member's
578 office, which shall be filled as provided by law; otherwise, the
579 members of the appointed school board shall remain in office for
580 the duration of their term of appointment, and such members may be
581 reappointed.

582 (iii) If the local school board is comprised of
583 both elected and appointed members, the elected members shall be
584 subject to recall in the manner provided in subparagraph (i) of
585 this subsection, and the appointed members shall be subject to
586 recall in the manner provided in subparagraph (ii).

587 (17) Beginning with the school district audits conducted for
588 the 1997-1998 fiscal year, the State Board of Education, acting
589 through the Commission on School Accreditation, shall require each
590 school district to comply with standards established by the State
591 Department of Audit for the verification of fixed assets and the
592 auditing of fixed assets records as a minimum requirement for
593 accreditation.

594 (18) Before December 1, 1999, the State Board of Education
595 shall recommend a program to the Education Committees of the House
596 of Representatives and the Senate for identifying and rewarding
597 public schools that improve or are high performing. The program
598 shall be described by the board in a written report, which shall



599 include criteria and a process through which improving schools and
600 high-performing schools will be identified and rewarded.

601 The State Superintendent of Education and the State Board of
602 Education also shall develop a comprehensive accountability plan
603 to ensure that local school boards, superintendents, principals
604 and teachers are held accountable for student achievement. A
605 written report on the accountability plan shall be submitted to
606 the Education Committees of both houses of the Legislature before
607 December 1, 1999, with any necessary legislative recommendations.

608 (19) Before January 1, 2008, the State Board of Education
609 shall evaluate and submit a recommendation to the Education
610 Committees of the House of Representatives and the Senate on
611 inclusion of graduation rate and dropout rate in the school level
612 accountability system.

613 **SECTION 3.** Section 7-7-211, Mississippi Code of 1972, is
614 amended as follows:

615 7-7-211. The department shall have the power and it shall be
616 its duty:

617 (a) To identify and define for all public offices of
618 the state and its subdivisions generally accepted accounting
619 principles as promulgated by nationally recognized professional
620 organizations and to consult with the State Fiscal Officer in the
621 prescription and implementation of accounting rules and
622 regulations;

623 (b) To provide best practices, for all public offices
624 of regional and local subdivisions of the state, systems of
625 accounting, budgeting and reporting financial facts relating to
626 said offices in conformity with legal requirements and with
627 generally accepted accounting principles as promulgated by
628 nationally recognized professional organizations; to assist such
629 subdivisions in need of assistance in the installation of such
630 systems; to revise such systems when deemed necessary, and to
631 report to the Legislature at periodic times the extent to which



632 each office is maintaining such systems, along with such
633 recommendations to the Legislature for improvement as seem
634 desirable;

635 (c) To study and analyze existing managerial policies,
636 methods, procedures, duties and services of the various state
637 departments and institutions upon written request of the Governor,
638 the Legislature or any committee or other body empowered by the
639 Legislature to make such request to determine whether and where
640 operations can be eliminated, combined, simplified and improved;

641 (d) To postaudit each year and, when deemed necessary,
642 preaudit and investigate the financial affairs of the departments,
643 institutions, boards, commissions or other agencies of state
644 government, as part of the publication of a comprehensive annual
645 financial report for the State of Mississippi. In complying with
646 the requirements of this subsection, the department shall have the
647 authority to conduct all necessary audit procedures on an interim
648 and year-end basis;

649 (e) To postaudit and, when deemed necessary, preaudit
650 and investigate separately the financial affairs of (i) the
651 offices, boards and commissions of county governments and any
652 departments and institutions thereof and therein; (ii) public
653 school districts, departments of education and junior college
654 districts; and (iii) any other local offices or agencies which
655 share revenues derived from taxes or fees imposed by the State
656 Legislature or receive grants from revenues collected by
657 governmental divisions of the state; the cost of such audits,
658 investigations or other services to be paid as follows: Such part
659 shall be paid by the state from appropriations made by the
660 Legislature for the operation of the State Department of Audit as
661 may exceed the sum of Thirty Dollars (\$30.00) per man hour for the
662 services of each staff person engaged in performing the audit or
663 other service, which sum shall be paid by the county, district,
664 department, institution or other agency audited out of its general



665 fund or any other available funds from which such payment is not
666 prohibited by law;

