

By: Senator(s) Doty, Dearing

To: Education;
AppropriationsSENATE BILL NO. 2625
(As Sent to Governor)

1 AN ACT RELATING TO THE OPERATION OF THE MISSISSIPPI SCHOOL OF
2 THE ARTS (MSA); TO PROVIDE THAT ADMINISTRATIVE AND INSTRUCTIONAL
3 EMPLOYEES AT THE MISSISSIPPI SCHOOL OF THE ARTS SHALL BE CONTRACT
4 EMPLOYEES AND TO PROVIDE FOR THE EXECUTION OF SAID CONTRACTS; TO
5 PROVIDE THAT THE NONINSTRUCTIONAL EMPLOYEES AT SAID SCHOOL SHALL
6 SERVE AT THE WILL AND PLEASURE OF THE SUPERINTENDENT OF THE MSA;
7 TO PROVIDE THAT THE PURCHASES OF EQUIPMENT AND COMMODITIES MADE BY
8 THE MSA ARE EXEMPT FROM THE REGULATIONS OF THE PUBLIC PROCUREMENT
9 LAW; TO AMEND SECTIONS 37-140-5, 37-140-9, 25-9-107, 31-7-1,
10 37-7-307, 37-9-17, 37-9-59 AND 37-9-103, MISSISSIPPI CODE OF 1972,
11 IN CONFORMITY; TO AMEND SECTION 27-104-13, MISSISSIPPI CODE OF
12 1972, TO PROVIDE THAT THE MISSISSIPPI SCHOOL OF THE ARTS, THE
13 MISSISSIPPI SCHOOL FOR THE BLIND AND DEAF AND THE MISSISSIPPI
14 SCHOOL FOR MATH AND SCIENCE SHALL BE SUBJECT TO ANY MID-YEAR
15 BUDGET REDUCTIONS BY THE DEPARTMENT OF FINANCE AND ADMINISTRATION
16 ONLY TO THE SAME EXTENT AS APPLICABLE TO OTHER SCHOOL DISTRICTS IN
17 THE STATE; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 37-140-5, Mississippi Code of 1972, is
20 amended as follows:

21 37-140-5. (1) The school shall be governed by the State
22 Board of Education. The board shall develop a plan relating to
23 the opening, operation and funding of the school to be presented
24 to the Legislature during the 2000 Regular Session. The plan



shall include an equitable and reasonable plan for student recruitment without regard to race, creed or color.

(2) The State Superintendent of Public Education shall appoint an advisory panel to assist the board in developing the plan relating to the school. The advisory panel shall consist of the following twelve (12) appointed or designated members:

(a) Three (3) licensed school teachers or administrators, one (1) to be appointed from each of the three (3) Mississippi Supreme Court Districts;

(b) Three (3) citizens or professionals representing the areas of dance, creative writing, literature, music, theater arts or visual arts, one (1) to be appointed from each of the three (3) Mississippi Supreme Court Districts;

(c) Three (3) citizens knowledgeable in business, personnel management or public administration, with at least three (3) years' actual experience therein, one (1) to be appointed from each of the three (3) Mississippi Supreme Court Districts.

(d) One (1) member shall be a representative of the Mississippi Arts Commission to be designated by the commission, one (1) member shall be a representative of the Mississippi Humanities Council to be designated by the council, and one (1) member shall be a representative of the state institutions of higher learning in Mississippi which offer degrees in visual, fine and performing arts, to be designated by the Board of Trustees of State Institutions of Higher Learning.



50 Appointments to the advisory panel shall be made within
51 ninety (90) days of April 23, 1999. The advisory panel shall meet
52 upon the call of the State Superintendent of Public Education and
53 shall organize for business by selecting a chairman and vice
54 chairman/secretary for keeping records of the panel. Members of
55 the advisory panel shall receive no compensation but may be
56 reimbursed for necessary expenses and mileage for attending
57 meetings and necessary business of the panel, in the amount
58 authorized for state employees under Section 25-3-41.

59 (3) The board may utilize the staff of the State Department
60 of Education and other state agencies as may be required for the
61 implementation of this chapter. The department may employ any
62 personnel deemed necessary by the board for assisting in the
63 development and implementation of the plan relating to the
64 opening, operation and funding of the school. The board also may
65 contract or enter into agreements with other agencies or private
66 entities which it deems necessary to carry out its duties and
67 functions relating to the opening and operation of the school.

68 (4) To the extent possible, the board shall enter into
69 agreements with the Board of Trustees of the Brookhaven Municipal
70 Separate School District for the dual enrollment of students for
71 the purpose of teaching academic courses to students attending the
72 school, and the local school board shall be fully authorized to
73 offer any such courses to students attending the school. The
74 State Board of Education may develop and issue necessary



75 regulations for the coordination of such courses for these
76 students, the preparation and transfer of transcripts, and the
77 reimbursement of any costs incurred by the school district for
78 providing such services.

79 (5) The board may enter into agreements with public school
80 districts to authorize students enrolled in such school districts
81 to participate in the fine arts programs at the school to the
82 extent that adequate space is available. The parent or guardian
83 of any student participating in fine arts programs at the school
84 under this subsection shall be responsible for transporting the
85 student to and from the school.

