

By: Senator(s) Tollison

To: Education

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2737

1 AN ACT RELATING TO LOW-PERFORMING SCHOOLS AND SCHOOL
2 DISTRICTS; TO AMEND SECTION 37-17-6, MISSISSIPPI CODE OF 1972, TO
3 PROVIDE THAT IF A LOCAL SCHOOL DISTRICT VIOLATES ACCREDITATION
4 STANDARDS DETERMINED TO BE THE BASIS FOR IMMEDIATE WITHDRAWAL OF
5 ACCREDITATION, THERE SHALL BE A SHOW CAUSE HEARING CONDUCTED BY
6 THE COMMISSION ON SCHOOL ACCREDITATION; TO AUTHORIZE THE PARENT OR
7 GUARDIAN OF A CHILD ENROLLED IN A SCHOOL DISTRICT WHOSE
8 ACCREDITATION HAS BEEN WITHDRAWN TO PETITION FOR A TRANSFER INTO
9 AN ACCREDITED SCHOOL DISTRICT AND TO PROVIDE FOR THE TRANSFER OF
10 STATE ADEQUATE PROGRAM FUNDS TO THE TRANSFEREE SCHOOL DISTRICT; TO
11 AUTHORIZE THE STATE BOARD OF EDUCATION TO ABOLISH A SCHOOL
12 DISTRICT AND ADMINISTRATIVELY CONSOLIDATE WITH ONE OR MORE
13 EXISTING SCHOOL DISTRICTS IN EMERGENCY SITUATIONS; TO AMEND
14 SECTION 37-17-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A
15 BOARD MEMBER OR SUPERINTENDENT IN OFFICE AT THE TIME THE GOVERNOR
16 DECLARES A STATE OF EMERGENCY IN A SCHOOL DISTRICT SHALL NOT BE
17 ELIGIBLE TO SERVE IN THAT OFFICE IN SUCH SCHOOL DISTRICT AND TO
18 PROVIDE THAT THE NEW SUPERINTENDENT IN SUCH SCHOOL DISTRICT SHALL
19 BE APPOINTED; TO AMEND SECTION 37-5-71, MISSISSIPPI CODE OF 1972,
20 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

24 37-17-6. (1) The State Board of Education, acting through
25 the Commission on School Accreditation, shall establish and
26 implement a permanent performance-based accreditation system, and
27 all public elementary and secondary schools shall be accredited
28 under this system.

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



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

38 Number of Students	Number of Certified
39 Per School Library	School Librarians
40 0 - 499 Students	1/2 Full-time Equivalent 41 Certified Librarian
42 500 or More Students	1 Full-time Certified 43 Librarian

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

46 (c) The assignment of certified school librarians to
47 the particular schools shall be at the discretion of the local
48 school district. No individual shall be employed as a certified
49 school librarian without appropriate training and certification as
50 a school librarian by the State Department of Education.

51 (d) School librarians in the district shall spend at
52 least fifty percent (50%) of direct work time in a school library
53 and shall devote no more than one-fourth (1/4) of the workday to
54 administrative activities that are library related.

55 (e) Nothing in this subsection shall prohibit any
56 school district from employing more certified school librarians
57 than are provided for in this section.

58 (f) Any additional millage levied to fund school
59 librarians required for accreditation under this subsection shall
60 be included in the tax increase limitation set forth in Sections
61 37-57-105 and 37-57-107 and shall not be deemed a new program for
62 purposes of the limitation.

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



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

69 (b) Strong accountability for results with appropriate
70 local flexibility for local implementation;

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

73 (d) Individual schools shall be held accountable for
74 student growth and performance;

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

78 (f) A determination of which schools exceed their
79 standards and a plan for providing recognition and rewards to
80 those schools;

81 (g) A determination of which schools are failing to
82 meet their standards and a determination of the appropriate role
83 of the State Board of Education and the State Department of
84 Education in providing assistance and initiating possible
85 intervention. A failing district is a district that fails to meet
86 both the absolute student achievement standards and the rate of
87 annual growth expectation standards as set by the State Board of
88 Education for two (2) consecutive years. The State Board of
89 Education shall establish the level of benchmarks by which
90 absolute student achievement and growth expectations shall be
91 assessed. In setting the benchmarks for school districts, the
92 State Board of Education may also take into account such factors
93 as graduation rates, dropout rates, completion rates, the extent
94 to which the school or district employs qualified teachers in
95 every classroom, and any other factors deemed appropriate by the
96 State Board of Education;

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



99 (i) The State Board of Education may, based on a
100 written request that contains specific reasons for requesting a
101 waiver from the school districts affected by Hurricane Katrina of
102 2005, hold harmless school districts from assignment of district
103 and school level accountability ratings for the 2005-2006 school
104 year. The State Board of Education upon finding an extreme
105 hardship in the school district may grant the request. It is the
106 intent of the Legislature that all school districts maintain the
107 highest possible academic standards and instructional programs in
108 all schools as required by law and the State Board of Education.

