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Chapter No. 497
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HOUSE BILL NO. 369

Originated in House _____ Clerk

HOUSE BILL NO. 369

AN ACT TO BE KNOWN AS THE "MISSISSIPPI CHARTER SCHOOLS ACT OF 2013"; TO DECLARE THE LEGISLATIVE PURPOSES OF CHARTER SCHOOLS; TO DEFINE CERTAIN TERMS AND PHRASES USED IN THE ACT; TO CREATE THE MISSISSIPPI CHARTER SCHOOL AUTHORIZER BOARD AS A STATE AGENCY HAVING EXCLUSIVE CHARTERING JURISDICTION; TO AUTHORIZE THE BOARD TO APPROVE CHARTER SCHOOLS IN CERTAIN SCHOOL DISTRICTS; TO PRESCRIBE THE BOARD'S MEMBERSHIP; TO PROVIDE FOR THE EMPLOYMENT OF AN EXECUTIVE DIRECTOR AND GENERAL COUNSEL FOR THE BOARD; TO PRESCRIBE THE BOARD'S POWERS AND DUTIES; TO PROVIDE FOR FUNDING FOR THE AUTHORIZER BOARD; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO PROVIDE TECHNICAL INFORMATION AND ASSISTANCE TO THE AUTHORIZER; TO REQUIRE THE AUTHORIZER TO ANNUALLY PUBLISH A PAMPHLET ON THE LAWS AND REGULATIONS APPLICABLE TO CHARTER SCHOOLS; TO REQUIRE THE AUTHORIZER TO ANNUALLY DISSEMINATE A REQUEST FOR PROPOSALS FOR CHARTER SCHOOL APPLICATIONS AND TO PRESCRIBE THE REQUIRED COMPONENTS OF CHARTER APPLICATIONS; TO DECLARE THE PURPOSES OF A CHARTER APPLICATION AND TO PROHIBIT A CHARTER APPLICATION FROM SERVING AS A CHARTER CONTRACT; TO ESTABLISH STANDARDS FOR AUTHORIZING CHARTER SCHOOLS WHICH MUST BE EQUAL TO NATIONALLY ESTABLISHED BEST PRACTICES; TO PRESCRIBE THE PROCESS BY WHICH THE AUTHORIZER MUST REVIEW AND MAKE DECISIONS ON CHARTER SCHOOL APPLICATIONS; TO ESTABLISH AN INITIAL TERM OF FIVE YEARS FOR CHARTER CONTRACTS AND TO PRESCRIBE CERTAIN REQUIREMENTS FOR EXECUTING CHARTER CONTRACTS; TO ESTABLISH REQUIREMENTS RELATING TO THE ENROLLMENT OF STUDENTS IN CHARTER SCHOOLS RESIDING IN THE GEOGRAPHICAL BOUNDARIES OF THE SCHOOL DISTRICT IN WHICH THE CHARTER SCHOOL IS LOCATED AND A LOTTERY PROCESS FOR SELECTING STUDENTS WHEN CAPACITY IS INSUFFICIENT TO ENROLL ALL STUDENTS DESIRING TO ATTEND A CHARTER SCHOOL; TO ESTABLISH CERTAIN ENROLLMENT PREFERENCES; TO REQUIRE ALL PUBLIC SCHOOLS IN THE STATE

TO ACCEPT TRANSFER CREDITS FROM CHARTER SCHOOLS; TO REQUIRE SCHOOL DISTRICTS TO PUBLICIZE INFORMATION ABOUT CHARTER SCHOOLS TO THE SAME EXTENT AS NONCHARTER PUBLIC SCHOOLS; TO REQUIRE EACH CHARTER CONTRACT TO INCLUDE A PERFORMANCE FRAMEWORK SETTING FORTH THE ACADEMIC AND OPERATIONAL PERFORMANCE STANDARDS THAT THE AUTHORIZER WILL USE TO GUIDE ITS EVALUATIONS OF THE CHARTER SCHOOL; TO REQUIRE THE AUTHORIZER TO ANNUALLY MONITOR THE PERFORMANCE OF CHARTER SCHOOLS AND TO ASSIST THE CHARTER SCHOOL IN TAKING CORRECTIVE ACTION WHEN NECESSARY; TO ESTABLISH PROCESSES FOR RENEWING AND REVOKING CHARTER SCHOOL CONTRACTS; TO REQUIRE THE AUTHORIZER TO DEVELOP A CHARTER SCHOOL CLOSURE PROTOCAL FOR A CHARTER SCHOOL THAT IS TO BE CLOSED AND TO PROVIDE FOR THE DISBURSEMENT OF UNSPENT FUNDS AND ASSETS; TO REQUIRE THE AUTHORIZER BOARD TO ANNUALLY REPORT TO THE GOVERNOR AND LEGISLATURE ON THE STATUS OF CHARTER SCHOOLS OPERATING IN THE STATE; TO REQUIRE A CHARTER SCHOOL AND ANY EDUCATION SERVICE PROVIDER WHICH PROVIDES COMPREHENSIVE MANAGEMENT FOR A CHARTER SCHOOL TO BE A NONPROFIT EDUCATION ORGANIZATION THAT FUNCTIONS AS A LOCAL EDUCATIONAL AGENCY; TO PRESCRIBE CERTAIN POWERS RELATING TO THE FISCAL AND OPERATIONAL MANAGEMENT OF A CHARTER SCHOOL WHICH MAY BE EXERCISED BY THE SCHOOL; TO PROHIBIT CHARTER SCHOOLS FROM ENGAGING IN DISCRIMINATION AND FROM CHARGING TUITION; TO PROVIDE THAT CHARTER SCHOOLS ARE NOT SUBJECT TO RULES AND REGULATIONS ADOPTED BY THE STATE BOARD OF EDUCATION OR THE SCHOOL BOARD OF THE SCHOOL DISTRICT IN WHICH THE CHARTER SCHOOL IS LOCATED; TO ENUMERATE CERTAIN STATUTES FROM WHICH CHARTER SCHOOLS ARE NOT EXEMPT; TO PRESCRIBE CERTAIN QUALIFICATIONS OF EMPLOYEES OF CHARTER SCHOOLS; TO REQUIRE AT LEAST SEVENTY-FIVE PERCENT OF TEACHERS IN A CHARTER SCHOOL TO BE LICENSED BY THE STATE WHEN THE INITIAL CHARTER APPLICATION IS APPROVED; TO EXEMPT ADMINISTRATORS FROM STATE LICENSURE REQUIREMENTS; TO PROHIBIT CHARTER SCHOOL EMPLOYEES FROM PARTICIPATING IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR CHARTER SCHOOL EMPLOYEES; TO AUTHORIZE CHARTER SCHOOLS TO PARTICIPATE IN STATE AND DISTRICT SPONSORED ATHLETIC AND ACADEMIC INTERSCHOLASTIC LEAGUES AND COMPETITIONS; TO REQUIRE CHARTER SCHOOLS TO CERTIFY AVERAGE DAILY ATTENDANCE AND QUALIFY FOR STATE ADEQUATE EDUCATION PROGRAM ALLOCATIONS ON A PER-PUPIL BASIS; TO AUTHORIZE LOCAL FUNDING FOR CHARTER SCHOOLS; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO MAKE ADEQUATE EDUCATION PROGRAM PAYMENTS TO CHARTER SCHOOLS BASED ON THE SCHOOL'S AVERAGE DAILY ATTENDANCE; TO AUTHORIZE EQUAL TRANSPORTATION FUNDING UNDER THE ADEQUATE EDUCATION PROGRAM FOR CHARTER SCHOOLS; TO REQUIRE CHARTER SCHOOLS TO UNDERGO AN ANNUAL FINANCIAL AUDIT; TO PROVIDE THAT FUNDS REMAINING IN A CHARTER SCHOOL'S ACCOUNTS AT THE END OF A YEAR MUST

REMAIN IN THE SCHOOL'S ACCOUNTS FOR USE IN SUBSEQUENT YEARS; TO AUTHORIZE CHARTER SCHOOLS TO ACCEPT GIFTS, DONATIONS AND GRANTS; TO GRANT CHARTER SCHOOLS THE RIGHT OF FIRST REFUSAL TO VACANT SCHOOL FACILITIES AND PROPERTY AND TO AUTHORIZE THE USE OF PUBLIC SPACE FOR CHARTER SCHOOL OPERATIONS UNDER PREEXISTING ZONING REGULATIONS; TO AMEND SECTION 11-46-1, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERMS "EMPLOYEE" AND "POLITICAL SUBDIVISION," AS THOSE TERMS ARE USED UNDER THE TORT CLAIMS ACT, TO EXTEND COVERAGE FOR TORTS TO CHARTER SCHOOLS; TO AMEND SECTION 25-41-3, MISSISSIPPI CODE OF 1972, TO INCLUDE THE GOVERNING BOARD OF A CHARTER SCHOOL IN THE DEFINITION OF THE TERM "PUBLIC BODY" AS USED UNDER THE OPEN MEETINGS LAWS; TO AMEND SECTION 25-61-3, MISSISSIPPI CODE OF 1972, TO INCLUDE THE GOVERNING BOARD OF A CHARTER SCHOOL IN THE DEFINITION OF THE TERM "PUBLIC BODY" AS USED UNDER THE PUBLIC RECORDS ACT; TO AMEND SECTION 31-7-1, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERMS "AGENCY" AND "GOVERNING AUTHORITY," AS THOSE TERMS ARE USED IN THE PUBLIC PURCHASING LAWS, TO EXEMPT CHARTER SCHOOLS FROM REQUIREMENTS RELATING TO PUBLIC PURCHASES; TO AMEND SECTION 37-1-3, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CHARTER SCHOOLS ARE NOT BOUND TO THE CURRICULUM ADOPTED BY THE STATE BOARD OF EDUCATION FOR SCHOOL DISTRICTS; TO AMEND SECTION 37-1-12, MISSISSIPPI CODE OF 1972, TO EXEMPT CHARTER SCHOOLS FROM CERTAIN ANNUAL REPORTING REQUIREMENTS ESTABLISHED BY THE STATE BOARD OF EDUCATION; TO AMEND SECTION 37-1-13, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT REGULATIONS REGARDING RELOCATABLE CLASSROOMS ISSUED BY THE STATE BOARD OF EDUCATION ARE NOT APPLICABLE TO CHARTER SCHOOLS; TO AMEND SECTION 37-3-2, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE LIMITATIONS ON THE EMPLOYMENT OF NONLICENSED TEACHERS WHICH ARE APPLICABLE TO SCHOOL DISTRICTS DO NOT APPLY TO CHARTER SCHOOLS; TO AMEND SECTION 37-3-4, MISSISSIPPI CODE OF 1972, TO EXEMPT CHARTER SCHOOLS FROM CONTINUING EDUCATION REQUIREMENTS FOR SCHOOL DISTRICT ADMINISTRATORS AND PRINCIPALS; TO AMEND SECTION 37-3-5, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE GENERAL DUTIES OF THE STATE DEPARTMENT OF EDUCATION RELATE TO PUBLIC SCHOOL DISTRICTS; TO AMEND SECTION 37-3-11, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE DUTY OF THE STATE SUPERINTENDENT OF PUBLIC EDUCATION TO RECOMMEND RULES GOVERNING PUBLIC EDUCATION RELATES TO THE SUPERVISION OF PUBLIC SCHOOL DISTRICTS; TO AMEND SECTION 37-3-46, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE DUTY OF THE STATE DEPARTMENT OF EDUCATION TO ASSIST CERTAIN SCHOOLS IN ESTABLISHING A PROGRAM OF EDUCATIONAL ACCOUNTABILITY DOES NOT APPLY TO CHARTER SCHOOLS; TO AMEND SECTION 37-3-49, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT REQUIREMENTS RELATING TO THE ADOPTION OF INSTRUCTIONAL PROGRAMS AND MANAGEMENT SYSTEMS DO NOT