86 (6) From and after January 1, 2020, all administrative,
87 instructional and noninstructional employees of the Mississippi
88 School of the Arts shall be transferred from state service and the
89 authority of the State Personnel Board to employment status as
90 employees of the Mississippi School of the Arts. All
91 administrative and instructional employees at the said school
92 shall enter into written contracts of employment to indicate and
93 cover the period for which they are respectively employed. All
94 such contracts for administrative and instructional employees
95 shall be exempt from the requirements of the Public Procurement
96 Review Board for state agency employment contracts. The State
97 Board of Education may set and determine qualifications necessary
98 for such employees and may appoint a subcommittee of the board for
99 the purpose of authorizing the execution of such employment



contracts on a timely basis. Such administrators and employees
shall be offered contracts by the Superintendent/Executive
Director of the MSA and shall have the employment rights
prescribed for administrative and certificated school district
employees under Sections 37-9-17, 37-9-59, 37-9-103 and 37-7-307,
Mississippi Code of 1972. The MSA may renew employment or
nonrenew employment with such administrative and instructional
employees in accordance with the provisions of said sections
relating to school district employment. Noninstructional
employees of the MSA shall be full-time employees of the MSA and
shall serve at the will and pleasure of the Superintendent of the
MSA. All salaries and contracts shall be subject to the approval
of the State Board of Education, and the MSA may continue to use
the teacher salary scale for its instructional employees which is
in effect on January 1, 2019. Any unused leave accumulated at the
Mississippi School of the Arts shall be transferred in accordance
with the provisions of Section 37-7-307. There shall be no
interruption of service with the Public Employees' Retirement
System and the State and School Employees' Health Insurance Plan
for administrative, instructional and noninstructional employees
due to an employee's employment status under this subsection. The
MSA shall not be considered a local educational agency for the
same purposes and to the same extent that all other school
districts in the state are deemed local educational agencies under
applicable federal law. The MSA may receive donations or grants



125 from any public or private source, including any federal funding
126 that may be available to the schools within the MSA.

127 **SECTION 2.** Section 37-140-9, Mississippi Code of 1972, is
128 amended as follows:

129 37-140-9. The board shall be the exclusive governing body of
130 the school and shall promulgate rules and regulations required for
131 the administration and operation of the school, consistent with
132 the provisions of this act. The emphasis of the school shall be
133 on the education and training of students in the performing,
134 visual and literary arts and in the humanities, but this emphasis
135 shall not preclude the teaching of those liberal arts and science
136 courses, math and science deemed necessary by the board to provide
137 students with a well-rounded education.

138 **SECTION 3.** Section 25-9-107, Mississippi Code of 1972, is
139 amended as follows:

140 25-9-107. The following terms, when used in this chapter,
141 unless a different meaning is plainly required by the context,
142 shall have the following meanings:

143 (a) "Board" means the State Personnel Board created
144 under the provisions of this chapter.

145 (b) "State service" means all employees of state
146 departments, agencies and institutions as defined herein, except
147 those officers and employees excluded by this chapter.



(c) "Nonstate service" means the following officers and employees excluded from the state service by this chapter. The following are excluded from the state service:

(i) Members of the State Legislature, their staff and other employees of the legislative branch;

(ii) The Governor and staff members of the immediate Office of the Governor;

(iii) Justices and judges of the judicial branch or members of appeals boards on a per diem basis;

(iv) The Lieutenant Governor, staff members of the immediate Office of the Lieutenant Governor and officers and employees directly appointed by the Lieutenant Governor;

(v) Officers and officials elected by popular vote and persons appointed to fill vacancies in elective offices;

(vi) Members of boards and commissioners appointed by the Governor, Lieutenant Governor or the State Legislature;

(vii) All academic officials, members of the teaching staffs and employees of the state institutions of higher learning, the Mississippi Community College Board, and community and junior colleges;

(viii) Officers and enlisted members of the National Guard of the state;

(ix) Prisoners, inmates, student or patient help working in or about institutions;



(x) Contract personnel; provided that any agency which employs state service employees may enter into contracts for personal and professional services only if such contracts are approved in compliance with the rules and regulations promulgated by the State Personal Service Contract Review Board under Section 25-9-120(3). Before paying any warrant for such contractual services in excess of One Hundred Thousand Dollars (\$100,000.00), the Auditor of Public Accounts, or the successor to those duties, shall determine whether the contract involved was for personal or professional services, and, if so, was approved by the State Personal Service Contract Review Board;

(xi) Part-time employees; provided, however, part-time employees shall only be hired into authorized employment positions classified by the board, shall meet minimum qualifications as set by the board, and shall be paid in accordance with the Variable Compensation Plan as certified by the board;

(xii) Persons appointed on an emergency basis for the duration of the emergency; the effective date of the emergency appointments shall not be earlier than the date approved by the State Personnel Director, and shall be limited to thirty (30) working days. Emergency appointments may be extended to sixty (60) working days by the State Personnel Board;

(xiii) Physicians, dentists, veterinarians, nurse practitioners and attorneys, while serving in their professional



capacities in authorized employment positions who are required by statute to be licensed, registered or otherwise certified as such, provided that the State Personnel Director shall verify that the statutory qualifications are met prior to issuance of a payroll warrant by the Auditor;

(xiv) Personnel who are employed and paid from funds received from a federal grant program which has been approved by the Legislature or the Department of Finance and Administration whose length of employment has been determined to be time-limited in nature. This subparagraph shall apply to personnel employed under the provisions of the Comprehensive Employment and Training Act of 1973, as amended, and other special federal grant programs which are not a part of regular federally funded programs wherein appropriations and employment positions are appropriated by the Legislature. Such employees shall be paid in accordance with the Variable Compensation Plan and shall meet all qualifications required by federal statutes or by the Mississippi Classification Plan;

(xv) The administrative head who is in charge of any state department, agency, institution, board or commission, wherein the statute specifically authorizes the Governor, board, commission or other authority to appoint said administrative head; provided, however, that the salary of such administrative head shall be determined by the State Personnel Board in accordance



with the Variable Compensation Plan unless otherwise fixed by statute;

(xvi) The State Personnel Board shall exclude top-level positions if the incumbents determine and publicly advocate substantive program policy and report directly to the agency head, or the incumbents are required to maintain a direct confidential working relationship with a key excluded official. Provided further, a written job classification shall be approved by the board for each such position, and positions so excluded shall be paid in conformity with the Variable Compensation Plan;

