

By: Senator(s) DeBar

To: Education

SENATE BILL NO. 2616

1 AN ACT TO AMEND SECTIONS 25-11-126, 37-23-31, 37-23-33,  
2 37-61-33, 37-151-207 AND 37-159-7, MISSISSIPPI CODE OF 1972, TO  
3 UPDATE THE STATUTORY LANGUAGE TO REFLECT THE CURRENT TOTAL FUNDING  
4 FORMULA; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 25-11-126, Mississippi Code of 1972, is  
7 amended as follows:

8 25-11-126. (1) Any person who has at least thirty (30)  
9 years of creditable service, who was employed as a public school  
10 teacher at the time of his or her retirement, has been retired at  
11 least ninety (90) days and is receiving a retirement allowance,  
12 and holds a standard teaching license in Mississippi, may be  
13 employed as a teacher in a public school district after  
14 retirement, and choose to continue receiving the retirement  
15 allowance under this article during his or her employment as a  
16 teacher after retirement in addition to receiving the salary  
17 authorized under this section, along with the local contribution  
18 of the school district in which the retiree is employed, at the  
19 discretion of the school district. Any teacher who has retired



with at least twenty-five (25) years of creditable service as of July 1, 2024, may also participate in this program if the teacher otherwise qualifies under this section.

(2) A retired teacher may only be hired to teach in a school district designated by the Department of Education as having critical shortages and/or critical subject-area shortages, and shall hold the related standard teaching license and/or endorsements to teach in the subject area. The base compensation authorized for returning retired teachers under Section 37-19-7 shall not be graduated annually in the same manner as teachers who are employed by a school district under traditional employment guidelines, but shall remain static for the entirety of his or her eligible teaching period as a retired teacher.

(3) (a) A retired teacher may be employed as a teacher, continue receiving his or her retirement allowance and be a contributing member of the system without accruing additional retirement benefits for a total of five (5) years, which may be performed consecutively or intermittently. This method is designed specifically to provide funding for the system to actuarially offset any pension liability created by this section. Each school district hiring retired teachers under the authority of this section, shall make a direct payment to PERS, which shall serve as pension liability participation assessment. The pension liability participation assessment and the retired teacher's salary for returning to work shall be determined as follows:



45 (i) A school district shall rely on the salary  
46 schedule in Section 37-19-7 in considering the salary for a  
47 retired teacher; provided, however, that the school district may  
48 allocate up to one hundred and twenty-five percent (125%) of the  
49 amount provided under the salary schedule comparable to the  
50 teacher's years of service and license type as salary and  
51 assessment under the program.

52 (ii) After determining the retired teacher's  
53 compensation, the school district may pay no more than fifty  
54 percent (50%) of the retired teacher's compensation as salary to  
55 the retired teacher; and

56 (iii) The remaining fifty percent (50%) of the  
57 retired teacher's compensation as salary shall be paid by the  
58 school district to PERS as a pension liability participation  
59 assessment.

60 (b) If a retired teacher, reemployed under the  
61 authority of this section, works in a school district for any  
62 portion of a scholastic year less than a full contractual term of  
63 traditional teachers, the time worked by the retired teacher shall  
64 constitute one (1) of the five (5) years of post retirement  
65 teaching eligibility. A retired teacher, under the authority of  
66 this section, shall be entitled to work in any applicable school  
67 district and shall not be obligated to remain in any one (1)  
68 school district for the entirety of his or her post retirement  
69 teaching eligibility, but shall be cumulative in nature so as not



70 to exceed five (5) years. The salary authorized under Section  
71 37-19-7 for retired teachers shall be prorated for any period  
72 worked by the retired teacher that is less than one (1) full  
73 academic year.

74 (c) The State Department of Education shall transfer to  
75 the system the \* \* \* total funding formula funds of local school  
76 districts that on or after July 1, 2024, hire retired members as  
77 teachers under this section and other funds that otherwise would  
78 have been payable to the districts if the districts had not taken  
79 advantage of this section. The crediting of assets and financing  
80 shall follow the provisions of Section  
81 25-11-123.

82 (d) Local educational agencies shall transfer to the  
83 system \* \* \* the total funding formula funds of local school  
84 districts that on or after July 1, 2024, hire retired members as  
85 teachers under this section and other funds that otherwise would  
86 have been payable to the districts if the districts had not taken  
87 advantage of this section. The crediting of assets and financing  
88 must follow the provisions of Section 25-11-123.

