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HOUSE BILL NO. 1170

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HOUSE BILL NO. 1170

AN ACT TO REQUIRE THE SCHOOL BOARD OF A SCHOOL DISTRICT HAVING A CERTAIN ENDING FUND BALANCE IN THE 2010, 2011 AND 2012 FISCAL YEARS TO SUBMIT A PLAN FOR BUDGET CUTS TO THE STATE DEPARTMENT OF EDUCATION; TO AUTHORIZE THE STATE BOARD OF EDUCATION TO ADOPT RULES AND REGULATIONS SPECIFYING THE REQUIRED CONTENTS OF THE PLAN; TO REQUIRE THE DEPARTMENT TO APPROVE OR RETURN THE PLAN TO THE SCHOOL DISTRICT WITH INSTRUCTIONS; TO AUTHORIZE PUBLIC SCHOOL DISTRICTS TO FURLOUGH ALL INSTRUCTIONAL AND NONINSTRUCTIONAL EMPLOYEES ON A LIMITED BASIS FOR THE 2010-2011 AND 2011-2012 SCHOOL YEARS; TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AN ADDITIONAL 1/2 DAY OF PERSONAL LEAVE FOR EVERY FURLOUGH DAY REQUIRED FOR SCHOOL DISTRICT EMPLOYEES; TO AMEND SECTIONS 37-151-87, 38-19-7, 37-9-23 AND 37-9-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE REDUCTIONS IN LOCAL SUPPLEMENTS ON A LIMITED BASIS AND IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) During the 2010, 2011 and 2012 fiscal years, whenever a school district has an ending fund balance in the maintenance fund of the school district which is an amount equal to less than seven percent (7%) of the total revenue deposited into the district maintenance fund during that fiscal year, the school board of the school district shall prepare and file with the State Department of Education a plan under which the district intends to reduce costs in the district. The plan must be submitted by the school board to the department contemporaneously with the budgetary information required under Section 37-61-9(2).

(2) The State Board of Education may adopt rules and regulations prescribing the specific contents required to be included in a plan submitted by a local school board to the department under subsection (1) of this section. The rules and regulations may include provisions addressing the following matters:

(a) A description of the financial data or documents and budgetary information that a district must submit to the department;

(b) A description of the manner by which the school district intends to achieve costs savings, demonstrated by actual reductions in budgeted expenditures;

(c) A requirement that before a school board makes expenditure cuts by reductions in the number of instructional employees or by reducing any discretionary supplemental amounts paid to instructional personnel, significant cost savings must be demonstrated by reducing the number of noninstructional personnel or the amounts paid to those employees, or both; and

(d) Any other information deemed necessary by the State Board of Education.

(3) After analyzing a plan that has been filed with the department under subsection (1), the department shall either approve the plan as submitted by the school board or alternatively, withhold approval and return the plan to the district with guidance or instructions, which may require resubmission of the plan by the school board for further review after changes have been made to the plan.

(4) This section shall stand repealed on July 1, 2012.

SECTION 2. (1) For purposes of this section, "furlough" is defined as the placement of an employee temporarily and involuntarily in a nonpay and nonduty status for a limited number of workdays during the school year.

(2) In the event a local school board determines that a serious financial condition exists and that resources are insufficient to meet district obligations, the local school board may adopt a resolution on the recommendation of the local superintendent to furlough all instructional, noninstructional and administrative employees of the school district, including the superintendent, for not more than three (3) days during the

2010-2011 school year and for not more than three (3) days during the 2011-2012 school year. For every day an instructional, noninstructional or administrative employee with a contract not less than one hundred eighty-seven (187) days is furloughed without pay, the employee shall be authorized to take one-half (1/2) day of personal leave under the conditions of Section 37-7-307(3). The three (3) discretionary furlough days for all licensed employees in the 2010-2011 school year and the 2011-2012 school year shall not be taken during days that are devoted to classroom instruction.

(3) This section shall stand repealed from and after July 1, 2012.

SECTION 3. 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 (1) 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 may be deducted from the pay of such licensed employee the established substitute amount of licensed employee compensation paid in that local school district, necessitated because of the absence of the licensed employee as a result of illness or physical disability. Thereafter, the regular pay of such absent licensed employee may be suspended and withheld in its entirety for any period of absence because of illness or physical disability during that school year.