667 Each school district in the state shall have its financial
668 records audited annually, at the end of each fiscal year, either
669 by the State Auditor or by a certified public accountant approved
670 by the State Auditor, except that, beginning with audits of fiscal
671 year 2010 activity, the State Auditor shall conduct the audit of
672 each school district at least once every four (4) years. If
673 financial and personnel resources are not made available to the
674 State Auditor for the purpose of ensuring that school districts
675 are audited by the State Auditor at least once every four (4)
676 years then, beginning with the audits of fiscal year 2010
677 activity, no certified public accountant shall be selected to
678 perform the annual audit of a school district who has audited that
679 district for three (3) or more consecutive years previously.
680 Certified public accountants shall be selected in a manner
681 determined by the State Auditor. The school district shall have
682 the responsibility to pay for said audit including the review
683 performed by the State Auditor for audits performed by certified
684 public accountants;

685 (f) To postaudit and, when deemed necessary, preaudit
686 and investigate the financial affairs of the levee boards;
687 agencies created by the Legislature or by executive order of the
688 Governor; profit or nonprofit business entities administering
689 programs financed by funds flowing through the State Treasury or
690 through any of the agencies of the state, or its subdivisions; and
691 all other public bodies supported by funds derived in part or
692 wholly from public funds, except municipalities which annually
693 submit an audit prepared by a qualified certified public
694 accountant using methods and procedures prescribed by the
695 department;

696 (g) To make written demand, when necessary, for the
697 recovery of any amounts representing public funds improperly



698 withheld, misappropriated and/or otherwise illegally expended by
699 an officer, employee or administrative body of any state, county
700 or other public office, and/or for the recovery of the value of
701 any public property disposed of in an unlawful manner by a public
702 officer, employee or administrative body, such demands to be made
703 (i) upon the person or persons liable for such amounts and upon
704 the surety on official bond thereof, and/or (ii) upon any
705 individual, partnership, corporation or association to whom the
706 illegal expenditure was made or with whom the unlawful disposition
707 of public property was made, if such individual, partnership,
708 corporation or association knew or had reason to know through the
709 exercising of reasonable diligence that the expenditure was
710 illegal or the disposition unlawful. Such demand shall be
711 premised on competent evidence, which shall include at least one
712 (1) of the following: (i) sworn statements, (ii) written
713 documentation, (iii) physical evidence, or (iv) reports and
714 findings of government or other law enforcement agencies. Other
715 provisions notwithstanding, a demand letter issued pursuant to
716 this subsection shall remain confidential by the State Auditor
717 until the individual against whom the demand letter is being filed
718 has been served with a copy of such demand letter. If, however,
719 such individual cannot be notified within fifteen (15) days using
720 reasonable means and due diligence, such notification shall be
721 made to the individual's bonding company, if he or she is bonded.
722 Each such demand shall be paid into the proper treasury of the
723 state, county or other public body through the office of the
724 department in the amount demanded within thirty (30) days from the
725 date thereof, together with interest thereon in the sum of one
726 percent (1%) per month from the date such amount or amounts were
727 improperly withheld, misappropriated and/or otherwise illegally
728 expended. In the event, however, such person or persons or such
729 surety shall refuse, neglect or otherwise fail to pay the amount
730 demanded and the interest due thereon within the allotted thirty



731 (30) days, the State Auditor shall have the authority and it shall
732 be his duty to institute suit, and the Attorney General shall
733 prosecute the same in any court of the state to the end that there
734 shall be recovered the total of such amounts from the person or
735 persons and surety on official bond named therein; and the amounts
736 so recovered shall be paid into the proper treasury of the state,
737 county or other public body through the State Auditor. In any
738 case where written demand is issued to a surety on the official
739 bond of such person or persons and the surety refuses, neglects or
740 otherwise fails within one hundred twenty (120) days to either pay
741 the amount demanded and the interest due thereon or to give the
742 State Auditor a written response with specific reasons for
743 nonpayment, then the surety shall be subject to a civil penalty in
744 an amount of twelve percent (12%) of the bond, not to exceed Ten
745 Thousand Dollars (\$10,000.00), to be deposited into the State
746 General Fund;

747 (h) To investigate any alleged or suspected violation
748 of the laws of the state by any officer or employee of the state,
749 county or other public office in the purchase, sale or the use of
750 any supplies, services, equipment or other property belonging
751 thereto; and in such investigation to do any and all things
752 necessary to procure evidence sufficient either to prove or
753 disprove the existence of such alleged or suspected violations.
754 The Department of Investigation of the State Department of Audit
755 may investigate, for the purpose of prosecution, any suspected
756 criminal violation of the provisions of this chapter. For the
757 purpose of administration and enforcement of this chapter, the
758 enforcement employees of the Department of Investigation of the
759 State Department of Audit have the powers of a law enforcement
760 officer of this state, and shall be empowered to make arrests and
761 to serve and execute search warrants and other valid legal process
762 anywhere within the State of Mississippi. All enforcement
763 employees of the Department of Investigation of the State