109 The State Board of Education may continue to assign school
110 district performance levels by using a number classification and
111 may assign individual school performance levels by using a number
112 classification to be consistent with school district performance
113 levels.

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

117 (6) The State Board of Education shall create an
118 accreditation audit unit under the Commission on School
119 Accreditation to determine whether schools are complying with
120 accreditation standards.

121 (7) The State Board of Education shall be specifically
122 authorized and empowered to withhold adequate education program
123 fund allocations, whichever is applicable, to any public school
124 district for failure to timely report student, school personnel
125 and fiscal data necessary to meet state and/or federal
126 requirements.

127 (8) Deleted.

128 (9) The State Board of Education shall establish, for those
129 school districts failing to meet accreditation standards, a
130 program of development to be complied with in order to receive
131 state funds, except as otherwise provided in subsection (14) of



132 this section when the Governor has declared a state of emergency
133 in a school district or as otherwise provided in Section 206,
134 Mississippi Constitution of 1890. The state board, in
135 establishing these standards, shall provide for notice to schools
136 and sufficient time and aid to enable schools to attempt to meet
137 these standards, unless procedures under subsection (14) of this
138 section have been invoked.

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

142 (a) Develop an impairment report for each district
143 failing to meet accreditation standards in conjunction with school
144 district officials;

145 (b) Notify any applicable school district failing to
146 meet accreditation standards that it is on probation until
147 corrective actions are taken or until the deficiencies have been
148 removed. The local school district shall develop a corrective
149 action plan to improve its deficiencies. For district academic
150 deficiencies, the corrective action plan for each such school
151 district shall be based upon a complete analysis of the following:

152 student test data, student grades, student attendance reports,
153 student dropout data, existence and other relevant data. The
154 corrective action plan shall describe the specific measures to be
155 taken by the particular school district and school to improve:

156 (i) instruction; (ii) curriculum; (iii) professional development;
157 (iv) personnel and classroom organization; (v) student incentives
158 for performance; (vi) process deficiencies; and (vii) reporting to
159 the local school board, parents and the community. The corrective
160 action plan shall describe the specific individuals responsible
161 for implementing each component of the recommendation and how each
162 will be evaluated. All corrective action plans shall be provided
163 to the State Board of Education as may be required. The decision



164 of the State Board of Education establishing the probationary
165 period of time shall be final;

166 (c) Offer, during the probationary period, technical
167 assistance to the school district in making corrective actions.
168 Beginning July 1, 1998, subject to the availability of funds, the
169 State Department of Education shall provide technical and/or
170 financial assistance to all such school districts in order to
171 implement each measure identified in that district's corrective
172 action plan through professional development and on-site
173 assistance. Each such school district shall apply for and utilize
174 all available federal funding in order to support its corrective
175 action plan in addition to state funds made available under this
176 paragraph;

177 (d) Assign department personnel or contract, in its
178 discretion, with the institutions of higher learning or other
179 appropriate private entities with experience in the academic,
180 finance and other operational functions of schools to assist
181 school districts;

182 (e) Provide for publication of public notice at least
183 one time during the probationary period, in a newspaper published
184 within the jurisdiction of the school district failing to meet
185 accreditation standards, or if no newspaper is published therein,
186 then in a newspaper having a general circulation therein. The
187 publication shall include the following: declaration of school
188 system's status as being on probation; all details relating to the
189 impairment report; and other information as the State Board of
190 Education deems appropriate. Public notices issued under this
191 section shall be subject to Section 13-3-31 and not contrary to
192 other laws regarding newspaper publication.

193 (11) (a) If the recommendations for corrective action are
194 not taken by the local school district or if the deficiencies are
195 not removed by the end of the probationary period, the Commission
196 on School Accreditation shall conduct a hearing to allow the



197 affected school district to present evidence or other reasons why
198 its accreditation should not be withdrawn. Additionally, if the
199 local school district violates accreditation standards that have
200 been determined by the policies and procedures of the State Board
201 of Education to be a basis for withdrawal of school district's
202 accreditation without a probationary period, the Commission on
203 School Accreditation shall conduct a hearing to allow the affected
204 school district to present evidence or other reasons why its
205 accreditation should not be withdrawn. After its consideration of
206 the results of the hearing, the Commission on School Accreditation
207 shall be authorized, with the approval of the State Board of
208 Education, to withdraw the accreditation of a public school
209 district, and issue a request to the Governor that a state of
210 emergency be declared in that district.

211 (b) If the State Board of Education and the Commission
212 on School Accreditation determine that an extreme emergency
213 situation exists in a school district that jeopardizes the safety,
214 security or educational interests of the children enrolled in the
215 schools in that district and that emergency situation is believed
216 to be related to a serious violation or violations of
217 accreditation standards or state or federal law, or when a school
218 district meets the State Board of Education's definition of a
219 failing school district for two (2) consecutive full school years,
220 or if more than fifty percent (50%) of the schools within the
221 school district are designated as Schools At-Risk in any one (1)
222 year, the State Board of Education may request the Governor to
223 declare a state of emergency in that school district. For
224 purposes of this paragraph, the declarations of a state of
225 emergency shall not be limited to those instances when a school
226 district's impairments are related to a lack of financial
227 resources, but also shall include serious failure to meet minimum
228 academic standards, as evidenced by a continued pattern of poor
229 student performance.