(3) Beginning with the school year 1983-1984, each licensed employee at the beginning of each school year shall be credited with a minimum personal leave allowance, with pay, of two (2) days for absences caused by personal reasons during that school year. <u>Effective for the 2010-2011 and 2011-2012 school years, licensed employees shall be credited with an additional one-half (1/2) day of personal leave for every day the licensed employee is furloughed without pay as provided in Section 2 of this act.</u> Such

personal leave shall not be taken on the first day of the school term, the last day of the school term, on a day previous to a holiday or a day after a holiday, unless on such days an immediate family member of the employee is being deployed for military service. Personal leave may be used for professional purposes, including absences caused by attendance of such licensed employee at a seminar, class, training program, professional association or other functions designed for educators. No deduction from the pay of such licensed employee may be made because of absence of such licensed employee caused by personal reasons until after all personal leave allowance credited to such licensed employee has been used. However, the superintendent of a school district, in his discretion, may allow a licensed employee personal leave in addition to any minimum personal leave allowance, under the condition that there shall be deducted from the salary of such licensed employee the actual amount of any compensation paid to any person as a substitute, necessitated because of the absence of the licensed employee. Any unused portion of the total personal leave allowance up to five (5) days shall be carried over to the next school year and credited to such licensed employee if the licensed employee remains employed in the same school district. Any personal leave allowed for a furlough day shall not be carried over to the next school year.

(4) Beginning with the school year 1992-1993, each licensed employee shall be credited with a professional leave allowance, with pay, for each day of absence caused by reason of such employee's statutorily required membership and attendance at a regular or special meeting held within the State of Mississippi of the State Board of Education, the Commission on Teacher and Administrator Education, Certification and Licensure and Development, the Commission on School Accreditation, the Mississippi Authority for Educational Television, the meetings of

the state textbook rating committees or other meetings authorized by local school board policy.

(5) Upon retirement from employment, each licensed and nonlicensed employee shall be paid for not more than thirty (30) days of unused accumulated leave earned while employed by the school district in which the employee is last employed. Such payment for licensed employees shall be made by the school district at a rate equal to the amount paid to substitute teachers and for nonlicensed employees, the payment shall be made by the school district at a rate equal to the federal minimum wage. The payment shall be treated in the same manner for retirement purposes as a lump-sum payment for personal leave as provided in Section 25-11-103(e). Any remaining lawfully credited unused leave, for which payment has not been made, shall be certified to the Public Employees' Retirement System in the same manner and subject to the same limitations as otherwise provided by law for unused leave. No payment for unused accumulated leave may be made to either a licensed or nonlicensed employee at termination or separation from service for any purpose other than for the purpose of retirement.

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

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

(b) Providing penalties, by way of full deduction from salary, or entry on the work record of the employee, or other

appropriate penalties, for any materially false statement by the employee as to the cause of absence;

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

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

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

(8) The school board may further adopt rules and regulations which will reasonably implement such leave policies for all other nonlicensed and hourly paid school employees as the board deems appropriate. <u>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 2 of this act.</u>

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

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

(i) "Catastrophic injury or illness" means a life-threatening injury or illness of an employee or a member of an employee's immediate family that totally incapacitates the employee from work, as verified by a licensed physician, and forces the employee to exhaust all leave time earned by that employee, resulting in the loss of compensation from the local school district for the employee. Conditions that are short-term

in nature, including, but not limited to, common illnesses such as influenza and the measles, and common injuries, are not catastrophic. Chronic illnesses or injuries, such as cancer or major surgery, that result in intermittent absences from work and that are long-term in nature and require long recuperation periods 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 or another 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 donated leave shall be based upon review and approval by the donor employee's supervisor.

(iv) Before an employee may receive donated leave, he or she must provide the school district superintendent or his designee with a physician's statement that states the beginning date of the catastrophic injury or illness, a description of the injury or illness, and a prognosis for recovery and the anticipated date that the recipient employee will be able to return to work.

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

(vi) Donated leave shall not be used in lieu of disability retirement.