(xvii) Employees whose employment is solely in connection with an agency's contract to produce, store or transport goods, and whose compensation is derived therefrom;

(xviii) Repealed;

(xix) The associate director, deputy directors and bureau directors within the Department of Agriculture and Commerce;

(xx) Personnel employed by the Mississippi Industries for the Blind; provided that any agency may enter into contracts for the personal services of MIB employees without the prior approval of the State Personnel Board or the State Personal Service Contract Review Board; however, any agency contracting for the personal services of an MIB employee shall provide the MIB employee with not less than the entry-level compensation and



benefits that the agency would provide to a full-time employee of the agency who performs the same services;

(xxi) Personnel employed by the Mississippi Department of Wildlife, Fisheries and Parks and the Mississippi Department of Marine Resources as law enforcement trainees (cadets); such personnel shall be paid in accordance with the Colonel Guy Groff State Variable Compensation Plan;

(xxii) Administrators and instructional employees under contract or employed by the Mississippi School of the Arts (MSA) established in Section 37-140-1 et seq.;

(* * *xxiii) The President of the Mississippi Lottery Corporation and personnel employed by the Mississippi Lottery Corporation.

(d) "Agency" means any state board, commission, committee, council, department or unit thereof created by the Constitution or statutes if such board, commission, committee, council, department, unit or the head thereof, is authorized to appoint subordinate staff by the Constitution or statute, except a legislative or judicial board, commission, committee, council, department or unit thereof.

SECTION 4. Section 31-7-1, Mississippi Code of 1972, is amended as follows:

31-7-1. The following terms are defined for the purposes of this chapter to have the following meanings:



(a) "Agency" means any state board, commission, committee, council, university, department or unit thereof created by the Constitution or statutes if such board, commission, committee, council, university, department, unit or the head thereof is authorized to appoint subordinate staff by the Constitution or statute, except a legislative or judicial board, commission, committee, council, department or unit thereof; except a charter school authorized by the Mississippi Charter School Authorizer Board; and except the Mississippi State Port Authority; and except the Mississippi School of the Arts (MSA) established in Section 37-140-1 et seq. An academic medical center or health sciences school as defined in Section 37-115-50 is not an "agency" for those purchases of commodities as defined in this section that are used for clinical purposes and (i) intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment or prevention of disease, and (ii) medical devices, biological, drugs and radiation emitting devices as defined by the United States Food and Drug Administration.

(b) "Governing authority" means boards of supervisors, governing boards of all school districts, all boards of directors of public water supply districts, boards of directors of master public water supply districts, municipal public utility commissions, governing authorities of all municipalities, port authorities, Mississippi State Port Authority, commissioners and boards of trustees of any public hospitals, boards of trustees of



public library systems, district attorneys, school attendance officers and any political subdivision of the state supported wholly or in part by public funds of the state or political subdivisions thereof, including commissions, boards and agencies created or operated under the authority of any county or municipality of this state. The term "governing authority" shall not include economic development authorities supported in part by private funds, or commissions appointed to hold title to and oversee the development and management of lands and buildings which are donated by private individuals to the public for the use and benefit of the community and which are supported in part by private funds. The term "governing authority" also shall not include the governing board of a charter school. The term "governing authority" also shall not include the Mississippi School of the Arts established in Section 37-140-1 et seq.

(c) "Purchasing agent" means any administrator, superintendent, purchase clerk or other chief officer so designated having general or special authority to negotiate for and make private contract for or purchase for any governing authority or agency, including issue purchase orders, invitations for bid, requests for proposals, and receive and accept bids.

(d) "Public funds" means and includes any appropriated funds, special funds, fees or any other emoluments received by an agency or governing authority.



318 (e) "Commodities" means and includes the various
319 commodities, goods, merchandise, furniture, equipment, automotive
320 equipment of every kind, and other personal property purchased by
321 the agencies of the state and governing authorities, but not
322 commodities purchased for resale or raw materials converted into
323 products for resale.

324 (i) "Equipment" shall be construed to include:
325 automobiles, trucks, tractors, office appliances and all other
326 equipment of every kind and description.

327 (ii) "Furniture" shall be construed to include:
328 desks, chairs, tables, seats, filing cabinets, bookcases and all
329 other items of a similar nature as well as dormitory furniture,
330 appliances, carpets and all other items of personal property
331 generally referred to as home, office or school furniture.

332 (f) "Emergency" means any circumstances caused by fire,
333 flood, explosion, storm, earthquake, epidemic, riot, insurrection
334 or caused by any inherent defect due to defective construction, or
335 when the immediate preservation of order or of public health is
336 necessary by reason of unforeseen emergency, or when the immediate
337 restoration of a condition of usefulness of any public building,
338 equipment, road or bridge appears advisable, or in the case of a
339 public utility when there is a failure of any machine or other
340 thing used and useful in the generation, production or
341 distribution of electricity, water or natural gas, or in the
342 transportation or treatment of sewage; or when the delay incident



343 to obtaining competitive bids could cause adverse impact upon the
344 governing authorities or agency, its employees or its citizens; or
345 in the case of a public airport, when the delay incident to
346 publishing an advertisement for competitive bids would endanger
347 public safety in a specific (not general) manner, result in or
348 perpetuate a specific breach of airport security, or prevent the
349 airport from providing specific air transportation services.

350 (g) "Construction" means the process of building,
351 altering, improving, renovating or demolishing a public structure,
352 public building, or other public real property. It does not
353 include routine operation, routine repair or regularly scheduled
354 maintenance of existing public structures, public buildings or
355 other public real property.

356 (h) "Purchase" means buying, renting, leasing or
357 otherwise acquiring.

358 (i) "Certified purchasing office" means any purchasing
359 office in which fifty percent (50%) or more of the purchasing
360 agents hold a certification from the Universal Public Purchasing
361 Certification Council or other nationally recognized purchasing
362 certification, and in which, in the case of a state agency
363 purchasing office, in addition to the national certification, one
364 hundred percent (100%) of the purchasing officials hold a
365 certification from the State of Mississippi's Basic or Advanced
366 Purchasing Certification Program.