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

234 (i) Declare a state of emergency, under which some
235 or all of state funds can be escrowed except as otherwise provided
236 in Section 206, Constitution of 1890, until the board determines
237 corrective actions are being taken or the deficiencies have been
238 removed, or that the needs of students warrant the release of
239 funds. The funds may be released from escrow for any program
240 which the board determines to have been restored to standard even
241 though the state of emergency may not as yet be terminated for the
242 district as a whole;

243 (ii) Override any decision of the local school
244 board or superintendent of education, or both, concerning the
245 management and operation of the school district, or initiate and
246 make decisions concerning the management and operation of the
247 school district;

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

253 (iv) Grant transfers to students who attend this
254 school district so that they may attend other accredited schools
255 or districts in a manner that is not in violation of state or
256 federal law;

257 (v) For states of emergency declared under
258 paragraph (a) only, if the accreditation deficiencies are related
259 to the fact that the school district is too small, with too few
260 resources, to meet the required standards and if another school
261 district is willing to accept those students, abolish that
262 district and assign that territory to another school district or



263 districts. If the school district has proposed a voluntary
264 consolidation with another school district or districts, then if
265 the State Board of Education finds that it is in the best interest
266 of the pupils of the district for the consolidation to proceed,
267 the voluntary consolidation shall have priority over any such
268 assignment of territory by the State Board of Education;

269 (vi) For states of emergency declared under
270 paragraph (b) only, reduce local supplements paid to school
271 district employees, including, but not limited to, instructional
272 personnel, assistant teachers and extracurricular activities
273 personnel, if the district's impairment is related to a lack of
274 financial resources, but only to an extent that will result in the
275 salaries being comparable to districts similarly situated, as
276 determined by the State Board of Education;

277 (vii) For states of emergency declared under
278 paragraph (b) only, the State Board of Education may take any
279 action as prescribed in Section 37-17-13.

280 (d) At the time that satisfactory corrective action has
281 been taken in a school district in which a state of emergency has
282 been declared, the State Board of Education may request the
283 Governor to declare that the state of emergency no longer exists
284 in the district.

285 (e) The parent or legal guardian of a school-age child
286 who is enrolled in a school district whose accreditation has been
287 withdrawn by the Commission on School Accreditation and without
288 approval of that school district may file a petition in writing to
289 a school district accredited by the Commission on School
290 Accreditation for a legal transfer. The school district
291 accredited by the Commission on School Accreditation may grant the
292 transfer according to the procedures of Section 37-15-31(1)(b).
293 In the event the accreditation of the student's home district is
294 restored after a transfer has been approved, the student may
295 continue to attend the transferee school district. The per-pupil



296 amount of the adequate education program allotment, including the
297 collective "add-on program" costs for the school district not
298 accredited by the Commission on School Accreditation shall be
299 transferred monthly to the school district accredited by the
300 Commission on School Accreditation that has granted the transfer
301 of the school-age child.

302 (f) Upon the declaration of a state of emergency for
303 any school district in which the Governor has previously declared
304 a state of emergency, the State Board of Education shall not
305 establish a conservatorship but shall abolish the school district
306 and administratively consolidate the school district with one or
307 more existing school districts as determined by the State Board of
308 Education.

309 (g) There is established a Mississippi Recovery School
310 District within the State Department of Education under the
311 supervision of a deputy superintendent appointed by the State
312 Superintendent of Public Education, who is subject to the approval
313 by the State Board of Education. The Mississippi Recovery School
314 District shall provide leadership and oversight of all school
315 districts that are subject to state conservatorship, as defined in
316 Chapters 17 and 18, Title 37, Mississippi Code of 1972, and shall
317 have all the authority granted under these two (2) chapters. The
318 Mississippi Department of Education, with the approval of the
319 State Board of Education, shall develop policies for the operation
320 and management of the Mississippi Recovery School District. The
321 deputy state superintendent is responsible for the Mississippi
322 Recovery School District and shall be authorized to oversee the
323 administration of the Mississippi Recovery School District,
324 oversee conservators assigned by the State Board of Education to a
325 local school district, hear appeals from school districts under
326 conservatorship that would normally be filed by students, parents
327 or employees and heard by a local school board, which hearings on
328 appeal shall be conducted in a prompt and timely manner in the



329 school district from which the appeal originated in order to
330 ensure the ability of appellants, other parties and witnesses to
331 appeal without undue burden of travel costs or loss of time from
332 work, and perform other related duties as assigned by the State
333 Superintendent of Public Education. The deputy state
334 superintendent is responsible for the Mississippi Recovery School
335 District and shall determine, based on rigorous professional
336 qualifications set by the State Board of Education, the
337 appropriate individuals to be engaged to be conservators and
338 financial advisors, if applicable, of all school districts subject
339 to state conservatorship. After State Board of Education
340 approval, these individuals shall be deemed independent
341 contractors.