764 Department of Audit hired on or after July 1, 1993, shall be
765 required to complete the Law Enforcement Officers Training Program
766 and shall meet the standards of the program;

767 (i) To issue subpoenas, with the approval of, and
768 returnable to, a judge of a chancery or circuit court, in termtime
769 or in vacation, to examine the records, documents or other
770 evidence of persons, firms, corporations or any other entities
771 insofar as such records, documents or other evidence relate to
772 dealings with any state, county or other public entity. The
773 circuit or chancery judge must serve the county in which the
774 records, documents or other evidence is located; or where all or
775 part of the transaction or transactions occurred which are the
776 subject of the subpoena;

777 (j) In any instances in which the State Auditor is or
778 shall be authorized or required to examine or audit, whether
779 preaudit or postaudit, any books, ledgers, accounts or other
780 records of the affairs of any public hospital owned or owned and
781 operated by one or more political subdivisions or parts thereof or
782 any combination thereof, or any school district, including
783 activity funds thereof, it shall be sufficient compliance
784 therewith, in the discretion of the State Auditor, that such
785 examination or audit be made from the report of any audit or other
786 examination certified by a certified public accountant and
787 prepared by or under the supervision of such certified public
788 accountant. Such audits shall be made in accordance with
789 generally accepted standards of auditing, with the use of an audit
790 program prepared by the State Auditor, and final reports of such
791 audits shall conform to the format prescribed by the State
792 Auditor. All files, working papers, notes, correspondence and all
793 other data compiled during the course of the audit shall be
794 available, without cost, to the State Auditor for examination and
795 abstracting during the normal business hours of any business day.
796 The expense of such certified reports shall be borne by the



797 respective hospital, or any available school district funds other
798 than minimum program funds, subject to examination or audit. The
799 State Auditor shall not be bound by such certified reports and
800 may, in his or their discretion, conduct such examination or audit
801 from the books, ledgers, accounts or other records involved as may
802 be appropriate and authorized by law;

803 (k) The State Auditor shall have the authority to
804 contract with qualified public accounting firms to perform
805 selected audits required in paragraphs (d), (e) and (f) of this
806 section, if funds are made available for such contracts by the
807 Legislature, or if funds are available from the governmental
808 entity covered by paragraphs (d), (e) and (f). Such audits shall
809 be made in accordance with generally accepted standards of
810 auditing. All files, working papers, notes, correspondence and
811 all other data compiled during the course of the audit shall be
812 available, without cost, to the State Auditor for examination and
813 abstracting during the normal business hours of any business day;

814 (l) The State Auditor shall have the authority to
815 establish training courses and programs for the personnel of the
816 various state and local governmental entities under the
817 jurisdiction of the Office of the State Auditor. The training
818 courses and programs shall include, but not be limited to, topics
819 on internal control of funds, property and equipment control and
820 inventory, governmental accounting and financial reporting, and
821 internal auditing. The State Auditor is authorized to charge a
822 fee from the participants of these courses and programs, which fee
823 shall be deposited into the Department of Audit Special Fund.
824 State and local governmental entities are authorized to pay such
825 fee and any travel expenses out of their general funds or any
826 other available funds from which such payment is not prohibited by
827 law;

828 (m) Upon written request by the Governor or any member
829 of the State Legislature, the State Auditor may audit any state



830 funds and/or state and federal funds received by any nonprofit
831 corporation incorporated under the laws of this state;

832 (n) To conduct performance audits of personal or
833 professional service contracts by state agencies on a random
834 sampling basis, or upon request of the State Personal Service
835 Contract Review Board under Section 25-9-120(3).

836 **SECTION 4.** Section 37-9-18, Mississippi Code of 1972, is
837 amended as follows:

838 37-9-18. (1) The superintendent of schools shall furnish to
839 the school board a financial statement of receipts and
840 disbursements, by funds, on or before the last working day of the
841 following month covering the prior month. The school board shall
842 be authorized to investigate and audit all financial records of
843 the superintendent of schools at any and all times.