(j) "Certified Mississippi Purchasing Agent" means a state agency purchasing official who holds a certification from the Mississippi Basic Purchasing Certification Program as established by the Office of Purchasing, Travel and Fleet Management.

(k) "Certified Mississippi Procurement Manager" means a state agency purchasing official who holds a certification from the Mississippi Advanced Purchasing Certification Program as established by the Office of Purchasing, Travel and Fleet Management.

SECTION 5. Section 37-7-307, Mississippi Code of 1972, is amended as follows:

37-7-307. (1) For purposes of this section, the term "licensed employee" means any employee of a public school district required to hold a valid license by the Commission on Teacher and Administrator Education, Certification and Licensure and Development.

(2) The school board of a school district shall establish by rules and regulations a policy of sick leave with pay for licensed employees and teacher assistants employed in the school district, and such policy shall include the following minimum provisions for sick and emergency leave with pay:

(a) Each licensed employee and teacher assistant, at the beginning of each school year, shall be credited with a minimum sick leave allowance, with pay, of seven (7) days for



absences caused by illness or physical disability of the employee during that school year.

(b) Any unused portion of the total sick leave allowance shall be carried over to the next school year and credited to such licensed employee and teacher assistant if the licensed employee or teacher assistant remains employed in the same school district. In the event any public school licensed employee or teacher assistant transfers from one public school district in Mississippi to another, any unused portion of the total sick leave allowance credited to such licensed employee or teacher assistant shall be credited to such licensed employee or teacher assistant in the computation of unused leave for retirement purposes under Section 25-11-109. Accumulation of sick leave allowed under this section shall be unlimited.

(c) No deduction from the pay of such licensed employee or teacher assistant may be made because of absence of such licensed employee or teacher assistant caused by illness or physical disability of the licensed employee or teacher assistant until after all sick leave allowance credited to such licensed employee or teacher assistant has been used.

(d) For the first ten (10) days of absence of a licensed employee because of illness or physical disability, in any school year, in excess of the sick leave allowance credited to such licensed employee, there shall be deducted from the pay of such licensed employee the established substitute amount of



417 licensed employee compensation paid in that local school district,
418 necessitated because of the absence of the licensed employee as a
419 result of illness or physical disability. In lieu of deducting
420 the established substitute amount from the pay of such licensed
421 employee, the policy may allow the licensed employee to receive
422 full pay for the first ten (10) days of absence because of illness
423 or physical disability, in any school year, in excess of the sick
424 leave allowance credited to such licensed employee. Thereafter,
425 the regular pay of such absent licensed employee shall be
426 suspended and withheld in its entirety for any period of absence
427 because of illness or physical disability during that school year.

428 (3) (a) Beginning with the school year 1983-1984, each
429 licensed employee at the beginning of each school year shall be
430 credited with a minimum personal leave allowance, with pay, of two
431 (2) days for absences caused by personal reasons during that
432 school year. Effective for the 2010-2011 and 2011-2012 school
433 years, licensed employees shall be credited with an additional
434 one-half (1/2) day of personal leave for every day the licensed
435 employee is furloughed without pay as provided in Section
436 37-7-308. Except as otherwise provided in paragraph (b) of this
437 subsection, such personal leave shall not be taken on the first
438 day of the school term, the last day of the school term, on a day
439 previous to a holiday or a day after a holiday. Personal leave
440 may be used for professional purposes, including absences caused
441 by attendance of such licensed employee at a seminar, class,



442 training program, professional association or other functions
443 designed for educators. No deduction from the pay of such
444 licensed employee may be made because of absence of such licensed
445 employee caused by personal reasons until after all personal leave
446 allowance credited to such licensed employee has been used.
447 However, the superintendent of a school district, in his
448 discretion, may allow a licensed employee personal leave in
449 addition to any minimum personal leave allowance, under the
450 condition that there shall be deducted from the salary of such
451 licensed employee the actual amount of any compensation paid to
452 any person as a substitute, necessitated because of the absence of
453 the licensed employee. Any unused portion of the total personal
454 leave allowance up to five (5) days shall be carried over to the
455 next school year and credited to such licensed employee if the
456 licensed employee remains employed in the same school district.
457 Any personal leave allowed for a furlough day shall not be carried
458 over to the next school year.

459 (b) Notwithstanding the restrictions on the use of
460 personal leave prescribed under paragraph (a) of this subsection,
461 a licensed employee may use personal leave as follows:

462 (i) Personal leave may be taken on the first day
463 of the school term, the last day of the school term, on a day
464 previous to a holiday or a day after a holiday if, on the
465 applicable day, an immediate family member of the employee is
466 being deployed for military service.



467 (ii) Personal leave may be taken on a day previous
468 to a holiday or a day after a holiday if an employee of a school
469 district has either a minimum of ten (10) years' experience as an
470 employee of that school district or a minimum of thirty (30) days
471 of unused accumulated leave that has been earned while employed in
472 that school district.

473 (iii) Personal leave may be taken on the first day
474 of the school term, the last day of the school term, on a day
475 previous to a holiday or a day after a holiday if, on the
476 applicable day, the employee has been summoned to appear for jury
477 duty or as a witness in court.

478 (4) Beginning with the school year 1992-1993, each licensed
479 employee shall be credited with a professional leave allowance,
480 with pay, for each day of absence caused by reason of such
481 employee's statutorily required membership and attendance at a
482 regular or special meeting held within the State of Mississippi of
483 the State Board of Education, the Commission on Teacher and
484 Administrator Education, Certification and Licensure and
485 Development, the Commission on School Accreditation, the
486 Mississippi Authority for Educational Television, the meetings of
487 the state textbook rating committees or other meetings authorized
488 by local school board policy.