89 (4) Under the authority of this section, school districts  
90 may employ retired teachers based on criteria established by the  
91 department of education for critical teacher shortage areas and  
92 critical subject-matter areas. A school district that is not  
93 within a critical teacher shortage area may employ teachers for  
94 critical subject-matter areas.



95           (5) A person may be hired under this section subject to the  
96 following conditions:

97           (a) The retired member holds any teacher's professional  
98 license or certificate as may be required in Section 37-3-2, and  
99 holds the related standard teaching license and/or endorsements to  
100 teach in the applicable subject area;

101           (b) The superintendent of the employing school district  
102 certifies in writing to the State Department of Education that the  
103 retired member has the requisite experience, training and  
104 expertise for the position to be filled;

105           (c) The superintendent of the school district certifies  
106 or the principal of the school certifies that there was no  
107 preexisting arrangement for the person to be hired;

108           (d) The person had a satisfactory performance review  
109 for the most recent period before retirement; and

110           (e) The person is hired to teach in a critical  
111 subject-matter area or in a critical teacher shortage area.

112           (6) The State Superintendent of Public Education shall  
113 report the persons who are employed under this section to the  
114 Executive Director of the Public Employees' Retirement System.

115           (7) The department of education shall promulgate regulations  
116 that prescribe a salary schedule that reflects the provisions of  
117 this section. Each school district shall create a policy,  
118 approved by the local school board, related to the hiring of  
119 retired teachers and including, but not limited to, the hiring of



full- and part-time retired teacher employees under this section and Section 25-11-127.

(8) Any retired teacher who returns to work in accordance with this section shall not be eligible to return to work under the provisions of Section 25-11-127.

**SECTION 2.** Section 37-23-31, Mississippi Code of 1972, is amended as follows:

37-23-31. (1) (a) When five (5) or more children under twenty-one (21) years of age who, because of significant developmental disabilities, complex communication needs, significant language or learning deficits or any combination of either, are unable to have their educational needs met appropriately in a regular or special education public school program within their local public school districts, a state-supported university or college shall be authorized and empowered, in its discretion, to provide a program of education, instruction and training to such children, provided that such program shall operate under rules, regulations, policies and standards adopted by the State Department of Education, as provided for in Section 37-23-33. The opinion of a parent or guardian in regard to the provision of an appropriate special education program in or by their respective local public school district shall be considered before a placement decision is finalized. Parents of students enrolled in a local education agency (LEA) shall have any and all rights as provided in the



145 Individuals with Disabilities Education Act, including, but not  
146 limited to, the right to equal participation in their child's  
147 Individualized Education Program (IEP), the right to require  
148 review of their child's IEP, and the right to appeal an IEP  
149 Committee decision immediately. The parent or guardian or local  
150 educational agency shall have the right to audio record the  
151 proceedings of individualized education program team meetings.  
152 The parent or guardian or local educational agency shall notify  
153 the members of the individualized education program team of his,  
154 her, or its intent to audio record a meeting at least twenty-four  
155 (24) hours prior to the meeting.

156 (b) Instructors, including speech-language  
157 pathologists, educational audiologists and special and early  
158 childhood educators are qualified and empowered to serve as the  
159 lead teacher for children enrolled within the state-supported  
160 university's or college's university-based program (UBP) through  
161 the IDEA-Part C and IDEA-Part B eligibility and placement process  
162 upon completing instructional licensure requirements \* \* \*.

163 (c) Due to the significance of the needs of the  
164 children served through the UBP, general education setting  
165 requirements may not be applicable as the least restrictive  
166 environment. Students enrolled in a UBP by a LEA shall meet all  
167 state educational requirements, including participation in  
168 statewide assessments. Justification for placement decisions is  
169 determined in conjunction with the LEA through each child's IEP



for ages three (3) to twenty-one (21). The UBP shall submit to the local education agency and the parents of the student in the program a progress report each semester on all IEP goals and objectives. The UBP and local education agency shall confer annually to develop the IEP for each student enrolled in the UBP.

(2) Any state-supported university or college conducting a full-time medical teaching program acceptable to the State Board of Education may, at its discretion, enter into such contracts or agreements with any private school or nonprofit corporation-supported institution, the Mississippi School for the Deaf, or any state-supported institution, providing the special education contemplated by this section for such services, provided the private school or institution offering such services shall have conducted a program of such services at standards acceptable to the State Department of Education for a period of at least one (1) year prior to the date at which the university or college proposes to enter into an agreement or contract for special educational services as described above.