342 (12) Upon the declaration of a state of emergency in a
343 school district under subsection (11) of this section, the
344 Commission on School Accreditation shall be responsible for public
345 notice at least once a week for at least three (3) consecutive
346 weeks in a newspaper published within the jurisdiction of the
347 school district failing to meet accreditation standards, or if no
348 newspaper is published therein, then in a newspaper having a
349 general circulation therein. The size of the notice shall be no
350 smaller than one-fourth (1/4) of a standard newspaper page and
351 shall be printed in boldprint. If a conservator has been
352 appointed for the school district, the notice shall begin as
353 follows: "By authority of Section 37-17-6, Mississippi Code of
354 1972, as amended, adopted by the Mississippi Legislature during
355 the 1991 Regular Session, this school district (name of school
356 district) is hereby placed under the jurisdiction of the State
357 Department of Education acting through its appointed conservator
358 (name of conservator)."

359 The notice also shall include, in the discretion of the State
360 Board of Education, any or all details relating to the school
361 district's emergency status, including the declaration of a state



362 of emergency in the school district and a description of the
363 district's impairment deficiencies, conditions of any
364 conservatorship and corrective actions recommended and being
365 taken. Public notices issued under this section shall be subject
366 to Section 13-3-31 and not contrary to other laws regarding
367 newspaper publication.

368 Upon termination of the state of emergency in a school
369 district, the Commission on School Accreditation shall cause
370 notice to be published in the school district in the same manner
371 provided in this section, to include any or all details relating
372 to the corrective action taken in the school district that
373 resulted in the termination of the state of emergency.

374 (13) The State Board of Education or the Commission on
375 School Accreditation shall have the authority to require school
376 districts to produce the necessary reports, correspondence,
377 financial statements, and any other documents and information
378 necessary to fulfill the requirements of this section.

379 Nothing in this section shall be construed to grant any
380 individual, corporation, board or conservator the authority to
381 levy taxes except in accordance with presently existing statutory
382 provisions.

383 (14) (a) Whenever the Governor declares a state of
384 emergency in a school district in response to a request made under
385 subsection (11) of this section, the State Board of Education, in
386 its discretion, may assign an interim conservator to the school
387 district, or in its discretion, may contract with an appropriate
388 private entity with experience in the academic, finance and other
389 operational functions of schools and school districts, who will be
390 responsible for the administration, management and operation of
391 the school district, including, but not limited to, the following
392 activities:

393 (i) Approving or disapproving all financial
394 obligations of the district, including, but not limited to, the



395 employment, termination, nonrenewal and reassignment of all
396 licensed and nonlicensed personnel, contractual agreements and
397 purchase orders, and approving or disapproving all claim dockets
398 and the issuance of checks; in approving or disapproving
399 employment contracts of superintendents, assistant superintendents
400 or principals, the interim conservator shall not be required to
401 comply with the time limitations prescribed in Sections 37-9-15
402 and 37-9-105;

403 (ii) Supervising the day-to-day activities of the
404 district's staff, including reassigning the duties and
405 responsibilities of personnel in a manner which, in the
406 determination of the conservator, will best suit the needs of the
407 district;

408 (iii) Reviewing the district's total financial
409 obligations and operations and making recommendations to the
410 district for cost savings, including, but not limited to,
411 reassigning the duties and responsibilities of staff;

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

414 (v) Approving or disapproving all athletic, band
415 and other extracurricular activities and any matters related to
416 those activities;

417 (vi) Maintaining a detailed account of
418 recommendations made to the district and actions taken in response
419 to those recommendations;

420 (vii) Reporting periodically to the State Board of
421 Education on the progress or lack of progress being made in the
422 district to improve the district's impairments during the state of
423 emergency; and

424 (viii) Appointing a parent advisory committee,
425 comprised of parents of students in the school district that may
426 make recommendations to the conservator concerning the
427 administration, management and operation of the school district.



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

438 At the time that the Governor, in accordance with the request
439 of the State Board of Education, declares that the state of
440 emergency no longer exists in a school district, the powers and
441 responsibilities of the interim conservator assigned to the
442 district shall cease.

443 (b) In order to provide loans to school districts under
444 a state of emergency that have impairments related to a lack of
445 financial resources, the School District Emergency Assistance Fund
446 is created as a special fund in the State Treasury into which
447 monies may be transferred or appropriated by the Legislature from
448 any available public education funds.