844 (2) The State Auditor * * * shall audit the financial
845 records of school districts in accordance with Section 7-7-211(e).
846 The State Auditor shall give reasonable notice to school districts
847 regarding the times during which he will perform such audits. In
848 any fiscal year in which the State Auditor is not scheduled to
849 perform an audit, the school board shall cause all the financial
850 records of the superintendent of schools to be audited in
851 accordance with Section 7-7-211(e). If the school board so elects
852 by resolution adopted each year, the audit shall be performed by
853 the State Auditor. Contracts for the audit of public school
854 districts shall be let by the school board in the manner
855 prescribed by the State Auditor. The audit shall be conducted in
856 accordance with generally accepted auditing standards and
857 generally accepted accounting principles, and the report presented
858 thereon shall be in accordance with generally accepted accounting
859 principles. If the Auditor's opinion on the general purpose
860 financial statements is a disclaimer, as that term is defined by
861 generally accepted auditing standards, or if the State Auditor
862 determines the existence of serious financial conditions in the



863 district, the State Auditor shall immediately notify the State
864 Board of Education. Upon receiving the notice, the State
865 Superintendent of Public Education shall direct the school
866 district to immediately cease all expenditures until a financial
867 advisor is appointed by the state superintendent. However, if the
868 disclaimer is a result of conditions caused by Hurricane Katrina
869 2005 and applies to fiscal years 2005 and/or 2006, then the
870 Superintendent of Education may appoint a financial advisor, and
871 may direct the school district to immediately cease all
872 expenditures until a financial advisor is appointed. The
873 financial advisor shall be an agent of the State Board of
874 Education and shall be a certified public accountant or a
875 qualified business officer. The financial advisor shall, with the
876 approval of the State Board of Education:

877 (a) Approve or disapprove all expenditures and all
878 financial obligations of the district;

879 (b) Ensure compliance with any statutes and State Board
880 of Education rules or regulations concerning expenditures by
881 school districts;

882 (c) Review salaries and the number of all district
883 personnel and make recommendations to the local school board of
884 any needed adjustments. Should such recommendations necessitate
885 the reduction in local salary supplement, such recommended
886 reductions shall be only to the extent which will result in the
887 salaries being comparable to districts similarly situated, as
888 determined by the State Board of Education. The local school
889 board, in considering either a reduction in personnel or a
890 reduction in local supplements, shall not be required to comply
891 with the time limitations prescribed in Sections 37-9-15 and
892 37-9-105 and, further, shall not be required to comply with
893 Sections 37-19-11 and 37-19-7(1) in regard to reducing local
894 supplements and the number of personnel;



895 (d) Work with the school district's business office to
896 correct all inappropriate accounting procedures and/or uses of
897 school district funds and to prepare the school district's budget
898 for the next fiscal year; * * *

899 (e) Report frequently to the State Board of Education
900 on the corrective actions being taken and the progress being made
901 in the school district. The financial advisor shall serve until
902 such time as corrective action and progress is being made in such
903 school district as determined by the State Board of Education with
904 the concurrence of the State Auditor, or until such time as an
905 interim conservator is assigned to such district by the State
906 Board of Education under Section 37-17-6. The school district
907 shall be responsible for all expenses associated with the use of
908 the financial advisor. If the audit report reflects a failure by
909 the school district to meet accreditation standards, the State
910 Board of Education shall proceed under Section 37-17-6; and

911 (f) If a financial advisor is appointed to a school
912 district in accordance with Section 37-9-18(2) and it is
913 determined that an audit by a certified public accountant for such
914 district was suspected to be negligent, there shall be an
915 automatic referral to the State Board of Public Accountancy.

916 (3) (a) When conducting an audit of a public school
917 district, the State Auditor shall test to insure that the school
918 district is complying with the requirements of Section
919 37-61-33(3) (a) (iii) relating to classroom supply funds. The audit
920 must include a report of all classroom supply funds carried over
921 from previous years. Based upon the audit report, the State
922 Auditor shall compile a report on the compliance or noncompliance
923 by all school districts with the requirements of Section
924 37-61-33(3) (a) (iii), which report must be submitted to the
925 Chairmen of the Education and Appropriations Committees of the
926 House of Representatives and Senate.



927 (b) When conducting an audit of a public school
928 district, the State Auditor shall test to insure correct and
929 appropriate coding at the function level. The audit must include
930 a report showing correct and appropriate functional level
931 expenditure codes in expenditures by the school district.
932 Compliance standards for this audit provision shall be established
933 by the Office of the State Auditor. Based upon the audit report,
934 the State Auditor shall compile a report on the compliance or
935 noncompliance by all public school districts with correct and
936 appropriate coding at the function level, which report must be
937 submitted to the Chairmen of the Education and Appropriations
938 Committees of the House of Representatives and Senate.