APPLY TO CHARTER SCHOOLS; TO AMEND SECTION 37-3-51, MISSISSIPPI CODE OF 1972, TO REQUIRE NOTICE TO BE GIVEN TO THE MISSISSIPPI CHARTER SCHOOL AUTHORIZER BOARD OF THE CONVICTION OF CHARTER SCHOOL EMPLOYEES OF CERTAIN FELONIES AND SEX OFFENSES; TO AMEND SECTION 37-3-53, MISSISSIPPI CODE OF 1972, TO REQUIRE THE MISSISSIPPI REPORT CARD TO INCLUDE DATA ON CHARTER SCHOOLS; TO AMEND SECTION 37-3-61, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CHARTER SCHOOLS ARE NOT REQUIRED TO PARTICIPATE IN THE ALLIANCE FOR FAMILIES PROGRAM; TO AMEND SECTION 37-3-105, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CHARTER SCHOOL TEACHERS ARE EXEMPT FROM IN-SERVICE TRAINING REQUIREMENTS IN RESEARCH-BASED READING METHODS; TO AMEND SECTION 37-5-61, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT COUNTY SUPERINTENDENTS OF EDUCATION HAVE NO AUTHORITY OVER CHARTER SCHOOLS; TO AMEND SECTION 37-7-455, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SCHOOL DISTRICT PROPERTY NO LONGER NEEDED FOR SCHOOL PURPOSES MAY BE DISPOSED OF AFTER THE CHARTER SCHOOLS LOCATED IN THE DISTRICT HAVE ELECTED NOT TO USE THEIR RIGHT OF FIRST REFUSAL; TO AMEND SECTION 37-7-473, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT SCHOOL DISTRICT PROPERTY MAY BE SOLD OR LEASED TO CHARTER SCHOOLS; TO AMEND SECTION 37-9-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CERTAIN STATUTES RELATING TO SCHOOL DISTRICT SUPERINTENDENTS AND EMPLOYEES ARE NOT APPLICABLE TO CHARTER SCHOOLS UNLESS SPECIFICALLY PROVIDED OTHERWISE; TO AMEND SECTION 37-9-103, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE EDUCATION EMPLOYMENT PROCEDURES LAW DOES NOT APPLY TO CHARTER SCHOOL TEACHERS AND ADMINISTRATORS; TO AMEND SECTION 37-11-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CHARTER SCHOOLS ARE EXEMPT FROM RESTRICTIONS REGARDING THE ASSIGNMENT OF STUDENTS TO PARTICULAR CLASSROOMS; TO AMEND SECTION 37-11-17, MISSISSIPPI CODE OF 1972, TO EXEMPT CHARTER SCHOOL STUDENTS FROM ANY SCREENING FOR ABNORMAL SPINAL CURVATURE WHICH MAY BE REQUIRED IN SCHOOLS BY THE STATE BOARD OF EDUCATION; TO BRING FORWARD SECTION 37-11-25, MISSISSIPPI CODE OF 1972, WHICH CREATES A MISDEMEANOR FOR SCHOOL OFFICIALS HAVING AN INTEREST IN THE PROCEEDS OF SALES OR RENTALS OF PROPERTY USED IN PUBLIC SCHOOLS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTION 37-11-57, MISSISSIPPI CODE OF 1972, TO INCLUDE CHARTER SCHOOL EMPLOYEES IN THE PROVISIONS GRANTING PUBLIC SCHOOL PERSONNEL IMMUNITY FOR ACTIONS RELATING TO THE CONTROL AND DISCIPLINE OF STUDENTS; TO AMEND SECTION 37-13-21, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CHARTER SCHOOLS ARE EXEMPT FROM PARTICIPATING IN HEALTH EDUCATION PROGRAMS PROVIDED BY THE STATE BOARD OF HEALTH AND COUNTY HEALTH DEPARTMENTS; TO AMEND SECTION 37-13-41, MISSISSIPPI CODE OF 1972, TO EXEMPT CHARTER SCHOOLS FROM REPORTING REQUIREMENTS RELATING TO THE TYPE AND AMOUNT OF WORK PERFORMED IN EACH GRADE; TO AMEND SECTION 37-13-91, MISSISSIPPI

CODE OF 1972, TO CLARIFY THAT CHARTER SCHOOL STUDENTS MUST COMPLY WITH THE MISSISSIPPI COMPULSORY SCHOOL ATTENDANCE LAW; TO AMEND SECTIONS 37-15-1 AND 37-15-3, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CHARTER SCHOOLS MUST MAINTAIN PERMANENT STUDENT RECORDS AND CUMULATIVE FOLDERS IN THE SAME MANNER AS NONCHARTER PUBLIC SCHOOLS; TO AMEND SECTION 37-15-6, MISSISSIPPI CODE OF 1972, TO REQUIRE CHARTER SCHOOLS TO SUBMIT INFORMATION REGARDING EXPULSIONS TO THE STATE DEPARTMENT OF EDUCATION FOR INCLUSION IN THE CENTRAL REPORTING SYSTEM; TO AMEND SECTION 37-15-9, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT MINIMUM AGE REQUIREMENTS FOR KINDERGARTEN AND FIRST GRADE ENROLLMENT ARE APPLICABLE TO CHARTER SCHOOL STUDENTS; TO AMEND SECTIONS 37-16-1 AND 37-16-3, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CHARTER SCHOOLS MUST PARTICIPATE IN THE STATEWIDE ASSESSMENT TESTING PROGRAM; TO AMEND SECTION 37-17-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A CHARTER SCHOOL AUTHORIZED BY THE MISSISSIPPI CHARTER SCHOOL AUTHORIZER BOARD MUST BE GRANTED ACCREDITATION BY THE STATE BOARD OF EDUCATION BASED SOLELY ON THE CHARTER SCHOOL'S APPROVAL BY THE AUTHORIZER; TO AMEND SECTION 37-17-6, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE PERFORMANCE-BASED ACCREDITATION SYSTEM CREATED BY THE STATE BOARD OF EDUCATION APPLIES ONLY TO NONCHARTER PUBLIC SCHOOLS; TO AMEND SECTION 37-18-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CHARTER SCHOOLS MAY BE RECOGNIZED FOR IMPROVEMENT BY THE STATE BOARD OF EDUCATION THROUGH THE SUPERIOR-PERFORMING AND EXEMPLARY SCHOOLS PROGRAMS; TO AMEND SECTION 37-21-3, MISSISSIPPI CODE OF 1972, TO EXEMPT CHARTER SCHOOL EMPLOYEES FROM CERTAIN EDUCATIONAL QUALIFICATIONS REQUIRED OF EARLY CHILDHOOD PROGRAM EMPLOYEES; TO AMEND SECTIONS 37-41-1, 37-41-3 AND 37-41-23, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE REQUIREMENTS RELATING TO THE TRANSPORTATION OF STUDENTS AND SCHOOL BUSES ARE NOT APPLICABLE TO CHARTER SCHOOLS; TO BRING FORWARD SECTION 37-41-25, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES PENALTIES FOR FALSE REPORTS RELATING TO STUDENT TRANSPORTATION BY SCHOOL OFFICIALS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTIONS 37-41-31, 37-41-43, 37-41-45, 37-41-49 AND 37-41-53, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO BRING FORWARD SECTION 37-41-57, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE STATE BOARD OF EDUCATION TO ADOPT REGULATIONS GOVERNING THE DESIGN AND OPERATION OF SCHOOL BUSES, FOR PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTION 37-43-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CHARTER SCHOOLS ARE NOT PARTICIPANTS IN THE STATE TEXTBOOK PROGRAM; TO BRING FORWARD SECTION 37-43-39, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTION 37-45-23, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CHARTER SCHOOLS ARE EXEMPT FROM THE REQUIREMENT OF HAVING THE STATE BOARD

OF EDUCATION APPROVE PLANS FOR THE LOCATION AND CONSTRUCTION OF SCHOOL BUILDINGS; TO AMEND SECTION 37-47-9, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT ANNUAL GRANTS BY THE STATE FOR THE CONSTRUCTION OF SCHOOL FACILITIES ARE PAYABLE TO SCHOOL DISTRICTS ONLY; TO AMEND SECTION 37-143-11, MISSISSIPPI CODE OF 1972, TO AUTHORIZE RECIPIENTS OF WILLIAM F. WINTER TEACHER SCHOLARSHIPS TO DISCHARGE THEIR TEACHING OBLIGATIONS IN CHARTER SCHOOLS; TO AMEND SECTION 37-143-12, MISSISSIPPI CODE OF 1972, TO AUTHORIZE PARTICIPANTS IN THE SPEECH-LANGUAGE PATHOLOGISTS LOAN FORGIVENESS PROGRAM TO DISCHARGE THEIR LOANS BY RENDERING SERVICE IN A CHARTER SCHOOL; TO AMEND SECTION 37-151-5, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "CHARTER SCHOOL" AS USED UNDER THE ADEQUATE EDUCATION PROGRAM; TO AMEND SECTION 37-151-7, MISSISSIPPI CODE OF 1972, TO CONFORM THE ADEQUATE EDUCATION PROGRAM FUNDING FORMULA TO THE ALLOCATION OF FUNDS TO CHARTER SCHOOLS; TO AMEND SECTIONS 37-151-101 AND 37-151-103, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE DISTRIBUTION OF STATE FUNDS TO CHARTER SCHOOLS AT THE SAME TIME AND IN THE SAME MANNER SUCH FUNDS ARE PAID TO SCHOOL DISTRICTS; TO AMEND SECTION 37-57-107, MISSISSIPPI CODE OF 1972, TO REQUIRE EACH SCHOOL DISTRICT IN WHICH A CHARTER SCHOOL IS LOCATED TO TRANSFER TO THE CHARTER SCHOOL ITS PER PUPIL PRO RATA SHARE OF LOCAL AD VALOREM SCHOOL DISTRICT MAINTENANCE FUNDS; TO REPEAL SECTIONS 37-165-1 THROUGH 37-165-27, MISSISSIPPI CODE OF 1972, WHICH ARE THE CONVERSION CHARTER SCHOOL ACT OF 2010; TO PROVIDE FOR THE REPEAL OF THE MISSISSIPPI CHARTER SCHOOLS ACT OF 2013 ON JULY 1, 2020; AND FOR RELATED PURPOSES.

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

SECTION 1. Sections 1 through 31 of this act shall be known and may be cited as the "Mississippi Charter Schools Act of 2013."

SECTION 2. (1) The Legislature finds and declares that the general purposes of the state's charter schools are as follows:

(a) To improve student learning by creating high-quality schools with high standards for student performance;

(b) To close achievement gaps between high-performing and low-performing groups of public school students;

(c) To increase high-quality educational opportunities within the public education system for all students, especially those with a likelihood of academic failure;

(d) To create new professional opportunities for teachers, school administrators and other school personnel which allow them to have a direct voice in the operation of their schools;

(e) To encourage the use of different, high-quality models of teaching, governing, scheduling and other aspects of schooling which meet a variety of student needs;

(f) To allow public schools freedom and flexibility in exchange for exceptional levels of results driven accountability;

(g) To provide students, parents, community members and local entities with expanded opportunities for involvement in the public education system; and

(h) To encourage the replication of successful charter schools.

(2) All charter schools in the state established under this act are public schools and are part of the state's public education system.

(3) No provision of this act may be interpreted to allow the conversion of private schools into charter schools.

SECTION 3. As used in this act, the following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Applicant" means any person or group that develops and submits an application for a charter school to the authorizer.

(b) "Application" means a proposal from an applicant to the authorizer to enter into a charter contract whereby the proposed school obtains charter school status.

(c) "Authorizer" means the Mississippi Charter School Authorizer Board established under Section 4 of this act to review applications, decide whether to approve or reject applications, enter into charter contracts with applicants, oversee charter schools, and decide whether to renew, not renew, or revoke charter contracts.

(d) "Charter contract" means a fixed-term, renewable contract between a charter school and the authorizer which outlines the roles, powers, responsibilities and performance expectations for each party to the contract.

(e) "Charter school" means a public school that is established and operating under the terms of charter contract between the school's governing board and the authorizer. The term "charter school" includes a conversion charter school and start-up charter school.

(f) "Conversion charter school" means a charter school that existed as a noncharter public school before becoming a charter school.

(g) "Education service provider" means a charter management organization, school design provider or any other

partner entity with which a charter school intends to contract for educational design, implementation or comprehensive management.

(h) "Governing board" means the independent board of a charter school which is party to the charter contract with the authorizer and whose members have been elected or selected pursuant to the school's application.

(i) "Noncharter public school" means a public school that is under the direct management, governance and control of a school board or the state.

(j) "Parent" means a parent, guardian or other person or entity having legal custody of a child.

(k) "School board" means a school board exercising management and control over a local school district and the schools of that district pursuant to the State Constitution and state statutes.

(l) "School district" means a governmental entity that establishes and supervises one or more public schools within its geographical limits pursuant to state statutes.

(m) "Start-up charter school" means a charter school that did not exist as a noncharter public school before becoming a charter school.

(n) "Student" means any child who is eligible for attendance in a public school in the state.

(o) "Underserved students" means students participating in the federal free lunch program who qualify for at-risk student

funding under the Mississippi Adequate Education Program and students who are identified as having special educational needs.

SECTION 4. (1) There is created the Mississippi Charter School Authorizer Board as a state agency with exclusive chartering jurisdiction in the State of Mississippi. Unless otherwise authorized by law, no other governmental agency or entity may assume any charter authorizing function or duty in any form.