489 (5) Upon retirement from employment, each licensed and
490 nonlicensed employee shall be paid for not more than thirty (30)
491 days of unused accumulated leave earned while employed by the



492 school district in which the employee is last employed. Such
493 payment for licensed employees shall be made by the school
494 district at a rate equal to the amount paid to substitute teachers
495 and for nonlicensed employees, the payment shall be made by the
496 school district at a rate equal to the federal minimum wage. The
497 payment shall be treated in the same manner for retirement
498 purposes as a lump-sum payment for personal leave as provided in
499 Section 25-11-103(e). Any remaining lawfully credited unused
500 leave, for which payment has not been made, shall be certified to
501 the Public Employees' Retirement System in the same manner and
502 subject to the same limitations as otherwise provided by law for
503 unused leave. No payment for unused accumulated leave may be made
504 to either a licensed or nonlicensed employee at termination or
505 separation from service for any purpose other than for the purpose
506 of retirement.

507 (6) The school board may adopt rules and regulations which
508 will reasonably aid to implement the policy of sick and personal
509 leave, including, but not limited to, rules and regulations having
510 the following general effect:

511 (a) Requiring the absent employee to furnish the
512 certificate of a physician or dentist or other medical
513 practitioner as to the illness of the absent licensed employee,
514 where the absence is for four (4) or more consecutive school days,
515 or for two (2) consecutive school days immediately preceding or
516 following a nonschool day;



517 (b) Providing penalties, by way of full deduction from
518 salary, or entry on the work record of the employee, or other
519 appropriate penalties, for any materially false statement by the
520 employee as to the cause of absence;

521 (c) Forfeiture of accumulated or future sick leave, if
522 the absence of the employee is caused by optional dental or
523 medical treatment or surgery which could, without medical risk,
524 have been provided, furnished or performed at a time when school
525 was not in session;

526 (d) Enlarging, increasing or providing greater sick or
527 personal leave allowances than the minimum standards established
528 by this section in the discretion of the school board of each
529 school district.

530 (7) School boards may include in their budgets provisions
531 for the payment of substitute employees, necessitated because of
532 the absence of regular licensed employees. All such substitute
533 employees shall be paid wholly from district funds, except as
534 otherwise provided for long-term substitute teachers in Section
535 37-19-20. Such school boards, in their discretion, also may pay,
536 from district funds other than adequate education program funds,
537 the whole or any part of the salaries of all employees granted
538 leaves for the purpose of special studies or training.

539 (8) The school board may further adopt rules and regulations
540 which will reasonably implement such leave policies for all other
541 nonlicensed and hourly paid school employees as the board deems



appropriate. Effective for the 2010-2011 and 2011-2012 school years, nonlicensed employees shall be credited with an additional one-half (1/2) day of personal leave for every day the nonlicensed employee is furloughed without pay as provided in Section 37-7-308.

(9) Vacation leave granted to either licensed or nonlicensed employees shall be synonymous with personal leave. Unused vacation or personal leave accumulated by licensed employees in excess of the maximum five (5) days which may be carried over from one year to the next may be converted to sick leave. The annual conversion of unused vacation or personal leave to sick days for licensed or unlicensed employees shall not exceed the allowable number of personal leave days as provided in Section 25-3-93. The annual total number of converted unused vacation and/or personal days added to the annual unused sick days for any employee shall not exceed the combined allowable number of days per year provided in Sections 25-3-93 and 25-3-95. Local school board policies that provide for vacation, personal and sick leave for employees shall not exceed the provisions for leave as provided in Sections 25-3-93 and 25-3-95. Any personal or vacation leave previously converted to sick leave under a lawfully adopted policy before May 1, 2004, or such personal or vacation leave accumulated and available for use prior to May 1, 2004, under a lawfully adopted policy but converted to sick leave after May 1, 2004, shall be recognized as accrued leave by the local school district and



567 available for use by the employee. The leave converted under a
568 lawfully adopted policy prior to May 1, 2004, or such personal and
569 vacation leave accumulated and available for use as of May 1,
570 2004, which was subsequently converted to sick leave may be
571 certified to the Public Employees' Retirement System upon
572 termination of employment and any such leave previously converted
573 and certified to the Public Employees' Retirement System shall be
574 recognized.

575 (10) (a) For the purposes of this subsection, the following
576 words and phrases shall have the meaning ascribed in this
577 paragraph unless the context requires otherwise:

578 (i) "Catastrophic injury or illness" means a
579 life-threatening injury or illness of an employee or a member of
580 an employee's immediate family that totally incapacitates the
581 employee from work, as verified by a licensed physician, and
582 forces the employee to exhaust all leave time earned by that
583 employee, resulting in the loss of compensation from the local
584 school district for the employee. Conditions that are short-term
585 in nature, including, but not limited to, common illnesses such as
586 influenza and the measles, and common injuries, are not
587 catastrophic. Chronic illnesses or injuries, such as cancer or
588 major surgery, that result in intermittent absences from work and
589 that are long-term in nature and require long recuperation periods
590 may be considered catastrophic.



(ii) "Immediate family" means spouse, parent, stepparent, sibling, child or stepchild.

(b) Any school district employee may donate a portion of his or her unused accumulated personal leave or sick leave to another employee of the same school district who is suffering from a catastrophic injury or illness or who has a member of his or her immediate family suffering from a catastrophic injury or illness, in accordance with the following:

(i) The employee donating the leave (the "donor employee") shall designate the employee who is to receive the leave (the "recipient employee") and the amount of unused accumulated personal leave and sick leave that is to be donated, and shall notify the school district superintendent or his designee of his or her designation.

(ii) The maximum amount of unused accumulated personal leave that an employee may donate to any other employee may not exceed a number of days that would leave the donor employee with fewer than seven (7) days of personal leave remaining, and the maximum amount of unused accumulated sick leave that an employee may donate to any other employee may not exceed fifty percent (50%) of the unused accumulated sick leave of the donor employee.