939 (4) In the event the State Auditor does not perform the
940 audit examination, then the audit report of the school district
941 shall be reviewed by the State Auditor for compliance with
942 applicable state laws before final payment is made on the audit by
943 the school board. All financial records, books, vouchers,
944 cancelled checks and other financial records required by law to be
945 kept and maintained in the case of municipalities shall be
946 faithfully kept and maintained in the office of the superintendent
947 of schools under the same provisions and penalties provided by law
948 in the case of municipal officials.

949 **SECTION 5.** Section 37-3-4, Mississippi Code of 1972, is
950 amended as follows:

951 37-3-4. (1) There is established within the State
952 Department of Education, the School Executive Management
953 Institute. The director shall be appointed by the State Board of
954 Education upon recommendation by the State Superintendent of
955 Public Education. The State Superintendent of Public Education,
956 with the approval of the State Board of Education, shall assign
957 sufficient staff members from the State Department of Education to
958 the institute.



959 (2) It shall be the purpose and duty of the institute to
960 conduct thorough empirical studies and analyses of the school
961 management needs of the local school districts throughout the
962 state, to make recommendations to the State Board of Education
963 regarding standards and programs of training that aid in the
964 development of administrative and management skills of local
965 school administrators, and to conduct such programs related to
966 these purposes as they are implemented under guidelines
967 established by the State Board of Education.

968 (3) The State Board of Education shall develop and implement
969 through the School Executive Management Institute a program for
970 the development of administrative and management skills of local
971 school administrators under which all local school administrators
972 shall be required to participate. Subject to the extent of
973 appropriations available for such purpose, the School Executive
974 Management Institute or the Mississippi School Boards Association
975 shall be required to offer courses at least twice a year on the
976 uses of technology to principals, superintendents and other
977 administrative personnel. These courses shall relate to the
978 application of technology to learning, as well as administrative
979 problems.

980 (4) (a) The institute shall have an advisory board composed
981 of ten (10) qualified members appointed by the State Board of
982 Education after consultation with the State Superintendent of
983 Public Education. This advisory board will offer recommendations
984 to the institute on the types of training to be instituted and
985 supported. The membership of the advisory board shall be composed
986 of the following members, two (2) to be appointed from each
987 congressional district: three (3) school administrators; one (1)
988 representative of public community/junior colleges within the
989 state; one (1) representative of a school of education in an
990 institution of higher learning within the state; two (2) local
991 school board members; one (1) classroom teacher; and two (2) lay



992 persons. In making the initial appointments, three (3) members
993 shall be appointed for a term of one (1) year, three (3) members
994 shall be appointed for a term of two (2) years, two (2) members
995 shall be appointed for a term of three (3) years, and two (2)
996 members shall be appointed for a term of four (4) years.
997 Thereafter, all members shall be appointed for a term of four (4)
998 years. The advisory board shall meet when called by the director,
999 but in no event fewer than three (3) times per year. The members
1000 of the advisory board shall be compensated at the per diem rate
1001 authorized by Section 25-3-69 and reimbursed for actual and
1002 necessary expenses as authorized by Section 25-3-41.

1003 (b) Board members of the Oxford-Lafayette Business and
1004 Industrial Complex shall be paid per diem and reimbursed for
1005 expenses and mileage from local funds in accordance with Section
1006 37-6-13.

1007 (5) (a) Basic Education Course. The Mississippi School
1008 Boards Association shall be responsible for preparing and
1009 conducting a course of training for basic education for the local
1010 school board members of this state, in order for board members to
1011 carry out their duties more effectively and be exposed to new
1012 ideas involving school restructuring. The basic course shall be
1013 known as the "School Board Member Training Course" and shall
1014 consist of at least twelve (12) hours of training. The
1015 Mississippi School Boards Association shall issue certificates of
1016 completion to those school board members who complete the basic
1017 education course.

1018 (b) Continuing Education Course. The Mississippi
1019 School Boards Association shall be responsible for preparing and
1020 conducting a course of training for continuing education for the
1021 local school board members of this state, in order for board
1022 members to carry out their duties more effectively and be exposed
1023 to new ideas involving school restructuring. The continuing
1024 education course shall be known as the "Continuing Education



1025 Course for School Board Members" and shall consist of at least six
1026 (6) hours of training.

1027 (c) Additional Required Training. Effective July 1,
1028 2008, local school board members and, effective July 1, 2009, the
1029 local superintendent that serve in a district with one or more
1030 underperforming schools as determined by the Mississippi Board of
1031 Education accountability system as provided for in Section
1032 37-17-6, or serving in a school district that has a serious
1033 financial condition as determined by the State Auditor as provided
1034 for in Section 37-9-18, shall annually attend additional training
1035 provided by the Mississippi School Boards Association.