**SECTION 3.** Section 37-23-33, Mississippi Code of 1972, is amended as follows:

37-23-33. (1) Such program of education, instruction and training as is provided for in Section 37-23-31 shall be furnished in such manner as shall be provided by rules and regulations adopted by the State Board of Education, which for such purposes shall have the full power to adopt such rules, regulations,





195 policies and standards as it may deem necessary to carry out the  
196 purpose of Sections 37-23-31 through 37-23-35, including the  
197 establishment of qualifications consistent with the requirements  
198 of subsection (2) of this section for any teachers employed under  
199 the provisions thereof. It is expressly provided, however, that  
200 no program of education, instruction and training shall be  
201 furnished except in a university or college supported by the State  
202 of Mississippi and only in cases where such university or college  
203 shall consent thereto and shall provide any classroom space,  
204 furniture and facilities which may be deemed necessary in carrying  
205 out the provisions of those sections.

206 (2) Speech-language pathologists, educational audiologists,  
207 and special and early childhood educators are qualified and  
208 authorized to serve as the lead teacher for children enrolled in a  
209 university or college-based program through the IDEA-Part C and  
210 IDEA-Part B eligibility and placement process. Whenever  
211 communication is a primary area of concern on a child's  
212 Individualized Family Service Plan (IFSP) or Individualized  
213 Education Program (IEP), a speech-language pathologist or  
214 educational audiologist may serve as the lead instructor with an  
215 educator serving as a related service provider as necessary to  
216 meet the educational needs of the child. Speech-language  
217 pathologists and educational audiologists must undergo extensive  
218 college coursework in communication-based disorders impacting  
219 multiple areas of development, including cognition. The content



of the college coursework must include typical and atypical development for ages birth through death. In addition to completing the college coursework, these instructional providers must meet all instructional licensure requirements as set forth by the State Department of Education \* \* \*.

(3) The State Department of Education through its general supervision responsibilities set forth by the Office of Special Education Programs at the United States Department of Education, shall require that the program of education, instruction and training be designed to provide individualized appropriate special education and related services that enable a child to reach his or her appropriate and uniquely designed goals for success.

(4) A university- or college-based program must submit all reports and data required by the State Department of Education on the same or similar time schedule and in the same or similar manner that same or similar reports and data must be submitted to the department by local educational agencies.

**SECTION 4.** Section 37-61-33, Mississippi Code of 1972, is amended as follows:

37-61-33. (1) There is created within the State Treasury a special fund to be designated the "Education Enhancement Fund" into which shall be deposited all the revenues collected pursuant to Sections 27-65-75(5), (7) and (8) and 27-67-31(a) and (b).

(2) Of the amount deposited into the Education Enhancement Fund, Sixteen Million Dollars (\$16,000,000.00) shall be



appropriated each fiscal year to the State Department of Education to be distributed to all school districts. Such money shall be distributed to all school districts in the proportion that the net enrollment of each school district bears to the net enrollment of all school districts within the state for the following purposes:

(a) Purchasing, erecting, repairing, equipping, remodeling and enlarging school buildings and related facilities, including gymnasiums, auditoriums, lunchrooms, vocational training buildings, libraries, teachers' homes, school barns, transportation vehicles (which shall include new and used transportation vehicles) and garages for transportation vehicles, and purchasing land therefor;

(b) Establishing and equipping school athletic fields and necessary facilities connected therewith, and purchasing land therefor;

(c) Providing necessary water, light, heating, air-conditioning and sewerage facilities for school buildings, and purchasing land therefor;

(d) As a pledge to pay all or a portion of the debt service on debt issued by the school district under Sections 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302 and 37-41-81, or debt issued by boards of supervisors for agricultural high schools pursuant to Section 37-27-65, if such pledge is accomplished pursuant to a written contract or



270 resolution approved and spread upon the minutes of an official  
271 meeting of the district's school board or board of supervisors.  
272 The annual grant to such district in any subsequent year during  
273 the term of the resolution or contract shall not be reduced below  
274 an amount equal to the district's grant amount for the year in  
275 which the contract or resolution was adopted. The intent of this  
276 provision is to allow school districts to irrevocably pledge a  
277 certain, constant stream of revenue as security for long-term  
278 obligations issued under the code sections enumerated in this  
279 paragraph or as otherwise allowed by law. It is the intent of the  
280 Legislature that the provisions of this paragraph shall be  
281 cumulative and supplemental to any existing funding programs or  
282 other authority conferred upon school districts or school boards.  
283 Debt of a district secured by a pledge of sales tax revenue  
284 pursuant to this paragraph shall not be subject to any debt  
285 limitation contained in the foregoing enumerated code sections;  
286 and

287 (e) Any other purpose for which the total funding  
288 formula funds as determined by Sections 37-151-200 through  
289 37-151-215 are not sufficient.