SECTION 4. Section 37-151-87, Mississippi Code of 1972, is amended as follows:

37-151-87. No school district shall pay any teacher less than the state minimum salary. Provided, however, that school districts are authorized to reduce the state minimum salary by a pro rata daily amount in order to comply with the school district employee furlough provisions of Section 2 of this act. From and after July 1, 2012, no school district shall receive any funds under the provisions of this chapter for any school year during which the aggregate amount of local supplement as defined in Section 37-151-5 shall have been reduced below such amount for the previous year. However, (a) where there has been a reduction in adequate education program allocations for such district in such year, (b) where there has been a reduction in the amount of federal funds to such district below the previous year, or (c) where there has been a reduction in ad valorem taxes to such school district for the 1986-1987 school year below the amount for the previous year due to the exemption of nuclear generating

plants from ad valorem taxation pursuant to Section 27-35-309, Mississippi Code of 1972, the aggregate amount of local supplement in such district may be reduced in the discretion of the local school board without loss of funds under this chapter. No school district may receive any funds under the provisions of this chapter for any school year if the aggregate amount of support from ad valorem taxation shall be reduced during such school year below such amount for the previous year; however, where there is a loss in adequate education program allocations, or where there is or heretofore has been a decrease in the total assessed value of taxable property within a school district, the aggregate amount of such support may be reduced proportionately. Nothing herein contained shall prohibit any school district from adopting or continuing a program or plan whereby teachers are paid varying salaries according to the teaching ability, classroom performance and other similar standards.

SECTION 5. Section 37-19-7, Mississippi Code of 1972, is amended as follows:

37-19-7. (1) This section shall be known and may be cited as the Mississippi "Teacher Opportunity Program (TOP)." The allowance in the Mississippi Adequate Education Program for teachers' salaries in each county and separate school district shall be determined and paid in accordance with the scale for teachers' salaries as provided in this subsection. For teachers holding the following types of licenses or the equivalent as determined by the State Board of Education, and the following number of years of teaching experience, the scale shall be as follows:

2007-2008 School Year and School Years Thereafter

Less Than 25 Years of Teaching Experience

AAAA..... $ 35,020.00

AAA..... 33,990.00

AA..... 32,960.00

A..... 30,900.00

25 or More Years of Teaching Experience

AAAA..... $ 37,080.00

AAA..... 36,050.00

AA..... 35,020.00

A..... 32,960.00

The State Board of Education shall revise the salary scale prescribed above for the 2007-2008 school year to conform to any adjustments made to the salary scale in prior fiscal years due to revenue growth over and above five percent (5%). For each one percent (1%) that the Sine Die General Fund Revenue Estimate Growth exceeds five percent (5%) for fiscal year 2006, as certified by the Legislative Budget Office to the State Board of Education and subject to specific appropriation therefor by the Legislature, the State Board of Education shall revise the salary scale to provide an additional one percent (1%) across-the-board increase in the base salaries for each type of license.

It is the intent of the Legislature that any state funds made available for salaries of licensed personnel in excess of the funds paid for such salaries for the 1986-1987 school year shall be paid to licensed personnel pursuant to a personnel appraisal and compensation system implemented by the State Board of Education. The State Board of Education shall have the authority to adopt and amend rules and regulations as are necessary to establish, administer and maintain the system.

[Until July 1, 2012, this paragraph shall read as follows:]

All teachers employed on a full-time basis shall be paid a minimum salary in accordance with the above scale. Provided, however, that school districts are authorized to reduce the state minimum salary by a pro rata daily amount in order to comply with the school district employee furlough provisions of Section 2 of this act. * * *

[From and after July 1, 2012, this paragraph shall read as follows:]

All teachers employed on a full-time basis shall be paid a minimum salary in accordance with the above scale. However, no school district shall receive any funds under this section for any school year during which the local supplement paid to any individual teacher shall have been reduced to a sum less than that paid to that individual teacher for performing the same duties from local supplement during the immediately preceding school year. The amount actually spent for the purposes of group health and/or life insurance shall be considered as a part of the aggregate amount of local supplement but shall not be considered a part of the amount of individual local supplement.

2008-2009 School Year

Annual Increments

For teachers holding a Class AAAA license, the minimum base pay specified in this subsection shall be increased by the sum of Seven Hundred Ninety-four Dollars ($794.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-five (25) years of teaching experience, and shall be increased by Three Hundred Ninety-seven Dollars ($397.00) for each year of teaching experience over twenty-five (25) years up to thirty-five (35) years.

For teachers holding a Class AAA license, the minimum base pay specified in this subsection shall be increased by the sum of Seven Hundred Twenty-seven Dollars ($727.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-five (25) years of teaching experience, and shall be increased by Three Hundred Sixty-four Dollars ($364.00) for each year of teaching experience over twenty-five (25) years up to thirty-five (35) years.

For teachers holding a Class AA license, the minimum base pay specified in this subsection shall be increased by the sum of Six

Hundred Sixty Dollars ($660.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-five (25) years of teaching experience, and shall be increased by Three Hundred Thirty Dollars ($330.00) for each year of teaching experience over twenty-five (25) years up to thirty-five (35) years.