(2) (a) The mission of the Mississippi Charter School Authorizer Board is to authorize high-quality charter schools, particularly schools designed to expand opportunities for underserved students, consistent with the purposes of this act. Subject to the restrictions and conditions prescribed in this subsection, the Mississippi Charter School Authorizer Board may authorize charter schools within the geographical boundaries of any school district.

(b) The Mississippi Charter School Authorizer Board may approve a maximum of fifteen (15) qualified charter applications during a fiscal year.

(c) In any school district designated as an "A," "B" or "C" school district by the State Board of Education under the accreditation rating system, the Mississippi Charter School Authorizer Board may authorize charter schools only if a majority of the members of the local school board votes at a public meeting

to endorse the application or to initiate the application on its own initiative.

(3) The Mississippi Charter School Authorizer Board shall consist of seven (7) members, to be appointed as follows:

(a) Three (3) members appointed by the Governor, with one (1) member being from each of the Mississippi Supreme Court Districts.

(b) Three (3) members appointed by the Lieutenant Governor, with one (1) member being from each of the Mississippi Supreme Court Districts.

(c) One (1) member appointed by the State Superintendent of Public Education.

All appointments must be made with the advice and consent of the Senate. In making the appointments, the appointing authority shall ensure diversity among members of the Mississippi Charter School Authorizer Board.

(4) Members appointed to the Mississippi Charter School Authorizer Board collectively must possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, curriculum and instruction, and public education law. Each member of the Mississippi Charter School Authorizer Board must have demonstrated an understanding of and commitment to charter schooling as a strategy for strengthening public education.

(5) To establish staggered terms of office, the initial term of office for the three (3) Mississippi Charter School Authorizer Board members appointed by the Governor shall be four (4) years and thereafter shall be three (3) years; the initial term of office for the three (3) members appointed by the Lieutenant Governor shall be three (3) years and thereafter shall be three (3) years; and the initial term of office for the member appointed by the State Superintendent of Public Education shall be two (2) years and thereafter shall be three (3) years. No member may serve more than two (2) consecutive terms. The initial appointments must be made before September 1, 2013.

(6) The Mississippi Charter School Authorizer Board shall meet as soon as practical after September 1, 2013, upon the call of the Governor, and shall organize for business by selecting a chairman and adopting bylaws. Subsequent meetings shall be called by the chairman.

(7) An individual member of the Mississippi Charter School Authorizer Board may be removed by the board if the member's personal incapacity renders the member incapable or unfit to discharge the duties of the office or if the member is absent from a number of meetings of the board, as determined and specified by the board in its bylaws. Whenever a vacancy on the Mississippi Charter School Authorizer Board exists, the original appointing authority shall appoint a member for the remaining portion of the term.

(8) No member of the Mississippi Charter School Authorizer Board or employee, agent or representative of the board may serve simultaneously as an employee, trustee, agent, representative, vendor or contractor of a charter school authorized by the board.

(9) The Mississippi Charter School Authorizer Board shall appoint an individual to serve as the executive director and general counsel of the board. In addition to possessing the qualifications established by the board which are based on national best practices, the executive director and general counsel must be licensed to practice law in the State of Mississippi and must possess an understanding of state and federal education law. The executive director and general counsel, who shall serve at the will and pleasure of the board, shall devote his full time to the proper administration of the board and the duties assigned to him by the board and shall be paid a salary established by the board, subject to the approval of the State Personnel Board. Subject to the availability of funding, the executive director and general counsel may employ such administrative staff as may be necessary to assist the director and board in carrying out the duties and directives of the Mississippi Charter School Authorizer Board.

(10) The Mississippi Charter School Authorizer Board shall be located, for administrative purposes, within the offices of the State Institutions of Higher Learning, which shall provide meeting space and clerical support for the board.

SECTION 5. (1) The authorizer is responsible for exercising, in accordance with this act, the following powers and duties:

(a) Developing chartering policies and maintaining practices consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility, including:

(i) Organizational capacity and infrastructure;

(ii) Solicitation and evaluation of charter applications;

(iii) Performance contracting;

(iv) Ongoing charter school oversight and evaluation; and

(v) Charter renewal decision-making;

(b) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;

(c) Declining to approve weak or inadequate charter applications;

(d) Negotiating and executing charter contracts with approved charter schools;

(e) Monitoring, in accordance with charter contract terms, the performance and legal compliance of charter schools;

(f) Determining whether each charter contract merits renewal, nonrenewal or revocation; and

(g) Applying for any federal funds that may be available for the implementation of charter school programs.

(2) The authorizer shall carry out all its duties under this act in a manner consistent with nationally recognized principles and standards and with the spirit and intent of this act.

(3) The authorizer may delegate its duties to the executive director and general counsel.

(4) Regulation by the authorizer shall be limited to those powers and duties prescribed in this section and all others prescribed by law, consistent with the spirit and intent of this act.

(5) Except in the case of gross negligence or reckless disregard of the safety and well-being of another person, the authorizer, members of the authorizer board in their official capacity, and employees of the authorizer in their official capacity are immune from civil liability with respect to all activities related to a charter school approved by the authorizer.

SECTION 6. (1) To cover the costs of overseeing charter schools in accordance with this act, the authorizer shall receive three percent (3%) of annual per-pupil allocations received by a charter school from state and local funds for each charter school it authorizes.

(2) The authorizer may receive appropriate gifts, grants and donations of any kind from any public or private entity to carry

out the purposes of this act, subject to all lawful terms and conditions under which the gifts, grants or donations are given.

(3) The authorizer may expend its resources, seek grant funds and establish partnerships to support its charter school authorizing activities.

SECTION 7. (1) Upon request, the State Department of Education shall assist the Mississippi Charter School Authorizer Board with implementing the authorizer's decisions by providing such technical assistance and information as may be necessary for the implementation of this act.

(2) Before July 1 of each year, the authorizer shall publish a pamphlet, which may be in electronic form, containing:

(a) All statutes in Title 37, Mississippi Code of 1972, which are applicable to the charter schools;

(b) Any rules, regulations and policies adopted by the State Superintendent of Public Education, the State Board of Education or the State Department of Education with which charter schools must comply by virtue of the applicability to charter schools, as well as other public schools, of the state law to which those relevant rules, regulations and policies pertain; and

(c) Any other state and federal laws and matters that are relevant to the establishment and operation of charter schools in the State of Mississippi.

The Mississippi Charter School Authorizer Board shall make the pamphlet available to the public on the board's website and shall notify all prospective applicants of the pamphlet.

SECTION 8. (1) To solicit, encourage and guide the development of quality charter school applications, the authorizer shall issue and publicize a request for proposals before September 1 of each year; however, during 2013, the authorizer shall issue and publicize a request for proposals before December 1. The content and dissemination of the request for proposals must be consistent with the purposes and requirements of this act.

(2) The authorizer annually shall establish and disseminate a statewide timeline for charter approval or denial decisions.

(3) The authorizer's request for proposals must include the following:

(a) A clear statement of any preferences the authorizer wishes to grant to applications intended to help underserved students;

(b) A description of the performance framework that the authorizer has developed for charter school oversight and evaluation in accordance with Section 15 of this act;

(c) The criteria that will guide the authorizer's decision to approve or deny a charter application; and

(d) A clear statement of appropriately detailed questions, as well as guidelines, concerning the format and

content essential for applicants to demonstrate the capacities necessary to establish and operate a successful charter school.

(4) In addition to all other requirements, the request for proposals must require charter applications to provide or describe thoroughly all of the following mandatory elements of the proposed school plan:

(a) An executive summary;

(b) The mission and vision of the proposed charter school, including identification of the targeted student population and the community the school hopes to serve;

(c) The location or geographic area proposed for the school;

(d) The grades to be served each year for the full term of the charter contract;

(e) Minimum, planned and maximum enrollment per grade per year for the term of the charter contract;

(f) Evidence of need and community support for the proposed charter school;

(g) Background information, including proof of United States citizenship, on the applicants, the proposed founding governing board members and, if identified, members of the proposed school leadership and management team. The background information must include annual student achievement data, disaggregated by subgroup, for every school under the current or prior management of each board member and leadership team member;

(h) The school's proposed calendar, including the proposed opening and closing dates for the school term, and a sample daily schedule. The school must be kept in session no less than the minimum number of school days established for all public schools in Section 37-13-63;

(i) A description of the school's academic program, aligned with state standards;

(j) A description of the school's instructional design, including the type of learning environment (such as classroom-based or independent study), class size and structure, curriculum overview and teaching methods;

(k) The school's plan for using internal and external assessments to measure and report student progress on the performance framework developed by the authorizer in accordance with Section 15 of this act;

(l) The school's plan for identifying and successfully serving students with disabilities (including all of the school's proposed policies pursuant to the Individuals with Disabilities Education Improvement Act of 2004, 20 USCS Section 1400 et seq., Section 504 of the Rehabilitation Act of 1973, 29 USCS Section 794, and Title 11 of the Americans with Disabilities Act, 42 USCS Section 12101 et seq., and the school's procedures for securing and providing evaluations and related services pursuant to federal law), students who are English language learners, students who are

academically behind, and gifted students, including, but not limited to, compliance with any applicable laws and regulations;

(m) A description of cocurricular or extracurricular programs and how those programs will be funded and delivered;

(n) Plans and timelines for student recruitment and enrollment, including lottery policies and procedures that ensure that every student has an equal opportunity to be considered in the lottery and that the lottery is equitable, randomized, transparent and impartial so that students are accepted in a charter school without regard to disability, income level, race, religion or national origin;

(o) The school's student discipline policies, including those for special education students;

(p) An organizational chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, education service provider, staff, related bodies (such as advisory bodies or parent and teacher councils), and all other external organizations that will play a role in managing the school;

(q) A clear description of the roles and responsibilities of the governing board, education service provider, school leadership team, management team and all other entities shown in the organizational chart;

(r) A staffing chart for the school's first year, and a staffing plan for the term of the charter;

(s) Plans for recruiting and developing school leadership and staff, which may not include utilization of nonimmigrant foreign worker visa programs;

(t) The school's leadership and teacher employment policies, including performance evaluation plans;

(u) Proposed governing bylaws;

(v) Explanations of any partnerships or contractual relationships central to the school's operations or mission;

(w) The school's plans for providing transportation, food service and all other significant operational or ancillary services;

(x) Opportunities and expectations for parent involvement;

(y) A detailed school start-up plan, identifying tasks, timelines and responsible individuals;

(z) A description of the school's financial plans and policies, including financial controls and audit requirements;

(aa) A description of the insurance coverage the school will obtain;

(bb) Start-up and five-year budgets with clearly stated assumptions;

(cc) Start-up and first-year cash flow projections with clearly stated assumptions;

(dd) A disclosure of all sources of private funding and all funds from foreign sources, including gifts from foreign

governments, foreign legal entities and domestic entities affiliated with either foreign governments or foreign legal entities. For the purposes of this paragraph, the term "foreign" means a country or jurisdiction outside of any state or territory of the United States;

(ee) Evidence of anticipated fundraising contributions, if claimed in the application; and

(ff) A sound facilities plan, including backup or contingency plans if appropriate.

(5) In the case of an application to establish a charter school by converting an existing noncharter public school to charter school status, the request for proposals additionally shall require the applicant to demonstrate support for the proposed charter school conversion by a petition signed by a majority of teachers or a majority of parents of students in the existing noncharter public school, or by a majority vote of the local school board or, in the case of schools in districts under state conservatorship, by the State Board of Education.

(6) In the case of a proposed charter school that intends to contract with an education service provider for substantial educational services, management services or both types of services, the request for proposals additionally shall require the applicant to:

(a) Provide evidence of the education service provider's success in serving student populations similar to the

targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions, if applicable;

(b) Provide a term sheet setting forth: the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff and the education service provider; the scope of services and resources to be provided by the education service provider; performance evaluation measures and timelines; the compensation structure, including clear identification of all fees to be paid to the education service provider; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract;

(c) Disclose and explain any existing or potential conflicts of interest between the school governing board and proposed service provider or any affiliated business entities; and

(d) Background information, including proof of United States citizenship, on the principal individuals affiliated with the education service provider.

(7) In the case of a charter school proposal from an applicant that currently operates one or more schools in any state or nation, the request for proposals additionally shall require the applicant to provide evidence of past performance and current capacity for growth. The applicant shall be required to submit clear evidence that it has produced statistically significant

gains in student achievement or consistently produced proficiency levels as measured on state achievement tests.

SECTION 9. (1) The following are the purposes of a charter application:

(a) To present the proposed charter school's academic and operational vision and plans;

(b) To demonstrate the applicant's capacities to execute the proposed vision and plans; and

(c) To provide the authorizer a clear basis for assessing the applicant's plans and capacities.