1036 The Mississippi School Boards Association shall, subject to
1037 appropriation, develop and conduct training specific to the local
1038 boards' role in improving learning outcomes and effective
1039 financial management. Such training shall be known as "Improving
1040 Student Outcomes and Academic Success" which shall consist of not
1041 less than six (6) hours of training and "Effective Financial
1042 Management In Local School Districts" which shall consist of not
1043 less than six (6) hours of training. Any local board members and
1044 the local superintendent that serve in a school district that
1045 meets the criteria for both of the training modules shall annually
1046 attend both training sessions for a total of not less than twelve
1047 (12) hours of training. At such time the school district is
1048 determined to no longer have underperforming schools; or no longer
1049 has a serious financial condition, such board member and the local
1050 superintendent shall no longer be required to attend the training
1051 as provided herein. The training as required under subsection (c)
1052 shall not replace, but is in addition to, the training required
1053 for new school board members and continuing board members as
1054 required under Section 37-7-306.

1055 The Mississippi School Boards Association shall issue
1056 certificates of completion to those school board members who
1057 complete the continuing education course. All costs and expenses



1058 for preparing and conducting the basic education course and the
1059 continuing education course provided for in this paragraph shall
1060 be paid out of any funds which are made available to the
1061 Mississippi School Boards Association upon authorization and
1062 appropriation by the Legislature to the State Department of
1063 Education.

1064 (6) The Mississippi School Boards Association shall prepare
1065 and submit a report each year to the State Board of Education and
1066 to the respective Chairs of the House and Senate Education
1067 Committees describing the activities and providing an evaluation
1068 of the continuing education programs offered by the association
1069 each year.

1070 (7) The School Executive Management Institute of the State
1071 Department of Education, or the Mississippi School Boards
1072 Association with the oversight of the State Board of Education, at
1073 least twice a year, shall prepare and conduct required courses of
1074 training for continuing education for the elementary and secondary
1075 school principals of this state, in order for principals to carry
1076 out their duties more effectively and be exposed to new ideas
1077 involving school management. The continuing education course
1078 shall be known as the "Continuing Education Course for Principals"
1079 and shall consist of at least six (6) hours of training. The
1080 content of the continuing education courses and the time and place
1081 such courses are to be conducted shall be determined by the School
1082 Executive Management Institute or the Mississippi School Boards
1083 Association; however, to the extent practicable, such training
1084 sessions shall be held within geographical proximity of local
1085 districts in order that travel times and costs shall not be
1086 prohibitive.

1087 The institute shall issue certificates of completion to those
1088 principals who complete such courses. All costs and expenses for
1089 preparing and conducting the basic and continuing education
1090 courses provided for in this subsection shall be paid out of any



1091 funds which are made available to the institute upon authorization
1092 and appropriation by the Legislature.

1093 (8) Principals and other administrators with career level
1094 certifications at schools meeting the highest levels of
1095 accreditation standards as defined by the State Board of Education
1096 are exempt from the requirements of this section, subject to
1097 approval of the local superintendent.

1098 **SECTION 6.** Section 37-3-46, Mississippi Code of 1972, is
1099 amended as follows:

1100 37-3-46. (1) The State Department of Education, in regard
1101 to any district not meeting adequate performance of accreditation
1102 standards, as defined by the State Board of Education, shall,
1103 subject to appropriation:

1104 (a) Provide to local school districts financial,
1105 training and other assistance to implement and maintain a state
1106 program of educational accountability and assessment of
1107 performance.

1108 (b) Provide to local school districts technical
1109 assistance and training in the development, implementation and
1110 administration of a personnel appraisal and compensation system
1111 for all school employees.

1112 (c) Provide to local school districts technical
1113 assistance in the development, implementation and administration
1114 of programs designed to keep children in school voluntarily and to
1115 prevent dropouts.

1116 (2) Districts receiving assistance from the State Department
1117 of Education, as outlined in Section 37-3-46(1), shall be required
1118 to implement such training, programs and any other requirements as
1119 specified by the State Superintendent of Education.