290 (3) The remainder of the money deposited into the Education  
291 Enhancement Fund shall be appropriated as follows:

292 (a) To the State Department of Education as follows:

293 (i) Sixteen and sixty-one one-hundredths percent  
294 (16.61%) to the cost of the total funding formula determined under



Sections 37-151-200 through 37-151-215; of the funds generated by the percentage set forth in this section for the support of the \* \* \* total funding formula, one and one hundred seventy-eight one-thousandths percent (1.178%) of the funds shall be appropriated to be used by the State Department of Education for the purchase of textbooks to be loaned under Sections 37-43-1 through 37-43-59 to approved nonpublic schools, as described in Section 37-43-1. The funds to be distributed to each nonpublic school shall be in the proportion that the average daily attendance of each nonpublic school bears to the total average daily attendance of all nonpublic schools;

(ii) Seven and ninety-seven one-hundredths percent (7.97%) to assist the funding of transportation operations and maintenance pursuant to Section 37-19-23; and

(iii) Nine and sixty-one one-hundredths percent (9.61%) for classroom supplies, instructional materials and equipment, including computers and computer software, to be distributed to all eligible teachers within the state through the use of procurement cards or a digital solution capable of tracking, paying and reporting purchases. Classroom supply funds shall not be expended for administrative purposes. On a date to be determined by the State Department of Education, but not later than July 1 of each year, local school districts shall determine and submit to the State Department of Education the number of teachers eligible to receive an allocation for the current year.



320 For purposes of this subparagraph, "teacher" means any employee of  
321 the school board of a school district, or the Mississippi School  
322 for the Arts, the Mississippi School for Math and Science, the  
323 Mississippi School for the Blind, the Mississippi School for the  
324 Deaf or public charter school, who is required by law to obtain a  
325 teacher's license from the State Department of Education and who  
326 is assigned to an instructional area of work as defined by the  
327 department, and shall include any full- or part-time gifted or  
328 special education teacher. It is the intent of the Legislature  
329 that all classroom teachers shall utilize these funds in a manner  
330 that addresses individual classroom needs and supports the overall  
331 goals of the school regarding supplies, instructional materials,  
332 equipment, computers or computer software under the provisions of  
333 this subparagraph, including the type, quantity and quality of  
334 such supplies, materials and equipment. Classroom supply funds  
335 allocated under this subparagraph shall supplement, not replace,  
336 other local and state funds available for the same purposes. The  
337 State Board of Education shall develop and promulgate rules and  
338 regulations for the administration of this subparagraph consistent  
339 with the above criteria, with particular emphasis on allowing the  
340 individual teachers to expend funds as they deem appropriate. The  
341 local school board shall require each school to issue credentials  
342 for a digital solution selected by or procurement cards provided  
343 by the Department of Finance and Administration under the  
344 provisions of Section 31-7-9(1)(c) for the use of teachers and



necessary support personnel in making instructional supply fund expenditures under this section, consistent with the regulations of the Mississippi Department of Finance and Administration pursuant to Section 31-7-9. Such credentials or procurement cards shall be provided by the State Department of Education to local school districts on a date determined by the State Department of Education, but not later than August 1 of each year. Local school districts shall issue such credentials or procurement cards to classroom teachers at the beginning of the school year, but no later than August 1 of each year, and shall be issued in equal amounts per teacher determined by the total number of qualifying personnel and the current state appropriation for classroom supplies with the Education Enhancement Fund. After initial cards are issued under the timeline prescribed by this section, the State Department of Education may issue cards to districts for any classroom teacher hired after July 1 under a timeline prescribed by the State Department of Education. Such credentials or cards will expire on a predetermined date at the end of each school year, but not before April 1 of each year;

(b) Twenty-two and nine one-hundredths percent (22.09%) to the Board of Trustees of State Institutions of Higher Learning for the purpose of supporting institutions of higher learning; and

(c) Fourteen and forty-one one-hundredths percent (14.41%) to the Mississippi Community College Board for the purpose of providing support to community and junior colleges.