(iii) An employee must have exhausted all of his or her available leave before he or she will be eligible to receive any leave donated by another employee. Eligibility for



616 donated leave shall be based upon review and approval by the donor
617 employee's supervisor.

618 (iv) Before an employee may receive donated leave,
619 he or she must provide the school district superintendent or his
620 designee with a physician's statement that states that the illness
621 meets the catastrophic criteria established under this section,
622 the beginning date of the catastrophic injury or illness, a
623 description of the injury or illness, and a prognosis for recovery
624 and the anticipated date that the recipient employee will be able
625 to return to work.

626 (v) Before an employee may receive donated leave,
627 the superintendent of education of the school district shall
628 appoint a review committee to approve or disapprove the said
629 donations of leave, including the determination that the illness
630 is catastrophic within the meaning of this section.

631 (vi) If the total amount of leave that is donated
632 to any employee is not used by the recipient employee, the whole
633 days of donated leave shall be returned to the donor employees on
634 a pro rata basis, based on the ratio of the number of days of
635 leave donated by each donor employee to the total number of days
636 of leave donated by all donor employees.

637 (vii) Donated leave shall not be used in lieu of
638 disability retirement.



(11) Effective January 1, 2020, the provisions of this section shall be fully applicable to any licensed employee of the Mississippi School of the Arts (MSA).

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

37-9-17. (1) On or before April 1 of each year, the principal of each school shall recommend to the superintendent of the local school district the licensed employees or noninstructional employees to be employed for the school involved except those licensed employees or noninstructional employees who have been previously employed and who have a contract valid for the ensuing scholastic year. If such recommendations meet with the approval of the superintendent, the superintendent shall recommend the employment of such licensed employees or noninstructional employees to the local school board, and, unless good reason to the contrary exists, the board shall elect the employees so recommended. If, for any reason, the local school board shall decline to elect any employee so recommended, additional recommendations for the places to be filled shall be made by the principal to the superintendent and then by the superintendent to the local school board as provided above. The school board of any local school district shall be authorized to designate a personnel supervisor or another principal employed by the school district to recommend to the superintendent licensed employees or noninstructional employees; however, this



664 authorization shall be restricted to no more than two (2)
665 positions for each employment period for each school in the local
666 school district. Any noninstructional employee employed upon the
667 recommendation of a personnel supervisor or another principal
668 employed by the local school district must have been employed by
669 the local school district at the time the superintendent was
670 elected or appointed to office; a noninstructional employee
671 employed under this authorization may not be paid compensation in
672 excess of the statewide average compensation for such
673 noninstructional position with comparable experience, as
674 established by the State Department of Education. The school
675 board of any local school district shall be authorized to
676 designate a personnel supervisor or another principal employed by
677 the school district to accept the recommendations of principals or
678 their designees for licensed employees or noninstructional
679 employees and to transmit approved recommendations to the local
680 school board; however, this authorization shall be restricted to
681 no more than two (2) positions for each employment period for each
682 school in the local school district.

683 When the licensed employees have been elected as provided in
684 the preceding paragraph, the superintendent of the district shall
685 enter into a contract with such persons in the manner provided in
686 this chapter.

687 If, at the commencement of the scholastic year, any licensed
688 employee shall present to the superintendent a license of a higher



689 grade than that specified in such individual's contract, such
690 individual may, if funds are available from adequate education
691 program funds of the district, or from district funds, be paid
692 from such funds the amount to which such higher grade license
693 would have entitled the individual, had the license been held at
694 the time the contract was executed.

695 (2) Superintendents/directors of schools under the purview
696 of the State Board of Education, the superintendent of the local
697 school district and any private firm under contract with the local
698 public school district to provide substitute teachers to teach
699 during the absence of a regularly employed schoolteacher shall
700 require, through the appropriate governmental authority, that
701 current criminal records background checks and current child abuse
702 registry checks are obtained, and that such criminal record
703 information and registry checks are on file for any new hires
704 applying for employment as a licensed or nonlicensed employee at a
705 school and not previously employed in such school under the
706 purview of the State Board of Education or at such local school
707 district prior to July 1, 2000. In order to determine the
708 applicant's suitability for employment, the applicant shall be
709 fingerprinted. If no disqualifying record is identified at the
710 state level, the fingerprints shall be forwarded by the Department
711 of Public Safety to the Federal Bureau of Investigation for a
712 national criminal history record check. The fee for such
713 fingerprinting and criminal history record check shall be paid by



the applicant, not to exceed Fifty Dollars (\$50.00); however, the State Board of Education, the school board of the local school district or a private firm under contract with a local school district to provide substitute teachers to teach during the temporary absence of the regularly employed schoolteacher, in its discretion, may elect to pay the fee for the fingerprinting and criminal history record check on behalf of any applicant. Under no circumstances shall a member of the State Board of Education, superintendent/director of schools under the purview of the State Board of Education, local school district superintendent, local school board member or any individual other than the subject of the criminal history record checks disseminate information received through any such checks except insofar as required to fulfill the purposes of this section. Any nonpublic school which is accredited or approved by the State Board of Education may avail itself of the procedures provided for herein and shall be responsible for the same fee charged in the case of local public schools of this state. The determination whether the applicant has a disqualifying crime, as set forth in subsection (3) of this section, shall be made by the appropriate governmental authority, and the appropriate governmental authority shall notify the private firm whether a disqualifying crime exists.