(2) An approved charter application may not serve as the school's charter contract.

SECTION 10. (1) In reviewing and evaluating charter applications, the authorizer shall employ procedures, practices and criteria consistent with nationally recognized principles and standards for quality charter authorizing. The application review process must include thorough evaluation of each written charter application and in-person interview with the applicant group.

(2) In deciding whether to approve charter applications, the authorizer must:

(a) Grant charters only to applicants that have provided evidence of competence in each element of the authorizer's published approval criteria, and in the case of an applicant that currently operates one or more schools in any state or nation, clear evidence that the management or leadership team

of the charter school or schools currently operated by the applicant has produced statistically significant gains in student achievement or consistently produced proficiency levels as measured on state achievement test;

(b) Base decisions on documented evidence collected through the application review process; and

(c) Follow charter-granting policies and practices that are transparent, based on merit and avoid conflicts of interest or any appearance thereof.

(3) Before the expiration of one hundred eighty (180) days after the filing of a charter application, the authorizer must approve or deny the charter application; however, an application submitted by a public historically black college or university (HBCU), in partnership with a national nonprofit public HBCU support organization, for a charter school to be operated on or near the campus of the HBCU must be considered for expedited approval by the authorizer. The authorizer shall adopt by resolution all charter approval or denial decisions in an open meeting of the authorizer board.

(4) An approval decision may include, if appropriate, reasonable conditions that the charter applicant must meet before a charter contract may be executed pursuant to Section 11 of this act.

(5) For a charter denial, the authorizer shall state clearly, for public record, its reasons for denial. A denied applicant may reapply subsequently with the authorizer.

(6) Before the expiration of ten (10) days after taking action to approve or deny a charter application, the authorizer shall provide a report to the applicant. The report must include a copy of the authorizer's resolution setting forth the action taken and reasons for the decision and assurances as to compliance with all of the procedural requirements and application elements set forth in this act.

SECTION 11. (1) The authorizer shall grant an initial charter to each qualified applicant for a term of five (5) operating years. The term of the charter shall commence on the charter school's first day of operation. An approved charter school may delay its opening for one (1) school year in order to plan and prepare for the school's opening. If the school requires an opening delay of more than one (1) school year, the school must request an extension from the authorizer. The authorizer may grant or deny the extension depending on the particular school's circumstances.

(2) (a) The authorizer and the governing board of the approved charter school shall execute a charter contract that clearly sets forth the academic and operational performance expectations and measures by which the charter school will be judged and the administrative relationship between the authorizer

and charter school, including each party's rights and duties. The performance expectations and measures set forth in the charter contract must include, but need not be limited to, applicable federal and state accountability requirements. The performance provisions may be refined or amended by mutual agreement after the charter school is operating and has collected baseline achievement data for its enrolled students.

(b) The charter contract must be signed by the chairman of the authorizer board and the president of the charter school's governing board.

(c) A charter school may not commence operations without a charter contract executed in accordance with this section and approved in an open meeting of the authorizer board.

(3) The authorizer may establish reasonable preopening requirements or conditions to monitor the start-up progress of a newly approved charter school and to ensure that the school is prepared to open smoothly on the date agreed and that the school meets all building, health, safety, insurance and other legal requirements before the school's opening.

SECTION 12. (1) A charter school must be open to any student residing in the geographical boundaries of the school district in which the charter school is located.

(2) A school district may not require any student enrolled in the school district to attend a charter school.

(3) Except as otherwise provided under subsection (8)(d) of this section, a charter school may not limit admission based on ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, or academic or athletic ability.

(4) A charter school may limit admission to students within a given age group or grade level, including pre-kindergarten students, and may be organized around a special emphasis, theme or concept as stated in the school's application.

(5) The underserved student composition of a charter school's enrollment collectively must reflect that of students of all ages attending the school district in which the charter school is located, to be defined for the purposes of this act as being at least eighty percent (80%) of that population. If the underserved student composition of an applicant's or charter school's enrollment is less than eighty percent (80%) of the enrollment of students of all ages in the school district in which the charter school is located, despite the school's best efforts, the authorizer must consider the applicant's or charter school's recruitment efforts and the underserved student composition of the applicant pool in determining whether the applicant or charter school is operating in a nondiscriminatory manner. A finding by the authorizer that a charter school is operating in a discriminatory manner justifies the revocation of a charter.

(6) A charter school must enroll all students who wish to attend the school unless the number of students exceeds the capacity of a program, class, grade level or building.

(7) If capacity is insufficient to enroll all students who wish to attend the school based on initial application, the charter school must select students through a lottery.

(8) (a) Any noncharter public school or part of a noncharter public school converting to a charter school shall adopt and maintain a policy giving an enrollment preference to students who reside within the former attendance area of that public school. If the charter school has excess capacity after enrolling students residing within the former attendance area of the school, students outside of the former attendance area of the school, but within the geographical boundaries of the school district in which the charter school is located, are eligible for enrollment. If the number of students applying for admission exceeds the capacity of a program, class, grade level or building of the charter school, the charter school must admit students on the basis of a lottery.

(b) A charter school must give an enrollment preference to students enrolled in the charter school during the preceding school year and to siblings of students already enrolled in the charter school. An enrollment preference for returning students excludes those students from entering into a lottery.

(c) A charter school may give an enrollment preference to children of the charter school's applicant, governing board members and full-time employees, so long as those children constitute no more than ten percent (10%) of the charter school's total student population.

(d) This section does not preclude the formation of a charter school whose mission is focused on serving students with disabilities, students of the same gender, students who pose such severe disciplinary problems that they warrant a specific educational program, or students who are at risk of academic failure. If capacity is insufficient to enroll all students who wish to attend the school, the charter school must select students through a lottery.

SECTION 13. If a student previously enrolled in a charter school enrolls in another public school in this state, the student's new school must accept credits earned by the student in courses or instructional programs at the charter school in a uniform and consistent manner and according to the same criteria that are used to accept academic credits from other public schools.

SECTION 14. A school district must provide or publicize to parents and the general public information about charter schools as an enrollment option within the district to the same extent and through the same means that the district provides and publicizes information about noncharter public schools in the district.

SECTION 15. (1) The performance provisions within a charter contract must be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures and metrics that will guide the authorizer's evaluations of the charter school. The performance framework must include indicators, measures and metrics, at a minimum, for the following:

(a) Student academic proficiency;

(b) Student academic growth;

(c) Achievement gaps in both proficiency and growth between major student subgroups;

(d) Attendance;

(e) Recurrent enrollment from year to year;

(f) In-school and out-of-school suspension rates and expulsion rates;

(g) For charter high schools, postsecondary readiness, including the percentage of graduates submitting applications to postsecondary institutions, high school completion, postsecondary admission and postsecondary enrollment or employment;

(h) Financial performance and sustainability; and

(i) Board performance and stewardship, including compliance with all applicable laws, regulations and terms of the charter contract.

(2) Annual performance targets must be set by each charter school in conjunction with the authorizer and must be designed to

help each school meet applicable federal, state and authorizer expectations.

(3) The performance framework must allow the inclusion of additional rigorous, valid and reliable indicators proposed by a charter school to augment external evaluations of its performance; however, the authorizer must approve the quality and rigor of any indicators proposed by a charter school, which indicators must be consistent with the purposes of this act.

(4) The performance framework must require the disaggregation of all student performance data by major student subgroups (gender, race, poverty status, special education status, English learner status and gifted status).

(5) The authorizer shall collect, analyze and report all data from state assessments in accordance with the performance framework for each charter school. Multiple schools overseen by a single governing board must report their performance as separate, individual schools, and each school must be held independently accountable for its performance.

(6) Information needed by the authorizer from the charter school governing board for the authorizer's reports must be required and included as a material part of the charter contract.

SECTION 16. (1) The authorizer shall monitor annually the performance and legal compliance of each charter school it oversees, including collecting and analyzing data to support the school's evaluation according to the charter contract. The

authorizer may conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this act, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this act, adhere to the terms of the charter contract and do not unduly inhibit the autonomy granted to charter schools.

(2) As part of its annual report to the Legislature, the authorizer shall publish and provide a performance report for each charter school it oversees in accordance with the performance framework set forth in the charter contract. The report must be made available to the public at the same time as it is submitted to the Legislature. The authorizer may require each charter school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the performance framework.

(3) If a charter school's performance or legal compliance is unsatisfactory, the authorizer shall notify promptly the charter school of the problem and provide reasonable opportunity for the school to remedy the problem unless the problem warrants revocation, in which case the revocation timeframes will apply.

(4) The authorizer may take appropriate corrective actions or exercise sanctions in response to apparent deficiencies in a charter school's performance or legal compliance. If warranted, the actions or sanctions may include requiring a charter school to

develop and execute a corrective action plan within a specified timeframe.

SECTION 17. (1) A charter may be renewed for successive five-year terms of duration. The authorizer may grant renewal with specific conditions for necessary improvements to a charter school and may lessen the renewal term based on the performance, demonstrated capacities and particular circumstances of each charter school.

(2) Before September 30, the authorizer shall issue a charter school performance report and charter renewal application guidance to any charter school whose charter will expire the following year. The performance report must summarize the charter school's performance record to date, based on the data required by this act and the charter contract, and must provide notice of any weaknesses or concerns perceived by the authorizer which may jeopardize the charter school's position in seeking renewal if not timely rectified. The charter school must respond and submit any corrections or clarifications for the performance report within ninety (90) days after receiving the report.

(3) The charter renewal application guidance must provide, at a minimum, an opportunity for the charter school to:

(a) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;

(b) Describe improvements undertaken or planned for the school; and

(c) Detail the school's plans for the next charter term.

(4) The charter renewal application guidance must include or refer explicitly to the criteria that will guide the authorizer's renewal decision, which must be based on the performance framework set forth in the charter contract and consistent with this act.

(5) Before February 1, the governing board of a charter school seeking renewal shall submit a renewal application to the authorizer pursuant to the charter renewal application guidance issued by the authorizer. The authorizer shall adopt a resolution ruling on the renewal application no later than ninety (90) days after the filing of the renewal application.

(6) In making each charter renewal decision, the authorizer must:

(a) Ground its decision in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;

(b) Ensure that data used in making the renewal decision is available to the school and the public; and

(c) Provide a public report summarizing the evidence that is the basis for the renewal decision.

(7) A charter contract must be revoked at any time or not renewed if the authorizer determines that the charter school has

done any of the following or otherwise failed to comply with the provisions of this act:

(a) Committed a material and substantial violation of any of the terms, conditions, standards or procedures required under this act or the charter contract;

(b) Failed to meet or make sufficient progress toward the performance expectations set forth in the charter contract;

(c) Failed to meet generally accepted standards of fiscal management; or

(d) Substantially violated any material provision of law which is applicable to the charter school.

(8) The authorizer shall develop revocation and nonrenewal processes that:

(a) Provide the governing board of a charter school with a timely notification of the prospect of revocation or nonrenewal and of the reasons for such possible closure;

(b) Allow the governing board a reasonable amount of time in which to prepare a response;

(c) Provide the governing board with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at an orderly proceeding held for that purpose;

(d) Allow the governing board access to representation by counsel and to call witnesses on the school's behalf;

(e) Permit the recording of such proceedings; and

(f) After a reasonable period for deliberation, require a final determination to be made and conveyed in writing to the governing board.

(9) Notwitstanding any provision to the contrary, the authorizer may not renew the charter of any charter school that, during the school's final operating year under the term of the charter contract, is designated an "F" school under the school accreditation rating system.

(10) If the authorizer revokes or does not renew a charter, the authorizer must state clearly, in a resolution of adopted by the authorizer board, the reasons for the revocation or nonrenewal.

(11) Within ten (10) days after taking action to renew, not renew or revoke a charter, the authorizer shall provide a report to the charter school. The report must include a copy of the authorizer board's resolution setting forth the action taken, reasons for the board's decision and assurances as to compliance with all of the requirements set forth in this act.

SECTION 18. (1) Before implementing a charter school closure decision, the authorizer must develop a charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property and assets in accordance with the requirements of this act. The protocol must specify tasks, timelines and responsible parties, including

delineating the respective duties of the school and the authorizer. If a charter school is to be closed for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol.

(2) If a charter school closes, all unspent government funds, unspent earnings from those funds and assets purchased with government funds must revert to the local school district in which the charter school is located. Unless otherwise provided for in the charter or a debt instrument, unspent funds from nongovernmental sources, unspent earnings from those funds, assets purchased with those funds and debts of the school must revert to the nonprofit entity created to operate the school and may be disposed of according to applicable laws for nonprofit corporations.