(4) The amount remaining in the Education Enhancement Fund after funds are distributed as provided in subsections (2) and (3) of this section shall be appropriated for other educational needs.

(5) None of the funds appropriated pursuant to subsection (3)(a) of this section shall be used to reduce the state's General Fund appropriation for the categories listed in an amount below the following amounts:

(a) For subsection (3)(a)(ii) of this section, Thirty-six Million Seven Hundred Thousand Dollars (\$36,700,000.00);

(b) For the aggregate of minimum program allotments in the 1997 fiscal year, formerly provided for in Chapter 19, Title 37, Mississippi Code of 1972, as amended, excluding those funds for transportation as provided for in paragraph (a) of this subsection.

(6) Any funds appropriated from the Education Enhancement Fund that are unexpended at the end of a fiscal year shall lapse into the Education Enhancement Fund.

**SECTION 5.** Section 37-151-207, Mississippi Code of 1972, is amended as follows:

37-151-207. (1) The net enrollment of a school district or charter school for use in the funding formula must be computed and currently maintained by the State Board of Education in accordance with the following:





(a) Determination of school district net enrollment for use in the funding formula. Effective with fiscal year 2026, the State Department of Education shall \* \* \* use the school district's net enrollment for months two (2) and three (3) for the preceding school year for which funds are being appropriated.

(b) Determination of charter school net enrollment for use in the funding formula. Effective with fiscal year 2026, the department shall base a charter school's net enrollment on the enrollment projections for the relevant year set forth over the term of the charter contract.

(c) The net enrollment of a school district used for funding formula calculations, as determined in paragraph (a) of this subsection, must be reconciled with the school district's net enrollment using months two (2) and three (3) for the year for which total funding formula funds are being appropriated, and any necessary adjustments must be made to payments during the school district's following year of operation. Any necessary adjustment for a school district must be based on the state share of the per pupil amount in effect for the year for which actual net enrollment did not meet expectations and not any new amount appropriated for the year in which the adjustment will be made. Reconciliation of net enrollment for charter schools must be based on requirements set forth in Section 37-28-55.

(2) The net enrollment of a school district or charter school must include any student enrolled in a dual enrollment-dual



credit program as defined and provided for in Section 37-15-38. The State Department of Education shall make payments for dual enrollment-dual credit programs to the home school district or charter school in which the student is enrolled, in accordance with regulations promulgated by the State Board of Education. All state funding under the formula must cease upon completion of high school graduation requirements.

(3) The State Board of Education shall promulgate such rules and regulations as may be necessary for the counting and reporting of student enrollment by school districts and charter schools to the department in a manner that enables the provisions of Sections 37-151-200 through 37-151-215 to be carried out. The rules and regulations must require school districts and charter schools to submit data that includes, at a minimum, numbers for the specific student populations that are subject to weighting under Sections 37-151-200 through 37-151-215 as well as the aggregate amount of students in enrollment when each calculation is made. For the first year of operation of a charter school, the State Board of Education shall use imputed student demographic data based on the traditional district in which the charter school is located to estimate student populations that are subject to weighting under Sections 37-151-200 through 37-151-215.

(4) The superintendent of each school district and the head of school of each charter school, as applicable, shall submit the data required by subsection (3) of this section with a signed



affidavit attesting that the data submitted to the department is accurate to the best of the superintendent's knowledge, and any inaccuracies later discovered will be reported to the department. The State Board of Education shall be specifically authorized and empowered to withhold allocations from the total funding formula funds as provided in Sections 37-151-200 through 37-151-215, to any school district or charter school for improperly or inaccurately reporting the student data required by Sections 37-151-200 through 37-151-215.

**SECTION 6.** Section 37-159-7, Mississippi Code of 1972, is amended as follows:

37-159-7. The school board of any school district situated within a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, in its discretion, may reimburse persons who interview for employment as a licensed teacher with the district for the mileage and other actual expenses incurred in the course of travel to and from the interview by such persons at the rate authorized for county and municipal employees under Section 25-3-41. Any reimbursement by a school board under this section shall be paid from funds other than \* \* \* total funding formula funds.

**SECTION 7.** This act shall take effect and be in force from and after July 1, 2025.