For teachers holding a Class A license, the minimum base pay specified in this subsection shall be increased by the sum of Four Hundred Ninety-five Dollars ($495.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-four (24) years of teaching experience, and shall be increased by Two Hundred Forty-eight Dollars ($248.00) for each year of teaching experience over twenty-four (24) years up to thirty-five (35) years.

2009-2010 School Year

Annual Increments

For teachers holding a Class AAAA license, the minimum base pay specified in this subsection shall be increased by the sum of Seven Hundred Ninety-four Dollars ($794.00) for each year of teaching experience possessed by the person holding such license until such person shall have thirty-five (35) years of teaching experience.

For teachers holding a Class AAA license, the minimum base pay specified in this subsection shall be increased by the sum of Seven Hundred Twenty-seven Dollars ($727.00) for each year of teaching experience possessed by the person holding such license until such person shall have thirty-five (35) years of teaching experience.

For teachers holding a Class AA license, the minimum base pay specified in this subsection shall be increased by the sum of Six Hundred Sixty Dollars ($660.00) for each year of teaching experience possessed by the person holding such license until such person shall have thirty-five (35) years of teaching experience.

For teachers holding a Class A license, the minimum base pay specified in this subsection shall be increased by the sum of Four Hundred Ninety-five Dollars ($495.00) for each year of teaching experience possessed by the person holding such license until such person shall have thirty-five (35) years of teaching experience.

The level of professional training of each teacher to be used in establishing the salary allotment for the teachers for each year shall be determined by the type of valid teacher's license issued to those teachers on or before October 1 of the current school year. Provided, however, that school districts are authorized, in their discretion, to negotiate the salary levels applicable to certificated employees who are receiving retirement benefits from the retirement system of another state, and the annual experience increment provided above in Section 37-19-7 shall not be applicable to any such retired certificated employee.

Each school district shall provide an annual report to the State Department of Education on the number of certificated and noncertificated employees receiving a salary from the school district who are also receiving retirement benefits from the Public Employees' Retirement System. This report shall include the name of the employee(s), the hours per week for which the employee is under contract and the services for which the employee is under contract. Said required annual report shall be in a form and deadline promulgated by the State Board of Education. The State Department shall include this information in its annual budget request to the Legislative Budget Office.

(2) (a) The following employees shall receive an annual salary supplement in the amount of Six Thousand Dollars ($6,000.00), plus fringe benefits, in addition to any other compensation to which the employee may be entitled:

(i) Any licensed teacher who has met the requirements and acquired a Master Teacher certificate from the National Board for Professional Teaching Standards and who is

employed by a local school board or the State Board of Education as a teacher and not as an administrator. Such teacher shall submit documentation to the State Department of Education that the certificate was received prior to October 15 in order to be eligible for the full salary supplement in the current school year, or the teacher shall submit such documentation to the State Department of Education prior to February 15 in order to be eligible for a prorated salary supplement beginning with the second term of the school year.

(ii) A licensed nurse who has met the requirements and acquired a certificate from the National Board for Certification of School Nurses, Inc., and who is employed by a local school board or the State Board of Education as a school nurse and not as an administrator. The licensed school nurse shall submit documentation to the State Department of Education that the certificate was received before October 15 in order to be eligible for the full salary supplement in the current school year, or the licensed school nurse shall submit the documentation to the State Department of Education before February 15 in order to be eligible for a prorated salary supplement beginning with the second term of the school year. Provided, however, that the total number of licensed school nurses eligible for a salary supplement under this subparagraph (ii) shall not exceed thirty (30).

(iii) Any licensed school counselor who has met the requirements and acquired a National Certified School Counselor (NCSC) endorsement from the National Board of Certified Counselors and who is employed by a local school board or the State Board of Education as a counselor and not as an administrator. Such licensed school counselor shall submit documentation to the State Department of Education that the endorsement was received prior to October 15 in order to be eligible for the full salary supplement in the current school year, or the licensed school counselor shall submit such

documentation to the State Department of Education prior to February 15 in order to be eligible for a prorated salary supplement beginning with the second term of the school year. However, any school counselor who started the National Board for Professional Teaching Standards process for school counselors between June 1, 2003, and June 30, 2004, and completes the requirements and acquires the Master Teacher certificate shall be entitled to the master teacher supplement, and those counselors who complete the process shall be entitled to a one-time reimbursement for the actual cost of the process as outlined in paragraph (b) of this subsection.