449 The State Board of Education may loan monies from the School
450 District Emergency Assistance Fund to a school district that is
451 under a state of emergency in those amounts, as determined by the
452 board, that are necessary to correct the district's impairments
453 related to a lack of financial resources. The loans shall be
454 evidenced by an agreement between the school district and the
455 State Board of Education and shall be repayable in principal,
456 without necessity of interest, to the State General Fund or the
457 Education Enhancement Fund, depending on the source of funding for
458 the loan, by the school district from any allowable funds that are
459 available. The total amount loaned to the district shall be due
460 and payable within five (5) years after the impairments related to



461 a lack of financial resources are corrected. If a school district
462 fails to make payments on the loan in accordance with the terms of
463 the agreement between the district and the State Board of
464 Education, the State Department of Education, in accordance with
465 rules and regulations established by the State Board of Education,
466 may withhold that district's adequate education program funds in
467 an amount and manner that will effectuate repayment consistent
468 with the terms of the agreement; the funds withheld by the
469 department shall be deposited into the State General Fund or the
470 Education Enhancement Fund, as the case may be.

471 The State Board of Education shall develop a protocol that
472 will outline the performance standards and requisite time line
473 deemed necessary for extreme emergency measures. If the State
474 Board of Education determines that an extreme emergency exists,
475 simultaneous with the powers exercised in this subsection, it
476 shall take immediate action against all parties responsible for
477 the affected school districts having been determined to be in an
478 extreme emergency. The action shall include, but not be limited
479 to, initiating civil actions to recover funds and criminal actions
480 to account for criminal activity. Any funds recovered by the
481 State Auditor or the State Board of Education from the surety
482 bonds of school officials or from any civil action brought under
483 this subsection shall be applied toward the repayment of any loan
484 made to a school district hereunder.

485 (15) If a majority of the membership of the school board of
486 any school district resigns from office, the State Board of
487 Education shall be authorized to assign an interim conservator,
488 who shall be responsible for the administration, management and
489 operation of the school district until the time as new board
490 members are selected or the Governor declares a state of emergency
491 in that school district under subsection (11), whichever occurs
492 first. In that case, the State Board of Education, acting through
493 the interim conservator, shall have all powers which were held by



494 the previously existing school board, and may take any action as
495 prescribed in Section 37-17-13 and/or one or more of the actions
496 authorized in this section.

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

509 (i) If the office of superintendent is an elected
510 office, in those years in which there is no general election, the
511 name shall be submitted by the State Board of Education to the
512 county election commission, and the county election commission
513 shall submit the question at a special election to the voters
514 eligible to vote for the office of superintendent within the
515 county, and the special election shall be held within sixty (60)
516 days from notification by the State Board of Education. The
517 ballot shall read substantially as follows:

518 "Shall County Superintendent of Education _____ (here the
519 name of the superintendent shall be inserted) of the _____
520 (here the title of the school district shall be inserted) be
521 retained in office? Yes _____ No _____"

522 If a majority of those voting on the question votes against
523 retaining the superintendent in office, a vacancy shall exist
524 which shall be filled in the manner provided by law; otherwise,
525 the superintendent shall remain in office for the term of that



526 office, and at the expiration of the term shall be eligible for
527 qualification and election to another term or terms.

528 (ii) If the office of superintendent is an
529 appointive office, the name of the superintendent shall be
530 submitted by the president of the local school board at the next
531 regular meeting of the school board for retention in office or
532 dismissal from office. If a majority of the school board voting
533 on the question vote against retaining the superintendent in
534 office, a vacancy shall exist which shall be filled as provided by
535 law, otherwise the superintendent shall remain in office for the
536 duration of his employment contract.

537 (b) The State Board of Education may issue a written
538 request with documentation to the Governor asking that the
539 membership of the school board of the school district shall be
540 subject to recall. Whenever the Governor declares that the
541 membership of the school board is subject to recall, the county
542 election commission or the local governing authorities, as the
543 case may be, shall take the following action:

544 (i) If the members of the local school board are
545 elected to office, in those years in which the specific member's
546 office is not up for election, the name of the school board member
547 shall be submitted by the State Board of Education to the county
548 election commission, and the county election commission at a
549 special election shall submit the question to the voters eligible
550 to vote for the particular member's office within the county or
551 school district, as the case may be, and the special election
552 shall be held within sixty (60) days from notification by the
553 State Board of Education. The ballot shall read substantially as
554 follows:

555 "Members of the _____ (here the title of the school
556 district shall be inserted) School Board who are not up for
557 election this year are subject to recall because of the school
558 district's failure to meet critical accountability standards as



559 defined in the letter of notification to the Governor from the
560 State Board of Education. Shall the member of the school board
561 representing this area, _____ (here the name of the school
562 board member holding the office shall be inserted), be retained in
563 office? Yes _____ No _____"

564 If a majority of those voting on the question vote against
565 retaining the member of the school board in office, a vacancy in
566 that board member's office shall exist, which shall be filled in
567 the manner provided by law; otherwise, the school board member
568 shall remain in office for the term of that office, and at the
569 expiration of the term of office, the member shall be eligible for
570 qualification and election to another term or terms of office.
571 However, if a majority of the school board members are recalled in
572 the special election, the Governor shall authorize the board of
573 supervisors of the county in which the school district is situated
574 to appoint members to fill the offices of the members recalled.
575 The board of supervisors shall make those appointments in the
576 manner provided by law for filling vacancies on the school board,
577 and the appointed members shall serve until the office is filled
578 at the next regular special election or general election.