SECTION 19. (1) Before October 1 of each year, beginning in the year that the state has had at least one (1) charter school operating for a full school year, the Mississippi Charter School Authorizer Board shall issue to the Governor, Legislature, State Board of Education and the public an annual report on the state's charter schools for the preceding school year. The report must include a comparison of the performance of charter school students with the performance of academically, ethnically and economically comparable groups of students in the school district in which a charter school is located. In addition, the report must include

the authorizer's assessment of the successes, challenges and areas for improvement in meeting the purposes of this act. The report also must include an assessment on whether the number and size of operating charter schools are sufficient to meet demand, as calculated according to admissions data and the number of students denied enrollment based on lottery results. The report due from the authorizer under this section must be coordinated with reports due from charter school governing boards, as near as possible, to decrease or eliminate duplication.

(2) The Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) shall prepare an annual report assessing the sufficiency of funding for charter schools, the efficacy of the state formula for authorizer funding, and any suggested changes in state law or policy necessary to strengthen the state's charter schools.

SECTION 20. (1) Notwithstanding any provision of law to the contrary, to the extent that any provision of this act is inconsistent with any other state or local law, rule or regulation, the provisions of this act govern and are controlling.

(2) A charter school and any education service provider which provides comprehensive management for a charter school must be a nonprofit education organization.

(3) A charter school is subject to all federal laws and authorities specified in this act or agreed upon with the

authorizer in the charter contract, where such contracting is consistent with applicable laws, rules and regulations.

(4) To the extent approved by the authorizer, a charter contract may consist of one or more schools. Each charter school that is part of a charter contract must be separate and distinct from any other charter school.

(5) A single governing board may hold one or more charter contracts.

(6) A charter school must function as a local educational agency, and as such, a charter school is responsible for meeting the requirements of local educational agencies under applicable federal laws, including those relating to special education, receipt of funds and compliance with funding requirements. Status as a local educational agency, however, does not preclude a charter school from developing, by mutual agreement or formal contract, links with the local school district for services, resources and programs.

SECTION 21. A charter school may exercise those powers necessary for carrying out the terms of its charter contract, including the following powers:

(a) To receive and disburse funds authorized by law for school purposes;

(b) To secure appropriate insurance and to enter into contracts and leases;

(c) To contract with an education service provider for the management and operation of the charter school so long as the school's governing board retains oversight authority over the school;

(d) To solicit and accept any gifts or grants for school purposes subject to applicable laws and the terms of its charter contract;

(e) To acquire real property for use as its facility or facilities, from public or private sources; and

(f) To sue and be sued in its own name.

SECTION 22. (1) A charter school may not discriminate against any person on the basis of race, creed, color, sex, disability, national origin or any other category that would be unlawful if done by a noncharter public school.

(2) A charter school may not engage in any sectarian practices in its educational program, admissions or employment policies or operations.

(3) A charter school may not discriminate against any student on the basis of national origin, minority status or limited proficiency in English. Consistent with federal civil rights laws, charter schools must provide limited English proficient students with appropriate services designed to teach them English and the general curriculum.

(4) A charter school may not charge tuition.

(5) The terms of each charter school must include a transportation plan for students attending the charter school.

(6) Subject to the approval of the authorizer, a charter school may contract with an accredited online course provider for the delivery of virtual courses to students enrolled in the charter school.

(7) Except to the extent authorized under paragraph (c) of Section 22, the powers, obligations and responsibilities set forth in the charter contract may not be delegated or assigned by either party.

SECTION 23. (1) Charter schools are subject to the same civil rights, health and safety requirements applicable to noncharter public schools in the state, except as otherwise specifically provided in this act.

(2) Charter schools are subject to the student assessment and accountability requirements applicable to noncharter public schools in the state; however, this requirement does not preclude a charter school from establishing additional student assessment measures that go beyond state requirements if the authorizer approves those measures.

(3) Although a charter school is geographically located within the boundaries of a particular school district and enrolls students who reside within the school district, the charter school may not be considered a school within that district under the purview of the school district's school board. The rules,

regulations, policies and procedures established by the school board for the noncharter public schools that are in the school district in which the charter school is geographically located do not apply to the charter school unless otherwise required under the charter contract or any contract entered into between the charter school governing board and the local school board.

(4) Whenever the provisions of Title 37, Mississippi Code of 1972, relating to the elementary and secondary education of public school students establish a requirement for or grant authority to local school districts, their school boards and the schools within the respective school districts, the language "school districts," "school boards," "boards of trustees," "the schools within a school district," or any other similar phraseology does not include a charter school and the governing board of a charter school unless the statute specifically is made applicable to charter schools as well as noncharter public schools.

(5) A charter school is not subject to any rule, regulation, policy or procedure adopted by the State Board of Education or the State Department of Education unless otherwise required by the authorizer or in the charter contract.

(6) Charter schools are not exempt from the following statutes:

(a) Chapter 41, Title 25, Mississippi Code of 1972, which relate to open meetings of public bodies.

(b) Chapter 61, Title 25, Mississippi Code of 1972, which relate to public access to public records.

(c) Section 37-3-51, which requires notice by the district attorney of licensed school employees who are convicted of certain sex offenses.

(d) Section 37-3-53, which requires publication of the Mississippi Report Card by the State Board of Education.

(e) Section 37-11-18, which requires the automatic expulsion of a student possessing a weapon or controlled substance on educational property.

(f) Section 37-11-18.1, which requires expulsion of certain habitually disruptive students.

(g) Section 37-11-19, which requires suspension or expulsion of a student who damages school property.

(h) Section 37-11-20, which prohibits acts of intimidation intended to keep a student from attending school.

(i) Section 37-11-21, which prohibits parental abuse of school staff.

(j) Section 37-11-23, which prohibits the willful disruption of school and school meetings.

(k) Sections 37-11-29 and 37-11-31, which relate to reporting requirements regarding unlawful or violent acts on school property.

(l) Section 37-11-67, which prohibits bullying or harassing behavior in public schools.

(m) Section 37-13-3, which prohibits doctrinal, sectarian or denominational teaching in public schools.

(n) Sections 37-13-5 and 37-13-6, which require the flags of the United States and the State of Mississippi to be displayed near the school building.

(o) Section 37-13-63(1), which prescribes the minimum number of days which public schools must be kept in session during a scholastic year.

(p) Section 37-13-91, which is the Mississippi Compulsory School Attendance Law.

(q) Section 37-13-171(2) and (4), which requires any course containing sex-related education to include instruction in abstinence-only or abstinence-plus education.

(r) Section 37-13-173, which requires notice to parents before instruction on human sexuality is provided in public classrooms.

(s) Section 37-13-193, which relates to civil rights and human rights education in the public schools.

(t) Sections 37-15-1 and 37-15-3, which relate to the maintenance and transfer of permanent student records in public schools.

(u) Section 37-15-6, which requires the State Department of Education to maintain a record of expulsions from the public schools.

(v) Section 37-15-9, which establishes minimum age requirements for kindergarten and first grade enrollment in public schools.

(w) Section 37-15-11, which requires a parent, legal guardian or custodian to accompany a child seeking enrollment in a public school.

(x) Sections 37-16-1, 37-16-3, 37-16-4 and 37-16-9, which relate to the statewide assessment testing program.

(y) Section 37-18-1, which establishes the Superior-Performing Schools Program and Exemplary Schools Program to recognize public schools that improve.

SECTION 24. (1) (a) Charter schools must comply with applicable federal laws, rules and regulations regarding the qualification of teachers and other instructional staff. No more than twenty-five percent (25%) of teachers in a charter school may be exempt from state teacher licensure requirements at the time the initial charter application is approved by the authorizer. Administrators of charter schools are exempt from state administrator licensure requirements. However, teachers and administrators must have a bachelor's degree as a minimum requirement, and teachers must have demonstrated subject-matter competency. Within three (3) years of the date of initial application approval by the authorizer, all teachers must have, at a minimum, alternative licensure approved by the Commission on

Teacher and Administrator Education, Certification and Licensure and Development.

(b) A charter school may not staff positions for teachers, administrators, ancillary support personnel or other employees by utilizing or otherwise relying on nonimmigrant foreign worker visa programs. However, a charter school may submit a request to the authorizer for an exception allowing the employment of a nonimmigrant foreign worker before the worker is employed. The authorizer may grant permission for the employment of the nonimmigrant foreign worker only if the charter school makes a satisfactory showing of efforts to recruit lawful permanent residents of the United States to fill the position and a lack of qualified applicants to fill the position.

(2) Employees in charter schools must have the same general rights and privileges as other public school employees, except such employees are not:

(a) Covered under the Education Employment Procedures Law (Section 37-9-103);

(b) Subject to the state salary requirements prescribed in Section 37-19-7; and

(c) Members of the Public Employees' Retirement System.

(3) Employees in charter schools are eligible for participation in retirement and other benefits programs in which the charter school chooses to make available to its employees.

SECTION 25. (1) Charter school teachers and other school personnel, as well as members of the governing board and any education service provider with whom a charter school contracts, are subject to criminal history record checks and fingerprinting requirements applicable to employees of other public schools. The authorizer shall require that current criminal records background checks and current child abuse registry checks are obtained, and that the criminal record information and registry checks are on file at the charter school for any new hires applying for employment. In order to determine an applicant's suitability for employment, the applicant must be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints must be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check. Under no circumstances may a member of the Mississippi Charter School Authorizer Board, member of the charter school governing board or any individual other than the subject of the criminal history record checks disseminate information received through the checks except as may be required to fulfill the purposes of this section. The determination whether the applicant has a disqualifying crime, as set forth in subsection (2) of this section, must be made by the appropriate state or federal governmental authority, which must notify the charter school whether a disqualifying crime exists.

(2) If the 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(g), 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 is not eligible to be employed at the charter school. However, the charter school, in its discretion, may allow any applicant aggrieved by the employment decision under this section to show mitigating circumstances that exist and may allow, subject to the approval of the Mississippi Charter School Authorizer Board, the new hire to be employed at the school. The authorizer may approve the employment depending on the mitigating circumstances, which may include, but need 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; and (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 children.

(3) No charter school, charter school employee, member of the charter school governing board, the Mississippi Charter School Authorizer Board or member or employee of the Mississippi Charter

School Authorizer Board employee may be held liable in any employment discrimination suit in which an allegation of discrimination is made regarding an employment decision authorized under this section.

(4) A charter school shall terminate any teacher or administrator for committing one or more of the following acts:

(a) Engaging in unethical conduct relating to an educator-student relationship as identified by the Mississippi Charter School Authorizer Board;

(b) Fondling a student as described in Section 97-5-23 or engaging in any type of sexual involvement with a student as described in Section 97-3-95; or

(c) Failure to report sexual involvement of a charter school employee with a student as required by Section 97-5-24.

SECTION 26. A charter school is eligible to participate in state-sponsored or district-sponsored athletic and academic interscholastic leagues, competitions, awards, scholarships and recognition programs for students, educators, administrators and schools to the same extent as noncharter public schools.

SECTION 27. (1) Each charter school shall certify annually to the State Department of Education its student enrollment, average daily attendance and student participation in the national school lunch program, special education, vocational education, gifted education, alternative school program and federal programs in the same manner as school districts.

(2) Each charter school shall certify annually to the school board of the school district in which the charter school is located the number of enrolled charter school students residing in the school district.

SECTION 28. (1) (a) The State Department of Education shall make payments to charter schools for each student in average daily attendance at the charter school equal to the state share of the adequate education program payments for each student in average daily attendance at the school district in which the charter school is located. In calculating the local contribution for purposes of determining the state share of the adequate education program payments, the department shall deduct the pro rata local contribution of the school district in which the student resides, to be determined as provided in Section 37-151-7(2)(a).

(b) Payments made pursuant to this subsection by the State Department of Education must be made at the same time and in the same manner as adequate education program payments are made to school districts under Sections 37-151-101 and 37-151-103. Amounts payable to a charter school must be determined by the State Department of Education. Amounts payable to a charter school in its first year of operation must be based on the projections of initial-year enrollment and federal school level funding set forth in the charter contract. Such projections must be reconciled with the average daily attendance at the end of the

school's first year of operation, and any necessary adjustments must be made to payments during the school's second year of operation.

(2) The school district in which a charter school is located shall pay directly to the charter school an amount for each student enrolled in the charter school equal to the ad valorem tax receipts and in-lieu payments received per pupil for the support of the local school district in which the student resides. The pro rata ad valorem receipts and in-lieu receipts to be transferred to the charter school shall include all levies for the support of the local school district under Sections 37-57-1 (local contribution to the adequate education program) and 37-57-105 (school district operational levy) and may not include any taxes levied for the retirement of the local school district's bonded indebtedness or short-term notes or any taxes levied for the support of vocational-technical education programs. In no event may the payment exceed the pro rata amount of the local ad valorem payment for the local contribution to the adequate education program under Section 37-57-1 for the school district in which the student resides. Payments made under this section by a school district to a charter school must be made before the expiration of three (3) business days after the funds are distributed to the school district by the tax collector.