(iv) Any licensed speech-language pathologist and audiologist who has met the requirements and acquired a Certificate of Clinical Competence from the American Speech-Language-Hearing Association and who is employed by a local school board or is employed by a state agency under the State Personnel Board. Such licensed speech-language pathologist and audiologist shall submit documentation to the State Department of Education that the certificate or endorsement was received prior to October 15 in order to be eligible for the full salary supplement in the current school year, or the licensed speech-language pathologist and audiologist shall submit such documentation to the State Department of Education prior to February 15 in order to be eligible for a prorated salary supplement beginning with the second term of the school year.

(b) An employee shall be reimbursed one (1) time for the actual cost of completing the process of acquiring the certificate or endorsement, excluding any costs incurred for postgraduate courses, not to exceed Five Hundred Dollars ($500.00) for a school counselor or speech-language pathologist and audiologist, regardless of whether or not the process resulted in the award of the certificate or endorsement. A local school district or any private individual or entity may pay the cost of

completing the process of acquiring the certificate or endorsement for any employee of the school district described under paragraph (a), and the State Department of Education shall reimburse the school district for such cost, regardless of whether or not the process resulted in the award of the certificate or endorsement. If a private individual or entity has paid the cost of completing the process of acquiring the certificate or endorsement for an employee, the local school district may agree to directly reimburse the individual or entity for such cost on behalf of the employee.

(c) All salary supplements, fringe benefits and process reimbursement authorized under this subsection shall be paid directly by the State Department of Education to the local school district and shall be in addition to its minimum education program allotments and not a part thereof in accordance with regulations promulgated by the State Board of Education, and subject to appropriation by the Legislature. Local school districts shall not reduce the local supplement paid to any employee receiving such salary supplement, and the employee shall receive any local supplement to which employees with similar training and experience otherwise are entitled.

(d) The State Department of Education may not pay any process reimbursement to a school district for an employee who does not complete the certification or endorsement process required to be eligible for the certificate or endorsement. If an employee for whom such cost has been paid in full or in part by a local school district or private individual or entity fails to complete the certification or endorsement process, the employee shall be liable to the school district or individual or entity for all amounts paid by the school district or individual or entity on behalf of that employee toward his or her certificate or endorsement.

(3) (a) Effective July 1, 2007, if funds are available for that purpose, the Legislature may authorize state funds for additional base compensation for teachers holding licenses in critical subject areas or the equivalent and who teach at least a majority of their courses in a critical subject area, as determined by the State Board of Education.

(b) Effective July 1, 2007, if funds are available for that purpose, the Legislature may authorize state funds for additional base compensation for teachers employed in a public school district located in a geographic area of the state designated as a critical teacher shortage area by the State Board of Education.

(4) (a) This section shall be known and may be cited as the "Mississippi Performance Based Pay (MPBP)" plan. In addition to the minimum base pay described in this section, only after full funding of MAEP and if funds are available for that purpose, the State of Mississippi may provide monies from state funds to school districts for the purposes of rewarding certified teachers, administrators and nonlicensed personnel at individual schools showing improvement in student test scores. The MPBP plan shall be developed by the State Department of Education based on the following criteria:

(i) It is the express intent of this legislation that the MPBP plan shall utilize only existing standards of accreditation and assessment as established by the State Board of Education.

(ii) To ensure that all of Mississippi's teachers, administrators and nonlicensed personnel at all schools have equal access to the monies set aside in this section, the MPBP program shall be designed to calculate each school's performance as determined by the school's increase in scores from the prior school year. The MPBP program shall be based on a standardized scores rating where all levels of schools can be judged in a

statistically fair and reasonable way upon implementation. At the end of each year, after all student achievement scores have been standardized, the State Department of Education shall implement the MPBP plan.

(iii) To ensure all teachers cooperate in the spirit of teamwork, individual schools shall submit a plan to the local school district to be approved before the beginning of each school year beginning July 1, 2008. The plan shall include, but not be limited to, how all teachers, regardless of subject area, and administrators will be responsible for improving student achievement for their individual school.

(b) The State Board of Education shall develop the processes and procedures for designating schools eligible to participate in the MPBP. State assessment results, growth in student achievement at individual schools and other measures deemed appropriate in designating successful student achievement shall be used in establishing MPBP criteria. The State Board of Education shall develop the MPBP policies and procedures and report to the Legislature and Governor by December 1, 2006.