579 (ii) If the local school board is an appointed
580 school board, the name of all school board members shall be
581 submitted as a collective board by the president of the municipal
582 or county governing authority, as the case may be, at the next
583 regular meeting of the governing authority for retention in office
584 or dismissal from office. If a majority of the governing
585 authority voting on the question vote against retaining the board
586 in office, a vacancy shall exist in each school board member's
587 office, which shall be filled as provided by law; otherwise, the
588 members of the appointed school board shall remain in office for
589 the duration of their term of appointment, and those members may
590 be reappointed.



591 (iii) If the local school board is comprised of
592 both elected and appointed members, the elected members shall be
593 subject to recall in the manner provided in subparagraph (i) of
594 this subsection, and the appointed members shall be subject to
595 recall in the manner provided in subparagraph (ii).

596 (17) Beginning with the school district audits conducted for
597 the 1997-1998 fiscal year, the State Board of Education, acting
598 through the Commission on School Accreditation, shall require each
599 school district to comply with standards established by the State
600 Department of Audit for the verification of fixed assets and the
601 auditing of fixed assets records as a minimum requirement for
602 accreditation.

603 (18) Before December 1, 1999, the State Board of Education
604 shall recommend a program to the Education Committees of the House
605 of Representatives and the Senate for identifying and rewarding
606 public schools that improve or are high performing. The program
607 shall be described by the board in a written report, which shall
608 include criteria and a process through which improving schools and
609 high-performing schools will be identified and rewarded.

610 The State Superintendent of Public Education and the State
611 Board of Education also shall develop a comprehensive
612 accountability plan to ensure that local school boards,
613 superintendents, principals and teachers are held accountable for
614 student achievement. A written report on the accountability plan
615 shall be submitted to the Education Committees of both houses of
616 the Legislature before December 1, 1999, with any necessary
617 legislative recommendations.

618 (19) Before January 1, 2008, the State Board of Education
619 shall evaluate and submit a recommendation to the Education
620 Committees of the House of Representatives and the Senate on
621 inclusion of graduation rate and dropout rate in the school level
622 accountability system.



623 (20) If a local school district is determined as failing and
624 placed into conservatorship for reasons authorized by the
625 provisions of this section, the conservator appointed to the
626 district shall, within forty-five (45) days after being appointed,
627 present a detailed and structured corrective action plan to move
628 the local school district out of conservatorship status to the
629 local school board and local superintendent of education if they
630 have not been removed by the conservator, or if the board and
631 superintendent have been removed, to the local governing authority
632 of the municipality or county in which the school district under
633 conservatorship is located. A copy of the conservator's
634 corrective action plan shall also be filed with the State Board of
635 Education.

636 **SECTION 2.** Section 37-17-13, Mississippi Code of 1972, is
637 amended as follows:

638 37-17-13. (1) Whenever the Governor declares a state of
639 emergency in a school district in response to a certification by
640 the State Board of Education and the Commission on School
641 Accreditation made under Section 37-17-6(11)(b), the State Board
642 of Education, in addition to any actions taken under Section
643 37-17-6, may abolish the school district and assume control and
644 administration of the schools formerly constituting the district,
645 and appoint a conservator to carry out this purpose under the
646 direction of the State Board of Education. In such case, the
647 State Board of Education shall have all powers which were held by
648 the previously existing school board, and the previously existing
649 superintendent of schools or county superintendent of education,
650 including, but not limited to, those enumerated in Section
651 37-7-301, and the authority to request tax levies from the
652 appropriate governing authorities for the support of the schools
653 and to receive and expend the tax funds as provided by Section
654 37-57-1 et seq., and Section 37-57-105 et seq.



655 (2) When a school district is abolished under this section,
656 loans from the School District Emergency Assistance Fund may be
657 made by the State Board of Education for the use and benefit of
658 the schools formerly constituting the district in accordance with
659 the procedures set forth in Section 37-17-6(14) for such loans to
660 the district. The abolition of a school district under this
661 section shall not impair or release the property of that school
662 district from liability for the payment of the loan indebtedness,
663 and it shall be the duty of the appropriate governing authorities
664 to levy taxes on the property of the district so abolished from
665 year to year according to the terms of the indebtedness until same
666 shall be fully paid.