(3) (a) The State Department of Education shall direct the proportionate share of monies generated under federal and state

categorical aid programs, including special education, vocational, gifted and alternative school programs, to charter schools serving students eligible for such aid. The department shall ensure that charter schools with rapidly expanding enrollments are treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars. Each charter school that serves students who may be eligible to receive services provided through such programs shall comply with all reporting requirements to receive the aid.

(b) A charter school shall pay to a local school district any federal or state aid attributable to a student with a disability attending the charter school in proportion to the level of services for that student which the local school district provides directly or indirectly.

(c) Subject to the approval of the authorizer, a charter school and a local school district may negotiate and enter into a contract for the provision of and payment for special education services, including, but not necessarily limited to, a reasonable reserve not to exceed five percent (5%) of the local school district's total budget for providing special education services. The reserve may be used by the local school district only to offset excess costs of providing services to students with disabilities enrolled in the charter school.

(4) (a) The State Department of Education shall disburse state transportation funding to a charter school on the same basis

and in the same manner as it is paid to school districts under the adequate education program.

(b) A charter school may enter into a contract with a school district or private provider to provide transportation to the school's students.

SECTION 29. (1) A charter school must adhere to generally accepted accounting principles.

(2) A charter school shall have its financial records audited annually, at the end of each fiscal year, either by the State Auditor or by a certified public accountant approved by the State Auditor. However, a certified public accountant may not be selected to perform the annual audit of a charter school if that accountant previously has audited the charter school for more than three (3) consecutive years. Certified public accountants must be selected in a manner determined by the State Auditor. The charter school shall file a copy of each audit report and accompanying management letter with the authorizer before August 1.

SECTION 30. (1) Any monies received by a charter school from any source remaining in the charter school's accounts at the end of a budget year must remain in the charter school's accounts for use by the charter school during subsequent budget years.

(2) Nothing in this act may be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a charter school. The governing board of a charter school may accept gifts, donations

and grants of any kind made to the charter school and may expend or use such gifts, donations and grants in accordance with the conditions prescribed by the donor; however, a gift, donation or grant may not be accepted if it is subject to a condition that is contrary to any provision of law or term of the charter contract.

(3) A charter school must disclose publicly all sources of private funding and all funds received from foreign sources, including gifts from foreign governments, foreign legal entities and domestic entities affiliated with either foreign governments or foreign legal entities. For the purposes of this subsection, the term "foreign" means a country or jurisdiction outside of any state or territory of the United States.

SECTION 31. (1) A charter school has a right of first refusal to purchase or lease at or below fair market value a closed public school facility or property or unused portions of a public school facility or property in the school district in which the charter school is located if the school district decides to sell or lease the public school facility or property.

(2) A charter school may negotiate and contract at or below fair market value with a school district, state institution of higher learning, public community or junior college, or any other public or for-profit or nonprofit private entity for the use of a facility for a school building.

(3) Public entities, including, but not limited to, libraries, community service organizations, museums, performing

arts venues, theatres, cinemas, churches, community and junior colleges, colleges and universities, may provide space to charter schools within their facilities under their preexisting zoning and land use designations.

SECTION 32. Section 11-46-1, Mississippi Code of 1972, is amended as follows:

11-46-1. As used in this chapter, the following terms shall have the meanings * * * ascribed unless the context otherwise requires:

(a) "Claim" means any demand to recover damages from a governmental entity as compensation for injuries.

(b) "Claimant" means any person seeking compensation under the provisions of this chapter, whether by administrative remedy or through the courts.

(c) "Board" means the Mississippi Tort Claims Board.

(d) "Department" means the Department of Finance and Administration.

(e) "Director" means the executive director of the department who is also the executive director of the board.

(f) "Employee" means any officer, employee or servant of the State of Mississippi or a political subdivision of the state, including elected or appointed officials and persons acting on behalf of the state or a political subdivision in any official capacity, temporarily or permanently, in the service of the state or a political subdivision whether with or without compensation,

including firefighters who are members of a volunteer fire department that is a political subdivision. The term "employee" shall not mean a person or other legal entity while acting in the capacity of an independent contractor under contract to the state or a political subdivision; * * * and

(i) For purposes of the limits of liability provided for in Section 11-46-15, the term "employee" shall include:

1. Physicians under contract to provide health services with the State Board of Health, the State Board of Mental Health or any county or municipal jail facility while rendering services under * * * the contract * * *;

2. Any physician, dentist or other health care practitioner employed by the University of Mississippi Medical Center (UMMC) and its departmental practice plans who is a faculty member and provides health care services only for patients at UMMC or its affiliated practice sites * * *;

3. Any physician, dentist or other health care practitioner employed by any university under the control of the Board of Trustees of State Institutions of Higher Learning who practices only on the campus of any university under the control of the Board of Trustees of State Institutions of Higher Learning * * *;

4. Any physician, dentist or other health care practitioner employed by the State Veterans Affairs Board and

who provides health care services for patients for the State Veterans Affairs Board * * *;

(ii) The term "employee" shall also include Mississippi Department of Human Services licensed foster parents for the limited purposes of coverage under the Tort Claims Act as provided in Section 11-46-8 * * *; and

(iii) The term "employee" also shall include any employee or member of the governing board of a charter school but shall not include any person or entity acting in the capacity of an independent contractor to provide goods or services under a contract with a charter school.

(g) "Governmental entity" means * * * the state and political subdivisions * * *.

(h) "Injury" means death, injury to a person, damage to or loss of property or any other injury that a person may suffer that is actionable at law or in equity.

(i) "Political subdivision" means any body politic or body corporate other than the state responsible for governmental activities only in geographic areas smaller than that of the state, including, but not limited to, any county, municipality, school district, charter school, volunteer fire department that is a chartered nonprofit corporation providing emergency services under contract with a county or municipality community hospital as defined in Section 41-13-10, * * * airport authority, or other instrumentality * * * of the state, whether or not * * * the body

or instrumentality * * * has the authority to levy taxes or to sue or be sued in its own name.

(j) "State" means the State of Mississippi and any office, department, agency, division, bureau, commission, board, institution, hospital, college, university, airport authority or other instrumentality thereof, whether or not * * * the body or instrumentality * * * has the authority to levy taxes or to sue or be sued in its own name.

(k) "Law" means all species of law, including, but not limited to, any and all constitutions, statutes, case law, common law, customary law, court order, court rule, court decision, court opinion, court judgment or mandate, administrative rule or regulation, executive order, or principle or rule of equity.

SECTION 33. Section 25-41-3, Mississippi Code of 1972, is amended as follows:

25-41-3. For purposes of this chapter, the following words shall have the meaning ascribed herein, to wit:

(a) "Public body" means any executive or administrative board, commission, authority, council, department, agency, bureau or any other policy-making entity, or committee thereof, of the State of Mississippi, or any political subdivision or municipal corporation of the state, whether such entity be created by statute or executive order, which is supported wholly or in part by public funds or expends public funds, and any standing, interim or special committee of the Mississippi Legislature. The term

"public body" includes the governing board of a charter school authorized by the Mississippi Charter School Authorizer Board. There shall be exempted from the provisions of this chapter:

(i) The judiciary, including all jury deliberations;

(ii) Public and private hospital staffs, public and private hospital boards and committees thereof;

(iii) Law enforcement officials;

(iv) The military;

(v) The State Probation and Parole Board;

(vi) The Workers' Compensation Commission;

(vii) Legislative subcommittees and legislative conference committees;

(viii) The arbitration council established in Section 69-3-19;

(ix) License revocation, suspension and disciplinary proceedings held by the Mississippi State Board of Dental Examiners; and

(x) Hearings and meetings of the Board of Tax Appeals and of the hearing officers and the board of review of the Department of Revenue as provided in Section 27-77-15.

(b) "Meeting" means an assemblage of members of a public body at which official acts may be taken upon a matter over which the public body has supervision, control, jurisdiction or advisory power; "meeting" also means any such assemblage through the use of video or teleconference devices.

SECTION 34. Section 25-61-3, Mississippi Code of 1972, is amended as follows:

25-61-3. The following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Public body" shall mean any department, bureau, division, council, commission, committee, subcommittee, board, agency and any other entity of the state or a political subdivision thereof, and any municipal corporation and any other entity created by the Constitution or by law, executive order, ordinance or resolution. The term "public body" includes the governing board of a charter school authorized by the Mississippi Charter School Authorizer Board. Within the meaning of this chapter, the term "entity" shall not be construed to include individuals employed by a public body or any appointed or elected public official.

(b) "Public records" shall mean all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body.

(c) "Data processing software" means the programs and routines used to employ and control the capabilities of data

processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications and computer networking programs.

(d) "Proprietary software" means data processing software that is obtained under a licensing agreement and is protected by copyright or trade secret laws.

(e) "Incident report" means a narrative description, if such narrative description exists and if such narrative description does not contain investigative information, of an alleged offense, and at a minimum shall include the name and identification of each person charged with and arrested for the alleged offense, the time, date and location of the alleged offense, and the property involved, to the extent this information is known.

(f) "Investigative report" means records of a law enforcement agency containing information beyond the scope of the matters contained in an incident report, and generally will include, but not be limited to, the following matters if beyond the scope of the matters contained in an incident report:

(i) Records that are compiled in the process of detecting and investigating any unlawful activity or alleged unlawful activity, the disclosure of which would harm the investigation which may include crime scene reports and demonstrative evidence;

(ii) Records that would reveal the identity of informants and/or witnesses;

(iii) Records that would prematurely release information that would impede the public body's enforcement, investigative or detection efforts;

(iv) Records that would disclose investigatory techniques and/or results of investigative techniques;

(v) Records that would deprive a person of a right to a fair trial or an impartial adjudication;

(vi) Records that would endanger the life or safety of a public official or law enforcement personnel, or confidential informants or witnesses;

(vii) Records pertaining to quality control or PEER review activities; or

(viii) Records that would impede or jeopardize a prosecutor's ability to prosecute the alleged offense.

(g) "Law enforcement agency" means a public body that performs as one (1) of its principal functions activities pertaining to the enforcement of criminal laws, the apprehension and investigation of criminal offenders, or the investigation of criminal activities.

SECTION 35. 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.

(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.

(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.

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

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

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

(ii) "Furniture" shall be construed to include: desks, chairs, tables, seats, filing cabinets, bookcases and all other items of a similar nature as well as dormitory furniture,

appliances, carpets and all other items of personal property generally referred to as home, office or school furniture.

(f) "Emergency" means any circumstances caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection or caused by any inherent defect due to defective construction, or when the immediate preservation of order or of public health is necessary by reason of unforeseen emergency, or when the immediate restoration of a condition of usefulness of any public building, equipment, road or bridge appears advisable, or in the case of a public utility when there is a failure of any machine or other thing used and useful in the generation, production or distribution of electricity, water or natural gas, or in the transportation or treatment of sewage; or when the delay incident to obtaining competitive bids could cause adverse impact upon the governing authorities or agency, its employees or its citizens; or in the case of a public airport, when the delay incident to publishing an advertisement for competitive bids would endanger public safety in a specific (not general) manner, result in or perpetuate a specific breach of airport security, or prevent the airport from providing specific air transportation services.

(g) "Construction" means the process of building, altering, improving, renovating or demolishing a public structure, public building, or other public real property. It does not include routine operation, routine repair or regularly scheduled

maintenance of existing public structures, public buildings or other public real property.

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

(i) "Certified purchasing office" means any purchasing office * * * in which fifty percent (50%) or more of the purchasing agents hold a certification from the Universal Public Purchasing Certification Council or other nationally recognized purchasing certification, and in which, in the case of a state agency purchasing office, in addition to the national certification, one hundred percent (100%) of the purchasing officials hold a certification from the State of Mississippi's Basic or Advanced 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 36. Section 37-1-3, Mississippi Code of 1972, is amended as follows:

37-1-3. (1) The State Board of Education shall adopt rules and regulations and set standards and policies for the organization, operation, management, planning, budgeting and programs of the State Department of Education.

(a) The board is directed to identify all functions of the department that contribute to or comprise a part of the state system of educational accountability and to establish and maintain within the department the necessary organizational structure, policies and procedures for effectively coordinating such functions. Such policies and procedures shall clearly fix and delineate responsibilities for various aspects of the system and for overall coordination of the total system and its effective management.