1120 **SECTION 7.** Section 37-9-23, Mississippi Code of 1972, is
1121 amended as follows:

1122 37-9-23. The superintendent shall enter into a contract with
1123 each assistant superintendent, principal, licensed employee and



1124 person anticipating graduation from an approved teacher education
1125 program or the issuance of a proper license before October 15 or
1126 February 15, as the case may be, who is elected and approved for
1127 employment by the school board. Such contracts shall be in such
1128 form as shall be prescribed by the State Board of Education and
1129 shall be executed in duplicate with one (1) copy to be retained by
1130 the appropriate superintendent and one (1) copy to be retained by
1131 the principal, licensed employee or person recommended for a
1132 licensed position contracted with. The contract shall show the
1133 name of the district, the length of the school term, the position
1134 held (whether an assistant superintendent, principal or licensed
1135 employee), the scholastic years which it covers, the total amount
1136 of the annual salary and how same is payable. The amount of
1137 salary to be shown in such contract shall be the amount which
1138 shall have been fixed and determined by the school board, but, as
1139 to the licensed employees paid in whole or in part with minimum
1140 education program funds, such salary shall not be less than that
1141 required under the provisions of Chapter 19 of this title. The
1142 contract entered into with any person recommended for a licensed
1143 position who is anticipating either graduation from an approved
1144 teacher education program before September 1 or December 31, as
1145 the case may be, or the issuance of a proper license before
1146 October 15 or February 15, as the case may be, shall be a
1147 conditional contract and shall include a provision stating that
1148 the contract will be null and void if, as specified in the
1149 contract, the contingency upon which the contract is conditioned
1150 has not occurred. If any superintendent, other than those
1151 elected, principal, licensed employee or person recommended for a
1152 licensed position who has been elected and approved shall not
1153 execute and return the contract within ten (10) days after same
1154 has been tendered to him for execution, then, at the option of the
1155 school board, the election of the licensed employee and the
1156 contract tendered to him shall be void and of no effect. In the



1157 event the Governor declares a state of emergency as prescribed in
1158 Section 37-17-6(11) (b), upon such declaration, this contract shall
1159 be voided.

1160 **SECTION 8.** Section 37-9-59, Mississippi Code of 1972, is
1161 amended as follows:

1162 37-9-59. For incompetence, neglect of duty, immoral conduct,
1163 intemperance, brutal treatment of a pupil or other good cause the
1164 superintendent of schools may dismiss or suspend any licensed
1165 employee in any school district. Other good cause includes
1166 dismissal of all licensed employees in a school district taken
1167 over by the state as a result of the Governor declaring a state of
1168 emergency as prescribed in Section 37-17-6(11) (a) and (b). Before
1169 being so dismissed or suspended any licensed employee shall be
1170 notified of the charges against him and he shall be advised that
1171 he is entitled to a public hearing upon said charges. In the
1172 event the continued presence of said employee on school premises
1173 poses a potential threat or danger to the health, safety or
1174 general welfare of the students, or, in the discretion of the
1175 superintendent, may interfere with or cause a disruption of normal
1176 school operations, the superintendent may immediately release said
1177 employee of all duties pending a hearing if one is requested by
1178 the employee. In the event a licensed employee is arrested,
1179 indicted or otherwise charged with a felony by a recognized law
1180 enforcement official, the continued presence of the licensed
1181 employee on school premises shall be deemed to constitute a
1182 disruption of normal school operations. The school board, upon a
1183 request for a hearing by the person so suspended or removed shall
1184 set a date, time and place for such hearing which shall be not
1185 sooner than five (5) days nor later than thirty (30) days from the
1186 date of the request. The procedure for such hearing shall be as
1187 prescribed for hearings before the board or hearing officer in
1188 Section 37-9-111. From the decision made at said hearing, any
1189 licensed employee shall be allowed an appeal to the chancery court



1190 in the same manner as appeals are authorized in Section 37-9-113.
1191 Any party aggrieved by action of the chancery court may appeal to
1192 the Mississippi Supreme Court as provided by law. In the event
1193 that a licensed employee is immediately relieved of duties pending
1194 a hearing, as provided in this section, said employee shall be
1195 entitled to compensation for a period up to and including the date
1196 that the initial hearing is set by the school board, in the event
1197 that there is a request for such a hearing by the employee. In
1198 the event that an employee does not request a hearing within five
1199 (5) calendar days of the date of the notice of discharge or
1200 suspension, it shall constitute a waiver of all rights by said
1201 employee and such discharge or suspension shall be effective on
1202 the date set out in the notice to the employee.