667 (3) After a school district is abolished under this section,
668 at such time as the State Board of Education determines that the
669 impairments have been substantially corrected, the State Board of
670 Education shall reconstitute, reorganize or change or alter the
671 boundaries of the previously existing district; however, no
672 partition or assignment of territory formerly included in the
673 abolished district to one or more other school districts may be
674 made by the State Board of Education without the consent of the
675 school board of the school district to which such territory is to
676 be transferred, such consent to be spread upon its minutes. At
677 that time, the State Board of Education, in appropriate cases,
678 shall notify the appropriate governing authority or authorities of
679 its action and request them to provide for the election or
680 appointment of school board members * * * in the manner provided
681 by law but shall request the governing authority or authorities to
682 provide for the appointment of a superintendent or superintendents
683 to govern the district or districts to apply in all school
684 districts including school districts in which the position of
685 superintendent was previously elected. A board member or
686 superintendent in office at the time the Governor declares a state
687 of emergency in a school district shall not be eligible to serve



688 in that office for the school district after the Governor declares
689 that an emergency no longer exists.

690 **SECTION 3.** Section 37-5-71, Mississippi Code of 1972, is
691 amended as follows:

692 37-5-71. (1) The county superintendents of education shall
693 be elected in the manner prescribed by the provisions of this
694 chapter, unless the school district is being reconstituted as
695 provided in Section 37-17-13 or unless such office be made
696 appointive as provided in this chapter, in which case the county
697 superintendent shall be appointed by the county board of education
698 or by the trustees of a separate school district embracing an
699 entire county with a population of fifteen thousand (15,000) or
700 less, as provided in subsection (2) of Section 37-7-203. In all
701 cases he shall have such qualifications as prescribed by Section
702 37-9-13 and receive such compensation as established under Section
703 37-9-37.

704 (2) All qualified electors residing within any municipal
705 separate or special municipal separate school district shall not
706 vote in the election for the county superintendent of education:

707 (a) In all counties of the second class which have a
708 population, according to the 1960 federal decennial census of at
709 least thirty-three thousand (33,000) and less than thirty-four
710 thousand (34,000), and having a city located therein which is the
711 Southern Division of the A.T.&S.F. Railroad Company;

712 (b) In all counties of the fourth class which have a
713 population, according to the 1960 federal decennial census, in
714 excess of twenty-six thousand (26,000) and less than twenty-seven
715 thousand (27,000), and having located therein the Mississippi
716 State University of Agriculture and Applied Science;

717 (c) In all counties of the first class which have a
718 population, according to the 1960 federal decennial census, in
719 excess of forty-six thousand (46,000) and less than forty-seven



720 thousand (47,000), and having located therein the Mississippi
721 University for Women;

722 (d) In any county bordering on the Mississippi Sound
723 and having a population in excess of one hundred thousand
724 (100,000), according to the 1960 federal decennial census, and
725 having an assessed valuation in excess of Seventy Million Dollars
726 (\$70,000,000.00);

727 (e) In any county having a population in excess of
728 eight thousand (8,000) and less than nine thousand (9,000), and
729 having an assessed valuation in excess of Five Million Dollars
730 (\$5,000,000.00) but less than Six Million Dollars (\$6,000,000.00)
731 in 1960;

732 (f) In any county having a population in excess of
733 twenty-two thousand (22,000) and less than twenty-three thousand
734 (23,000) in 1960, and having a total assessed valuation in excess
735 of Thirteen Million Dollars (\$13,000,000.00) in 1960;

736 (g) In any county having a population in excess of
737 fifty-nine thousand (59,000) but less than sixty thousand
738 (60,000), according to the 1960 federal decennial census;

739 (h) In any county bordered on the east by the Alabama
740 line and on the south by the Mississippi Sound;

741 (i) In any county where Mississippi Highway 35 crosses
742 U.S. Highway 80 and whose population, according to the 1960
743 regular census, was between twenty-one thousand (21,000) and
744 twenty-two thousand (22,000), and in which there are located four
745 (4) or more chicken packing plants, one (1) zipper plant and one
746 or more factories manufacturing Sunbeam electrical appliances;

747 (j) In any county having a population of twenty-six
748 thousand one hundred ninety-eight (26,198) according to the 1970
749 census wherein Highways 51 and 84 intersect;

750 (k) In any county having a municipal separate school
751 district lying therein, having a population in excess of
752 twenty-one thousand (21,000) but less than twenty-one thousand



753 five hundred (21,500), according to the 1960 decennial census, and
754 having a combined assessed valuation in 1963 in excess of Sixteen
755 Million Nine Hundred Thousand Dollars (\$16,900,000.00) but less
756 than Seventeen Million Dollars (\$17,000,000.00) according to the
757 State Tax Commission's compilation;

758 (l) In any county where Mississippi Highway 15 crosses
759 Mississippi Highway 16, whose population was more than twenty
760 thousand (20,000) and less than twenty-one thousand (21,000),
761 according to the regular 1960 census, and within which there is
762 located a Choctaw Indian reservation and school operated by the
763 United States government;

764 (m) In any county where U.S. Highway 45W Alternate
765 intersects Mississippi Highway 50, and having a population of
766 eighteen thousand nine hundred thirty-three (18,933), according to
767 the 1960 federal census;

768 (n) In any county having a population in excess of
769 forty thousand five hundred (40,500), according to the 1960
770 federal decennial census, wherein U.S. Highways 78 and 45
771 intersect, and wherein there is a United States fish hatchery;