(b) The board shall establish and maintain a system-wide plan of performance, policy and directions of public education not otherwise provided for.

(c) The board shall effectively use the personnel and resources of the department to enhance technical assistance to school districts in instruction and management therein.

(d) The board shall establish and maintain a central budget policy.

(e) The board shall establish and maintain within the State Department of Education a central management capacity under the direction of the State Superintendent of Public Education.

(f) The board, with recommendations from the superintendent, shall design and maintain a five-year plan and program for educational improvement that shall set forth objectives for system performance and development and be the basis for budget requests and legislative initiatives.

(2) (a) The State Board of Education shall adopt and maintain a curriculum and a course of study to be used in the public * * * school districts that is designed to prepare the state's children and youth to be productive, informed, creative citizens, workers and leaders, and it shall regulate all matters arising in the practical administration of the school system not otherwise provided for.

(b) Before the 1999-2000 school year, the State Board of Education shall develop personal living and finances objectives that focus on money management skills for individuals and families for appropriate, existing courses at the secondary level. The objectives must require the teaching of those skills necessary to handle personal business and finances and must include instruction in the following:

(i) Opening a bank account and assessing the quality of a bank's services;

(ii) Balancing a checkbook;

(iii) Managing debt, including retail and credit card debt;

(iv) Completing a loan application;

(v) The implications of an inheritance;

(vi) The basics of personal insurance policies;

(vii) Consumer rights and responsibilities;

(viii) Dealing with salesmen and merchants;

(ix) Computing state and federal income taxes;

(x) Local tax assessments;

(xi) Computing interest rates by various mechanisms;

(xii) Understanding simple contracts; and

(xiii) Contesting an incorrect billing statement.

(3) The State Board of Education shall have authority to expend any available federal funds, or any other funds expressly designated, to pay training, educational expenses, salary incentives and salary supplements to licensed teachers employed in local school districts or schools administered by the State Board of Education. Such incentive payments shall not be considered part of a school district's local supplement as defined in Section 37-151-5(o), nor shall the incentives be considered part of the local supplement paid to an individual teacher for the purposes of Section 37-19-7(1). MAEP funds or any other state funds shall not be used to provide such incentives unless specifically authorized by law.

(4) The State Board of Education shall through its actions seek to implement the policies set forth in Section 37-1-2.

SECTION 37. Section 37-1-12, Mississippi Code of 1972, is amended as follows:

37-1-12. The State Board of Education shall develop and promulgate regulations for annual reports from * * * school districts and from the State Department of Education to the Legislature. Such regulations shall eliminate duplication, make effective use of technology and enable the Legislature to monitor education in Mississippi. These regulations may include methods to reduce redundant reporting requirements and eliminate inadequate performance measures, and the State Board of Education may include any proposed legislative amendments to state law necessary to improve statewide reporting mandates.

SECTION 38. Section 37-1-13, Mississippi Code of 1972, is amended as follows:

37-1-13. (1) The State Board of Education shall issue regulations:

(a) Setting minimum specifications for relocatable classrooms for the public * * * school districts;

(b) Approving or disapproving plans for relocatable classrooms for public * * * school districts;

(c) Providing a system of requiring local school districts to receive State Department of Education approval before purchase of such relocatable classrooms.

(2) The State Department of Education may, in its discretion, inspect the facilities of any manufacturer of

relocatable classrooms for the purpose of determining if State Department of Education minimum specifications are being met.

(3) The State Department of Education shall insure that local school districts advertise for and receive bids as required by state law for purchase of relocatable classrooms. The State Department of Education shall approve plans for relocatable classrooms by persons, firms, corporations or associations permitted to submit bids for consideration, before such bids are submitted to local school districts. The State Department of Education shall have the right to reject any and all relocatable classroom plans submitted. Bids may not be submitted to local school districts, unless persons, firms, corporations or associations have State Department of Education approval.

SECTION 39. Section 37-3-2, Mississippi Code of 1972, is amended as follows:

37-3-2. (1) There is established within the State Department of Education the Commission on Teacher and Administrator Education, Certification and Licensure and Development. It shall be the purpose and duty of the commission to make recommendations to the State Board of Education regarding standards for the certification and licensure and continuing professional development of those who teach or perform tasks of an educational nature in the public schools of Mississippi.

(2) The commission shall be composed of fifteen (15) qualified members. The membership of the commission shall be

composed of the following members to be appointed, three (3) from each congressional district: four (4) classroom teachers; three (3) school administrators; one (1) representative of schools of education of institutions of higher learning located within the state to be recommended by the Board of Trustees of State Institutions of Higher Learning; one (1) representative from the schools of education of independent institutions of higher learning to be recommended by the Board of the Mississippi Association of Independent Colleges; one (1) representative from public community and junior colleges located within the state to be recommended by the State Board for Community and Junior Colleges; one (1) local school board member; and four (4) laypersons. All appointments shall be made by the State Board of Education after consultation with the State Superintendent of Public Education. The first appointments by the State Board of Education shall be made as follows: five (5) members shall be appointed for a term of one (1) year; five (5) members shall be appointed for a term of two (2) years; and five (5) members shall be appointed for a term of three (3) years. Thereafter, all members shall be appointed for a term of four (4) years.

(3) The State Board of Education when making appointments shall designate a chairman. The commission shall meet at least once every two (2) months or more often if needed. Members of the commission shall be compensated at a rate of per diem as

authorized by Section 25-3-69 and be reimbursed for actual and necessary expenses as authorized by Section 25-3-41.

(4) (a) An appropriate staff member of the State Department of Education shall be designated and assigned by the State Superintendent of Public Education to serve as executive secretary and coordinator for the commission. No less than two (2) other appropriate staff members of the State Department of Education shall be designated and assigned by the State Superintendent of Public Education to serve on the staff of the commission.

(b) An Office of Educator Misconduct Evaluations shall be established within the State Department of Education to assist the commission in responding to infractions and violations, and in conducting hearings and enforcing the provisions of Section 37-3-2(11), (12), (13), (14) and (15), Mississippi Code of 1972, and violations of the Mississippi Educator Code of Ethics.

(5) It shall be the duty of the commission to:

(a) Set standards and criteria, subject to the approval of the State Board of Education, for all educator preparation programs in the state;

(b) Recommend to the State Board of Education each year approval or disapproval of each educator preparation program in the state, subject to a process and schedule determined by the State Board of Education;

(c) Establish, subject to the approval of the State Board of Education, standards for initial teacher certification and licensure in all fields;

(d) Establish, subject to the approval of the State Board of Education, standards for the renewal of teacher licenses in all fields;

(e) Review and evaluate objective measures of teacher performance, such as test scores, which may form part of the licensure process, and to make recommendations for their use;

(f) Review all existing requirements for certification and licensure;

(g) Consult with groups whose work may be affected by the commission's decisions;

(h) Prepare reports from time to time on current practices and issues in the general area of teacher education and certification and licensure;

(i) Hold hearings concerning standards for teachers' and administrators' education and certification and licensure with approval of the State Board of Education;

(j) Hire expert consultants with approval of the State Board of Education;

(k) Set up ad hoc committees to advise on specific areas; and

(l) Perform such other functions as may fall within their general charge and which may be delegated to them by the State Board of Education.

(6) (a) **Standard License - Approved Program Route.** An educator entering the school system of Mississippi for the first time and meeting all requirements as established by the State Board of Education shall be granted a standard five-year license. Persons who possess two (2) years of classroom experience as an assistant teacher or who have taught for one (1) year in an accredited public or private school shall be allowed to fulfill student teaching requirements under the supervision of a qualified participating teacher approved by an accredited college of education. The local school district in which the assistant teacher is employed shall compensate such assistant teachers at the required salary level during the period of time such individual is completing student teaching requirements. Applicants for a standard license shall submit to the department:

(i) An application on a department form;

(ii) An official transcript of completion of a teacher education program approved by the department or a nationally accredited program, subject to the following: Licensure to teach in Mississippi pre-kindergarten through kindergarten classrooms shall require completion of a teacher education program or a bachelor of science degree with child development emphasis from a program accredited by the American

Association of Family and Consumer Sciences (AAFCS) or by the National Association for Education of Young Children (NAEYC) or by the National Council for Accreditation of Teacher Education (NCATE). Licensure to teach in Mississippi kindergarten, for those applicants who have completed a teacher education program, and in Grade 1 through Grade 4 shall require the completion of an interdisciplinary program of studies. Licenses for Grades 4 through 8 shall require the completion of an interdisciplinary program of studies with two (2) or more areas of concentration. Licensure to teach in Mississippi Grades 7 through 12 shall require a major in an academic field other than education, or a combination of disciplines other than education. Students preparing to teach a subject shall complete a major in the respective subject discipline. All applicants for standard licensure shall demonstrate that such person's college preparation in those fields was in accordance with the standards set forth by the National Council for Accreditation of Teacher Education (NCATE) or the National Association of State Directors of Teacher Education and Certification (NASDTEC) or, for those applicants who have a bachelor of science degree with child development emphasis, the American Association of Family and Consumer Sciences (AAFCS);

(iii) A copy of test scores evidencing satisfactory completion of nationally administered examinations of achievement, such as the Educational Testing Service's teacher testing examinations; and

(iv) Any other document required by the State Board of Education.

(b) **Standard License - Nontraditional Teaching Route.** Beginning January 1, 2004, an individual who has a passing score on the Praxis I Basic Skills and Praxis II Specialty Area Test in the requested area of endorsement may apply for the Teach Mississippi Institute (TMI) program to teach students in Grades 7 through 12 if the individual meets the requirements of this paragraph (b). The State Board of Education shall adopt rules requiring that teacher preparation institutions which provide the Teach Mississippi Institute (TMI) program for the preparation of nontraditional teachers shall meet the standards and comply with the provisions of this paragraph.

(i) The Teach Mississippi Institute (TMI) shall include an intensive eight-week, nine-semester-hour summer program or a curriculum of study in which the student matriculates in the fall or spring semester, which shall include, but not be limited to, instruction in education, effective teaching strategies, classroom management, state curriculum requirements, planning and instruction, instructional methods and pedagogy, using test results to improve instruction, and a one (1) semester three-hour supervised internship to be completed while the teacher is employed as a full-time teacher intern in a local school district. The TMI shall be implemented on a pilot program basis, with courses to be offered at up to four (4) locations in the state,

with one (1) TMI site to be located in each of the three (3) Mississippi Supreme Court districts.

(ii) The school sponsoring the teacher intern shall enter into a written agreement with the institution providing the Teach Mississippi Institute (TMI) program, under terms and conditions as agreed upon by the contracting parties, providing that the school district shall provide teacher interns seeking a nontraditional provisional teaching license with a one-year classroom teaching experience. The teacher intern shall successfully complete the one (1) semester three-hour intensive internship in the school district during the semester immediately following successful completion of the TMI and prior to the end of the one-year classroom teaching experience.

(iii) Upon completion of the nine-semester-hour TMI or the fall or spring semester option, the individual shall submit his transcript to the commission for provisional licensure of the intern teacher, and the intern teacher shall be issued a provisional teaching license by the commission, which will allow the individual to legally serve as a teacher while the person completes a nontraditional teacher preparation internship program.

(iv) During the semester of internship in the school district, the teacher preparation institution shall monitor the performance of the intern teacher. The school district that employs the provisional teacher shall supervise the provisional teacher during the teacher's intern year of employment under a

nontraditional provisional license, and shall, in consultation with the teacher intern's mentor at the school district of employment, submit to the commission a comprehensive evaluation of the teacher's performance sixty (60) days prior to the expiration of the nontraditional provisional license. If the comprehensive evaluation establishes that the provisional teacher intern's performance fails to meet the standards of the approved nontraditional teacher preparation internship program, the individual shall not be approved for a standard license.

(v) An individual issued a provisional teaching license under this nontraditional route shall successfully complete, at a minimum, a one-year beginning teacher mentoring and induction program administered by the employing school district with the assistance of the State Department of Education.

(vi) Upon successful completion of the TMI and the internship provisional license period, applicants for a Standard License - Nontraditional Route shall submit to the commission a transcript of successful completion of the twelve (12) semester hours required in the internship program, and the employing school district shall submit to the commission a recommendation for standard licensure of the intern. If the school district recommends licensure, the applicant shall be issued a Standard License - Nontraditional Route which shall be valid for a five-year period and be renewable.

(vii) At the discretion of the teacher preparation institution, the individual shall be allowed to credit the twelve (12) semester hours earned in the nontraditional teacher internship program toward the graduate hours required for a Master of Arts in Teacher (MAT) Degree.

(viii) The local school district in which the nontraditional teacher intern or provisional licensee is employed shall compensate such teacher interns at Step 1 of the required salary level during the period of time such individual is completing teacher internship requirements and shall compensate such Standard License - Nontraditional Route teachers at Step 3 of the required salary level when they complete license requirements.