(3) If such fingerprinting or criminal record checks disclose a felony conviction, guilty plea or plea of nolo contendere to a felony of possession or sale of drugs, murder,



manslaughter, armed robbery, rape, sexual battery, sex offense listed in Section 45-33-23(h), child abuse, arson, grand larceny, burglary, gratification of lust or aggravated assault which has not been reversed on appeal or for which a pardon has not been granted, the new hire shall not be eligible to be employed at such school. Any employment contract for a new hire executed by the superintendent of the local school district or any employment of a new hire by a superintendent/director of a new school under the purview of the State Board of Education or by a private firm shall be voidable if the new hire receives a disqualifying criminal record check. However, the State Board of Education or the school board may, in its discretion, allow any applicant aggrieved by the employment decision under this section to appear before the respective board, or before a hearing officer designated for such purpose, to show mitigating circumstances which may exist and allow the new hire to be employed at the school. The State Board of Education or local school board may grant waivers for such mitigating circumstances, which shall include, but not be limited to: (a) age at which the crime was committed; (b) circumstances surrounding the crime; (c) length of time since the conviction and criminal history since the conviction; (d) work history; (e) current employment and character references; (f) other evidence demonstrating the ability of the person to perform the employment responsibilities competently and that the person does not pose a threat to the health or safety of the children at the school.



(4) No local school district, local school district employee, member of the State Board of Education or employee of a school under the purview of the State Board of Education shall be held liable in any employment discrimination suit in which an allegation of discrimination is made regarding an employment decision authorized under this Section 37-9-17.

(5) The provisions of this section shall be fully applicable to licensed employees of the Mississippi School of the Arts (MSA), established in Section 37-140-1 et seq.

SECTION 7. Section 37-9-59, Mississippi Code of 1972, is amended as follows:

37-9-59. For incompetence, neglect of duty, immoral conduct, intemperance, brutal treatment of a pupil or other good cause the superintendent of schools may dismiss or suspend any licensed employee in any school district. Before being so dismissed or suspended any licensed employee shall be notified of the charges against him and he shall be advised that he is entitled to a public hearing upon said charges. Provided, however, that a school superintendent whose employment has been terminated under this section shall not have the right to request a hearing before the school board or a hearing officer. Provided, however, that a licensed employee in a conservator school district whose employment has been terminated under this section for good cause as determined by a conservator appointed by the State Board of Education shall not have a right to request a hearing before the



789 school board, a hearing officer or the State Board of Education.
790 The conservator has the right to immediately terminate a licensed
791 employee under this section. In the event the continued presence
792 of said employee on school premises poses a potential threat or
793 danger to the health, safety or general welfare of the students,
794 or, in the discretion of the superintendent, may interfere with or
795 cause a disruption of normal school operations, the superintendent
796 may immediately release said employee of all duties pending a
797 hearing if one is requested by the employee. In the event a
798 licensed employee is arrested, indicted or otherwise charged with
799 a felony by a recognized law enforcement official, the continued
800 presence of the licensed employee on school premises shall be
801 deemed to constitute a disruption of normal school operations.
802 The school board, upon a request for a hearing by the person so
803 suspended or removed shall set a date, time and place for such
804 hearing which shall be not sooner than five (5) days nor later
805 than thirty (30) days from the date of the request. The procedure
806 for such hearing shall be as prescribed for hearings before the
807 board or hearing officer in Section 37-9-111. From the decision
808 made at said hearing, any licensed employee shall be allowed an
809 appeal to the chancery court in the same manner as appeals are
810 authorized in Section 37-9-113. Any party aggrieved by action of
811 the chancery court may appeal to the Mississippi Supreme Court as
812 provided by law. In the event that a licensed employee is
813 immediately relieved of duties pending a hearing, as provided in



814 this section, said employee shall be entitled to compensation for
815 a period up to and including the date that the initial hearing is
816 set by the school board, in the event that there is a request for
817 such a hearing by the employee. In the event that an employee
818 does not request a hearing within five (5) calendar days of the
819 date of the notice of discharge or suspension, it shall constitute
820 a waiver of all rights by said employee and such discharge or
821 suspension shall be effective on the date set out in the notice to
822 the employee.

823 The school board of every school district in this state is
824 hereby prohibited from denying employment or reemployment to any
825 person as a superintendent, principal or licensed employee, as
826 defined in Section 37-19-1, or as a noninstructional personnel, as
827 defined in Section 37-9-1, for the single reason that any eligible
828 child of such person does not attend the school system in which
829 such superintendent, principal, licensed employee or
830 noninstructional personnel is employed.

831 The provisions of this section shall be fully applicable to
832 any administrator or employee of the Mississippi School of the
833 Arts (MSA).

834 **SECTION 8.** Section 37-9-103, Mississippi Code of 1972, is
835 amended as follows:

836 37-9-103. (1) As used in Sections 37-9-101 through
837 37-9-113, the word "employee" shall include:



838 (a) Any teacher, principal, superintendent or other
839 professional personnel employed by the local school district or
840 the Mississippi School of the Arts (MSA) for a continuous period
841 of two (2) years with that district and required to have a valid
842 license issued by the State Department of Education as a
843 prerequisite of employment; or

844 (b) Any teacher, principal, superintendent or other
845 professional personnel who has completed a continuous period of
846 two (2) years of employment in a Mississippi public school
847 district and one (1) full year of employment with the school
848 district of current employment or the MSA, and who is required to
849 have a valid license issued by the State Department of Education
850 as a prerequisite of employment.

851 (2) (a) The Education Employment Procedures Law shall not
852 apply to any category of employee as defined in this section
853 employed in any school district after the Governor declares a
854 state of emergency under the provisions of Section 37-17-6(11).
855 The Education Employment Procedures Law shall not be applicable in
856 any school district for the full period of time that those
857 conditions, as defined in Section 37-17-6(11), exist.

858 (b) The Education Employment Procedures Law shall not
859 apply to any category of teacher, administrator or other employee
860 employed to work in any charter school.

861 (3) For purposes of Sections 37-9-101 through 37-9-113, the
862 term "days" means calendar days.