1203 The school board of every school district in this state is
1204 hereby prohibited from denying employment or reemployment to any
1205 person as a superintendent, principal or licensed employee, as
1206 defined in Section 37-19-1, or as a noninstructional personnel, as
1207 defined in Section 37-9-1, for the single reason that any eligible
1208 child of such person does not attend the school system in which
1209 such superintendent, principal, licensed employee or
1210 noninstructional personnel is employed.

1211 **SECTION 9.** Section 37-9-103, Mississippi Code of 1972, is
1212 amended as follows:

1213 37-9-103. As used in Sections 37-9-101 through 37-9-113, the
1214 word "employee" shall include:

1215 (a) Any teacher, principal, superintendent or other
1216 professional personnel employed by the local school district for a
1217 continuous period of two (2) years with that district and required
1218 to have a valid license issued by the State Department of
1219 Education as a prerequisite of employment; or

1220 (b) Any teacher, principal, superintendent or other
1221 professional personnel who has completed a continuous period of
1222 two (2) years of employment in a Mississippi public school



1223 district and one (1) full year of employment with the school
1224 district of current employment, and who is required to have a
1225 valid license issued by the State Department of Education as a
1226 prerequisite of employment.

1227 The Education Employment Procedures Law shall not apply to
1228 any category of employee that is employed in any school district
1229 after the Governor declares a state of emergency under the
1230 provisions of Section 37-17-6(11). The Education Employment
1231 Procedures Law shall not be applicable in any school district for
1232 the full period of time that such conditions, as defined in
1233 Section 37-17-6(11), exist.

1234 For purposes of Sections 37-9-101 through 37-9-113, the term
1235 "days" means calendar days.

1236 **SECTION 10.** Section 37-18-5, Mississippi Code of 1972, is
1237 amended as follows:

1238 37-18-5. (1) Based on the findings of the evaluation report
1239 and the results of the public meeting, the State Department of
1240 Education and the evaluation team leader shall assist the school
1241 principal and other local school officials in the development of a
1242 school improvement plan to improve its deficiencies. A local
1243 parents/citizens advisory council shall be established by the
1244 evaluation team at the school in order to provide input and
1245 guidance into the development of the school improvement plan and
1246 its evaluation during the implementation period. Local
1247 parent-teacher associations and other community-based
1248 organizations shall have input in the selection of the
1249 parents/citizens advisory council. Where no active local
1250 parent-teacher group exists, the State Department of Education may
1251 request assistance from the Mississippi Parent-Teacher Association
1252 and other community-based organizations in the selection of the
1253 local parents/citizens advisory council. The local
1254 parents/citizens advisory council shall consist of representatives
1255 from each of the following local groups: (a) five (5)



1256 representatives of the local PTA, PTSA or other parent
1257 organization, (b) two (2) local elected officials or community
1258 activist, (c) two (2) students, (d) two (2) local business
1259 leaders. Persons who are employed by the local school district
1260 are not eligible for membership on the parents/citizens advisory
1261 council.

1262 (2) The school improvement plan shall be developed and
1263 approved by the principal of the School At-Risk, the
1264 superintendent of the local school district, the local school
1265 board and a majority of the teachers of the school, within a time
1266 period to be determined by the evaluation team. If the plan is
1267 not approved, the State Board of Education may approve and
1268 implement the plan in the school.

1269 (3) The State Department of Education shall provide
1270 technical assistance and shall assist in identifying funding to
1271 the School At-Risk in the implementation of the school improvement
1272 plan, including the implementation of any recommended professional
1273 development plan, and the department may contract with the
1274 institutions of higher learning to provide such technical
1275 assistance. The assistance team shall collaborate with school and
1276 school district employees in the implementation and monitoring of
1277 the school improvement plan and the State Department of Education
1278 shall ensure that a report is issued monthly to the local school
1279 board and the local parents/citizens advisory council.

1280 (4) A school district that has been designated as
1281 underperforming as defined by the State Board of Education shall
1282 also establish a community-based pre-kindergarten through higher
1283 education council comprised of a broad spectrum of the community,
1284 including economic developers, elected officials, civic leaders,
1285 business leaders, faith-based leaders, social services, nonprofit
1286 organizations, school attendance officers, law enforcement
1287 officials, health department officials, day care providers,
1288 librarians, parents and others with the knowledge and resources



1289 that can be leveraged to build strong communities. The State
1290 Board of Education shall develop procedures for appointments to
1291 the council which shall not be appointed solely by the school
1292 board. The council will serve as a community-led group that is
1293 inclusive, accountable and required to publicly report progress to
1294 the community as a whole.

1295 **SECTION 11.** This act shall take effect and be in force from
1296 and after July 1, 2009.