772 (o) In any county being traversed by Mississippi
773 Highway 15 and U.S. Interstate Highway 20;

774 (p) In all counties wherein there is located a national
775 military park and a national cemetery;

776 (q) In any county where U.S. Highway 82 crosses U.S.
777 Interstate Highway 55 and having a population of twelve thousand
778 three hundred eighty-seven (12,387) according to the 1990 federal
779 decennial census;

780 (r) In any county where U.S. Highway 49E and U.S.
781 Highway 82 intersect, and having a population of thirty-seven
782 thousand three hundred forty-one (37,341) according to the 1990
783 federal decennial census;

784 (s) In any county bordering the Mississippi River on
785 the west and with a population of less than thirty-one thousand



786 (31,000), according to the 2000 federal decennial census, and with
787 a county seat in which U.S. Highway 49 and U.S. Highway 61
788 intersect.

789 In any such county, however, the county superintendent of
790 education may be a resident of a municipal separate school
791 district or special municipal separate school district.

792 (3) The qualified electors residing within the municipal
793 separate school districts shall not participate in the election of
794 the county superintendent of education:

795 (a) In any county having a population of more than
796 twenty-seven thousand (27,000) and less than twenty-eight thousand
797 (28,000) and containing therein a municipality having a population
798 in excess of three thousand (3,000), according to the 1960 federal
799 decennial census;

800 (b) In any Class 1 county wherein is located a
801 state-supported university and a National Guard camp, and in which
802 Interstate Highway 59 and U.S. Highway 49 intersect;

803 (c) In any Class 4 county having two (2) judicial
804 districts, wherein is partially located a national forest, and
805 wherein Mississippi Highways 8 and 15 intersect;

806 (d) In any Class 2 county, the southern boundary of
807 which partially borders on the State of Louisiana, traversed by
808 U.S. Highway 98 which intersects Mississippi Highway 13, with a
809 land area of five hundred fifty (550) square miles and having a
810 population of twenty-three thousand two hundred ninety-three
811 (23,293) in the 1960 federal decennial census;

812 (e) In any county bordering on the Gulf of Mexico or
813 the Mississippi Sound having therein a test facility operated by
814 the National Aeronautics and Space Administration;

815 (f) In any county having a population in excess of
816 twenty-seven thousand one hundred seventy-nine (27,179) according
817 to the 1970 federal decennial census, wherein U.S. Highways 45 and
818 72 intersect; and



819 (g) In any Class 1 county bordering on the Pearl River
820 in which U.S. Highway 80 intersects Mississippi Highway 18 and
821 having a population, according to the federal decennial census of
822 1970, of forty-three thousand nine hundred thirty-three (43,933).

823 (4) The county superintendent of education, with the
824 approval of the county board of education by its first having
825 adopted a resolution of approval and spread upon its minutes,
826 shall be elected from the county at large, exclusive of the
827 municipal separate school district boundaries:

828 (a) In any county bordering on the State of Tennessee
829 having a land area of seven hundred ten (710) square miles,
830 wherein is located part of a national forest, and wherein U.S.
831 Highway 78 and Mississippi Highway 7 intersect;

832 (b) In any Class 4 county wherein is located the
833 state's oldest state-supported university, in which Mississippi
834 Highways 6 and 7 intersect. Provided, however, that if the method
835 of selecting the county superintendent of education in such county
836 is changed from an elective method to an appointive method,
837 pursuant to the provisions of Section 37-5-68, this paragraph (b)
838 shall stand repealed; and

839 (c) In any county having a population in excess of
840 seventeen thousand (17,000) and less than eighteen thousand
841 (18,000), according to the 1970 federal decennial census, wherein
842 Mississippi Highways 6 and 9 intersect.

843 (5) In any county having a municipality of between
844 forty-nine thousand (49,000) and fifty thousand (50,000)
845 population according to the 1960 federal census, and adjoining the
846 Alabama line, wherein U.S. Highways 80 and 45 intersect, the
847 qualified electors residing within any municipal separate school
848 district shall not participate in the election of the county
849 superintendent of education, and such county superintendent of
850 education shall not be a resident of a municipal separate school
851 district.



852 (6) In any county traversed by the Natchez Trace Parkway
853 wherein U.S. Highway 45 and Mississippi Highway 4 intersect and
854 having a population of seventeen thousand nine hundred forty-nine
855 (17,949) according to the 1960 federal census, the qualified
856 electors residing within any municipal separate school district
857 shall not participate in the election of the county superintendent
858 of education, and such county superintendent of education shall
859 not be a resident of a municipal separate school district.

860 **SECTION 4.** The Attorney General of the State of Mississippi
861 shall submit this act, immediately upon approval by the Governor,
862 or upon approval by the Legislature subsequent to a veto, to the
863 Attorney General of the United States or to the United States
864 District Court for the District of Columbia in accordance with the
865 provisions of the Voting Rights Act of 1965, as amended and
866 extended.

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