863 **SECTION 9.** Section 27-104-13, Mississippi Code of 1972, is
864 amended as follows:

865 27-104-13. (1) The State Fiscal Officer may disapprove or
866 reduce and revise the estimates of general funds and state-source
867 special funds for any general fund or special fund agency and for
868 the "administration and other expenses" budget of the Mississippi
869 Department of Transportation, in an amount not to exceed five
870 percent (5%), if at any time he finds that funds will not be
871 available within the period for which the budget is drawn, or if
872 at any time he finds that the requested expenditures, or any part
873 thereof, are not authorized by law, and that action shall be
874 reported to the Legislative Budget Office.

875 The State Fiscal Officer may, upon his determination of need
876 based upon a finding that funds will not be available within the
877 period for which the budget is drawn, transfer funds as provided
878 in Section 27-103-203, from the Working Cash-Stabilization Reserve
879 Fund to the General Fund to supplement the general fund revenue.

880 If the estimates of general funds and state-source special
881 funds of all general fund and special fund agencies and of the
882 "administration and other expenses" budget of the Mississippi
883 Department of Transportation have been reduced by five percent
884 (5%), additional reductions may be made, but shall consist of a
885 uniform percentage reduction of general funds and state-source
886 special funds to all general fund and special fund agencies and to



the "administration and other expenses" budget of the Mississippi Department of Transportation.

Any state-source special funds reduced under the provisions of this subsection (1) shall be transferred to the State General Fund upon requisitions for warrants signed by the respective agency head, and the transfer shall be made within a reasonable period to be determined by the State Fiscal Officer.

The provisions of this subsection (1) authorizing the State Fiscal Officer to disapprove or reduce and revise the estimates of general funds and state-source special funds for the "administration and other expenses" budget of the Mississippi Department of Transportation shall be suspended during the period from June 30, 2009, through June 30, 2010.

(2) The Department of Revenue and University Research Center, utilizing all available revenue forecast data, shall annually develop a general fund revenue estimate to be adopted by the Joint Legislative Budget Committee as of the date of sine die adjournment. If, at the end of October, or at the end of any month thereafter of any fiscal year, the revenues received for the fiscal year fall below ninety-eight percent (98%) of the general fund revenue estimate adopted by the Joint Legislative Budget Committee at the date of sine die adjournment, the State Fiscal Officer shall reduce allocations of general funds and state-source special funds to general fund and special fund agencies and to the "administration and other expenses" budget of the Mississippi



Department of Transportation, in an amount necessary to keep expenditures within the sum of actual general fund receipts, including any transfers to the General Fund from the Working Cash-Stabilization Reserve Fund for the fiscal year.

The State Fiscal Officer may, upon his determination of need based on the revenue shortfall, transfer funds as provided in Section 27-103-203 from the Working Cash-Stabilization Reserve Fund to the General Fund to supplement the general fund revenue. State-source special funds in an amount equal to any reduction made under the provisions of this subsection (2) shall be transferred to the State General Fund upon requisitions for warrants signed by the respective agency head, and the transfer shall be made within a reasonable period to be determined by the State Fiscal Officer.

No agency's allocation shall be reduced in an amount to exceed five percent (5%); however, if the allocations of general funds and state-source special funds to all general fund and special fund agencies and to the "administration and other expenses" budget of the Mississippi Department of Transportation have been reduced by five percent (5%), any additional reductions required to be made under this subsection (2) shall consist of a uniform percentage reduction of general funds and state-source special funds to all general fund and special fund agencies and to the "administration and other expenses" budget of the Mississippi Department of Transportation. Any receipt from loans authorized



937 by Sections 31-17-101 through 31-17-123 shall not be included as
938 revenue receipts.

939 The State Fiscal Officer shall immediately send notice of any
940 action taken under authority of this subsection (2) to the
941 Legislative Budget Office.

942 The provisions of this subsection (2) requiring the State
943 Fiscal Officer to reduce allocations of general funds and
944 state-source special funds to general fund and special fund
945 agencies and to the "administration and other expenses" budget of
946 the Mississippi Department of Transportation shall be suspended
947 during the period from June 30, 2009, through June 30, 2010.

948 (3) For the purpose of this section, the term "state-source
949 special funds" means any special funds in any agency derived from
950 any source, but shall not include the following special funds:
951 special funds derived from federal sources, from local or regional
952 political subdivisions, from agricultural commodity assessments,
953 or from donations; special funds derived from additional fees paid
954 for the issuance of distinctive motor vehicle license tags or
955 plates authorized under the provisions of Chapter 19, Title 27,
956 Mississippi Code of 1972; special funds held in a fiduciary
957 capacity for the benefit of specific persons or classes of
958 persons; special funds of the Mississippi Veterans Affairs Board
959 that are paid to the board by the veteran residents of state
960 veterans homes to fund their monthly expenses at the state
961 veterans homes; self-generated special funds of the state



institutions of higher learning or the state community or junior colleges; special funds of Mississippi Industries for the Blind, the State Port at Gulfport, Yellow Creek Inland Port, Pat Harrison Waterway District, Pearl River Basin Development District, Pearl River Valley Water Management District, Tombigbee River Valley Water Management District, Yellow Creek Watershed Authority, or Coast Coliseum Commission; special funds of the Department of Wildlife, Fisheries and Parks and the Department of Marine Resources derived from the issuance of hunting or fishing licenses; and special funds generated by agencies whose primary function includes the establishment of standards and the issuance of licenses for the practice of a profession within the State of Mississippi. The Mississippi School of the Arts established in Section 37-140-1 et seq., Mississippi Code of 1972, the Mississippi School for the Blind and Deaf established in Section 43-5-1 et seq., and the Mississippi School for Math and Science established in Section 37-139-1 et seq., shall be subject to any mid-year budget revisions or reductions imposed by the State Fiscal Officer under this section only to the same extent as is applicable to other school districts in the state.

SECTION 10. This act shall take effect and be in force from and after July 1, 2019.