(5) (a) Beginning in the 2008-2009 school year, if funds are available for that purpose, each school in Mississippi shall have mentor teachers, as defined by Sections 37-9-201 through 37-9-213, who shall receive additional base compensation provided for by the State Legislature in the amount of One Thousand Dollars ($1,000.00) per each beginning teacher that is being mentored. The additional state compensation shall be limited to those mentor teachers that provide mentoring services to beginning teachers. For the purposes of such funding, a beginning teacher shall be defined as any teacher in any school in Mississippi that has less than one (1) year of classroom experience teaching in a public school. For the purposes of such funding, no full-time academic teacher shall mentor more than two (2) beginning teachers. The State Department of Education shall annually provide to the

Legislature, no later than January 2, the number of beginning teachers in each school in Mississippi as defined in this subsection.

(b) To be eligible for this state funding, the individual school must have a classroom management program approved by the local school board.

SECTION 6. Section 37-9-23, Mississippi Code of 1972, is amended as follows:

37-9-23. The superintendent shall enter into a contract with each assistant superintendent, principal, licensed employee and person anticipating graduation from an approved teacher education program or the issuance of a proper license before October 15 or February 15, as the case may be, who is elected and approved for employment by the school board. Such contracts shall be in such form as shall be prescribed by the State Board of Education and shall be executed in duplicate with one (1) copy to be retained by the appropriate superintendent and one (1) copy to be retained by the principal, licensed employee or person recommended for a licensed position contracted with. The contract shall show the name of the district, the length of the school term, the position held (whether an assistant superintendent, principal or licensed employee), the scholastic years which it covers, the total amount of the annual salary and how same is payable. The amount of salary to be shown in such contract shall be the amount which shall have been fixed and determined by the school board, but, as to the licensed employees paid in whole or in part with adequate education program funds, such salary shall not be less than that required under the provisions of Chapter 19 of this title. Beginning with the 2010-2011 school year, the contract shall include a provision allowing the school district to reduce the state minimum salary by a pro rata daily amount in order to comply with the school district employee furlough provisions of Section 2 of this act, and shall include a provision which conditions the

payment of such salary upon the availability of adequate education funds provided for salaries. The contract entered into with any person recommended for a licensed position who is anticipating either graduation from an approved teacher education program before September 1 or December 31, as the case may be, or the issuance of a proper license before October 15 or February 15, as the case may be, shall be a conditional contract and shall include a provision stating that the contract will be null and void if, as specified in the contract, the contingency upon which the contract is conditioned has not occurred. If any superintendent, other than those elected, principal, licensed employee or person recommended for a licensed position who has been elected and approved shall not execute and return the contract within ten (10) days after same has been tendered to him for execution, then, at the option of the school board, the election of the licensed employee and the contract tendered to him shall be void and of no effect.

SECTION 7. Section 37-9-33, Mississippi Code of 1972, is amended as follows:

37-9-33. (1) In employing and contracting with appointed superintendents, principals and certificated employees, the school board shall in all cases determine whether the amount of salary to be paid such superintendent, principals and certificated employees is in compliance with the provisions of the adequate education program. No contract shall be entered into where the salary of a superintendent, principal or certificated employee is to be paid, in whole or in part, from adequate education program funds except where the requirements of said chapter as to the amount of such salary are fully met. Nothing herein shall be construed, however, to prohibit any school district from increasing the salaries of appointed superintendents, principals and certificated employees above the amounts fixed by said chapter, provided that the amount of such increase is paid from funds available to such district

other than adequate program funds. Provided further, that school districts are authorized, in their discretion, to negotiate the salary levels applicable to certificated employees employed after July 1, 2009, who are receiving retirement benefits from the retirement system of another state, and the annual experience increment provided in Section 37-19-7 shall not be applicable to any such retired certificated employee. Nothing herein shall be construed to prohibit any school district from complying with the school district employee furlough provisions of Section 2 of this act.

(2) Each school district shall provide an annual report to the State Department of Education on the number of certificated and noncertificated employees receiving a salary from the school district who are also receiving retirement benefits from the Public Employees' Retirement System. This report shall include the name of the employee(s), the hours per week for which the employee is under contract and the services for which the employee is under contract. Said required annual report shall be in a form and deadline promulgated by the State Board of Education.

SECTION 8. This act shall take effect and be in force from and after its passage.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 26, 2010

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 26, 2010

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

4/7/10 10:45 am