Implementation of the TMI program provided for under this paragraph (b) shall be contingent upon the availability of funds appropriated specifically for such purpose by the Legislature. Such implementation of the TMI program may not be deemed to prohibit the State Board of Education from developing and implementing additional alternative route teacher licensure programs, as deemed appropriate by the board. The emergency certification program in effect prior to July 1, 2002, shall remain in effect.

A Standard License - Approved Program Route shall be issued for a five-year period, and may be renewed. Recognizing teaching as a profession, a hiring preference shall be granted to persons holding a Standard License - Approved Program Route or Standard

License - Nontraditional Teaching Route over persons holding any other license.

(c) **Special License - Expert Citizen.** In order to allow a school district to offer specialized or technical courses, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may grant a one-year expert citizen-teacher license to local business or other professional personnel to teach in a public school or nonpublic school accredited or approved by the state. Such person may begin teaching upon his employment by the local school board and licensure by the Mississippi Department of Education. The board shall adopt rules and regulations to administer the expert citizen-teacher license. A Special License - Expert Citizen may be renewed in accordance with the established rules and regulations of the State Department of Education.

(d) **Special License - Nonrenewable.** The State Board of Education is authorized to establish rules and regulations to allow those educators not meeting requirements in subsection (6)(a), (b) or (c) to be licensed for a period of not more than three (3) years, except by special approval of the State Board of Education.

(e) **Nonlicensed Teaching Personnel.** A nonlicensed person may teach for a maximum of three (3) periods per teaching day in a public school district or a nonpublic school accredited/approved by the state. Such person shall submit to the

department a transcript or record of his education and experience which substantiates his preparation for the subject to be taught and shall meet other qualifications specified by the commission and approved by the State Board of Education. In no case shall any local school board hire nonlicensed personnel as authorized under this paragraph in excess of five percent (5%) of the total number of licensed personnel in any single school.

(f) **Special License - Transitional Bilingual Education.** Beginning July 1, 2003, the commission shall grant special licenses to teachers of transitional bilingual education who possess such qualifications as are prescribed in this section. Teachers of transitional bilingual education shall be compensated by local school boards at not less than one (1) step on the regular salary schedule applicable to permanent teachers licensed under this section. The commission shall grant special licenses to teachers of transitional bilingual education who present the commission with satisfactory evidence that they (i) possess a speaking and reading ability in a language, other than English, in which bilingual education is offered and communicative skills in English; (ii) are in good health and sound moral character; (iii) possess a bachelor's degree or an associate's degree in teacher education from an accredited institution of higher education; (iv) meet such requirements as to courses of study, semester hours therein, experience and training as may be required by the commission; and (v) are legally present in the United States and

possess legal authorization for employment. A teacher of transitional bilingual education serving under a special license shall be under an exemption from standard licensure if he achieves the requisite qualifications therefor. Two (2) years of service by a teacher of transitional bilingual education under such an exemption shall be credited to the teacher in acquiring a Standard Educator License. Nothing in this paragraph shall be deemed to prohibit a local school board from employing a teacher licensed in an appropriate field as approved by the State Department of Education to teach in a program in transitional bilingual education.

(g) In the event any school district meets the highest accreditation standards as defined by the State Board of Education in the accountability system, the State Board of Education, in its discretion, may exempt such school district from any restrictions in paragraph (e) relating to the employment of nonlicensed teaching personnel.

(h) **Highly Qualified Teachers.** Beginning July 1, 2006, any teacher from any state meeting the federal definition of highly qualified, as described in the No Child Left Behind Act, must be granted a standard five-year license by the State Department of Education.

(7) **Administrator License.** The State Board of Education is authorized to establish rules and regulations and to administer the licensure process of the school administrators in the State of

Mississippi. There will be four (4) categories of administrator licensure with exceptions only through special approval of the State Board of Education.

(a) **Administrator License - Nonpracticing.** Those educators holding administrative endorsement but having no administrative experience or not serving in an administrative position on January 15, 1997.

(b) **Administrator License - Entry Level.** Those educators holding administrative endorsement and having met the department's qualifications to be eligible for employment in a Mississippi school district. Administrator License - Entry Level shall be issued for a five-year period and shall be nonrenewable.

(c) **Standard Administrator License - Career Level.** An administrator who has met all the requirements of the department for standard administrator licensure.

(d) **Administrator License - Nontraditional Route.** The board may establish a nontraditional route for licensing administrative personnel. Such nontraditional route for administrative licensure shall be available for persons holding, but not limited to, a master of business administration degree, a master of public administration degree, a master of public planning and policy degree or a doctor of jurisprudence degree from an accredited college or university, with five (5) years of administrative or supervisory experience. Successful completion of the requirements of alternate route licensure for

administrators shall qualify the person for a standard administrator license.

Individuals seeking school administrator licensure under paragraph (b), (c) or (d) shall successfully complete a training program and an assessment process prescribed by the State Board of Education. All applicants for school administrator licensure shall meet all requirements prescribed by the department under paragraph (b), (c) or (d), and the cost of the assessment process required shall be paid by the applicant.

(8) **Reciprocity.** (a) The department shall grant a standard license to any individual who possesses a valid standard license from another state and meets minimum Mississippi license requirements or equivalent requirements as determined by the State Board of Education. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1, Senate Bill No. 2419, 2013 Regular Session.

(b) The department shall grant a nonrenewable special license to any individual who possesses a credential which is less than a standard license or certification from another state. Such special license shall be valid for the current school year plus one (1) additional school year to expire on June 30 of the second year, not to exceed a total period of twenty-four (24) months, during which time the applicant shall be required to complete the requirements for a standard license in Mississippi.

(9) **Renewal and Reinstatement of Licenses.** The State Board of Education is authorized to establish rules and regulations for the renewal and reinstatement of educator and administrator licenses. Effective May 15, 1997, the valid standard license held by an educator shall be extended five (5) years beyond the expiration date of the license in order to afford the educator adequate time to fulfill new renewal requirements established pursuant to this subsection. An educator completing a master of education, educational specialist or doctor of education degree in May 1997 for the purpose of upgrading the educator's license to a higher class shall be given this extension of five (5) years plus five (5) additional years for completion of a higher degree.

(10) All controversies involving the issuance, revocation, suspension or any change whatsoever in the licensure of an educator required to hold a license shall be initially heard in a hearing de novo, by the commission or by a subcommittee established by the commission and composed of commission members for the purpose of holding hearings. Any complaint seeking the denial of issuance, revocation or suspension of a license shall be by sworn affidavit filed with the Commission of Teacher and Administrator Education, Certification and Licensure and Development. The decision thereon by the commission or its subcommittee shall be final, unless the aggrieved party shall appeal to the State Board of Education, within ten (10) days, of the decision of the committee or its subcommittee. An appeal to

the State Board of Education shall be on the record previously made before the commission or its subcommittee unless otherwise provided by rules and regulations adopted by the board. The State Board of Education in its authority may reverse, or remand with instructions, the decision of the committee or its subcommittee. The decision of the State Board of Education shall be final.

(11) The State Board of Education, acting through the commission, may deny an application for any teacher or administrator license for one or more of the following:

(a) Lack of qualifications which are prescribed by law or regulations adopted by the State Board of Education;

(b) The applicant has a physical, emotional or mental disability that renders the applicant unfit to perform the duties authorized by the license, as certified by a licensed psychologist or psychiatrist;

(c) The applicant is actively addicted to or actively dependent on alcohol or other habit-forming drugs or is a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effect, at the time of application for a license;

(d) Revocation or suspension of an applicant's certificate or license by another state;

(e) Fraud or deceit committed by the applicant in securing or attempting to secure such certification and license;

(f) Failing or refusing to furnish reasonable evidence of identification;

(g) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law; or

(h) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense as defined by federal or state law.

(12) The State Board of Education, acting on the recommendation of the commission, may revoke or suspend any teacher or administrator license for specified periods of time for one or more of the following:

(a) Breach of contract or abandonment of employment may result in the suspension of the license for one (1) school year as provided in Section 37-9-57;

(b) Obtaining a license by fraudulent means shall result in immediate suspension and continued suspension for one (1) year after correction is made;

(c) Suspension or revocation of a certificate or license by another state shall result in immediate suspension or revocation and shall continue until records in the prior state have been cleared;

(d) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law;

(e) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense, as defined by federal or state law;

(f) The license holder knowingly and willfully committing any of the acts affecting validity of mandatory uniform test results as provided in Section 37-16-4(1);

(g) The license holder has engaged in unethical conduct relating to an educator/student relationship as identified by the State Board of Education in its rules;

(h) The license holder has fondled a student as described in Section 97-5-23, or had any type of sexual involvement with a student as described in Section 97-3-95; or

(i) The license holder has failed to report sexual involvement of a school employee with a student as required by Section 97-5-24.

(13) (a) Dismissal or suspension of a licensed employee by a local school board pursuant to Section 37-9-59 may result in the suspension or revocation of a license for a length of time which shall be determined by the commission and based upon the severity of the offense.

(b) Any offense committed or attempted in any other state shall result in the same penalty as if committed or attempted in this state.

(c) A person may voluntarily surrender a license. The surrender of such license may result in the commission

recommending any of the above penalties without the necessity of a hearing. However, any such license which has voluntarily been surrendered by a licensed employee may only be reinstated by a majority vote of all members of the commission present at the meeting called for such purpose.

(14) A person whose license has been suspended on any grounds except criminal grounds may petition for reinstatement of the license after one (1) year from the date of suspension, or after one-half (1/2) of the suspended time has lapsed, whichever is greater. A license suspended or revoked on the criminal grounds may be reinstated upon petition to the commission filed after expiration of the sentence and parole or probationary period imposed upon conviction. A revoked, suspended or surrendered license may be reinstated upon satisfactory showing of evidence of rehabilitation. The commission shall require all who petition for reinstatement to furnish evidence satisfactory to the commission of good character, good mental, emotional and physical health and such other evidence as the commission may deem necessary to establish the petitioner's rehabilitation and fitness to perform the duties authorized by the license.

(15) Reporting procedures and hearing procedures for dealing with infractions under this section shall be promulgated by the commission, subject to the approval of the State Board of Education. The revocation or suspension of a license shall be effected at the time indicated on the notice of suspension or

revocation. The commission shall immediately notify the superintendent of the school district or school board where the teacher or administrator is employed of any disciplinary action and also notify the teacher or administrator of such revocation or suspension and shall maintain records of action taken. The State Board of Education may reverse or remand with instructions any decision of the commission regarding a petition for reinstatement of a license, and any such decision of the State Board of Education shall be final.

(16) An appeal from the action of the State Board of Education in denying an application, revoking or suspending a license or otherwise disciplining any person under the provisions of this section shall be filed in the Chancery Court of the First Judicial District of Hinds County, Mississippi, on the record made, including a verbatim transcript of the testimony at the hearing. The appeal shall be filed within thirty (30) days after notification of the action of the board is mailed or served and the proceedings in chancery court shall be conducted as other matters coming before the court. The appeal shall be perfected upon filing notice of the appeal and by the prepayment of all costs, including the cost of preparation of the record of the proceedings by the State Board of Education, and the filing of a bond in the sum of Two Hundred Dollars ($200.00) conditioned that if the action of the board be affirmed by the chancery court, the

applicant or license holder shall pay the costs of the appeal and the action of the chancery court.

(17) All such programs, rules, regulations, standards and criteria recommended or authorized by the commission shall become effective upon approval by the State Board of Education as designated by appropriate orders entered upon the minutes thereof.

(18) The granting of a license shall not be deemed a property right nor a guarantee of employment in any public school district. A license is a privilege indicating minimal eligibility for teaching in the public * * * school districts of Mississippi. This section shall in no way alter or abridge the authority of local school districts to require greater qualifications or standards of performance as a prerequisite of initial or continued employment in such districts.

(19) In addition to the reasons specified in subsections (12) and (13) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157

or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 40. Section 37-3-4, Mississippi Code of 1972, is amended as follows:

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

(2) It shall be the purpose and duty of the institute to conduct thorough empirical studies and analyses of the school management needs of the local school districts throughout the state, to make recommendations to the State Board of Education regarding standards and programs of training that aid in the development of administrative and management skills of local

school administrators, and to conduct such programs related to these purposes as they are implemented under guidelines established by the State Board of Education.

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

(4) (a) The institute shall have an advisory board composed of ten (10) qualified members appointed by the State Board of Education after consultation with the State Superintendent of Public Education. This advisory board will offer recommendations to the institute on the types of training to be instituted and supported. The membership of the advisory board shall be composed of the following members, two (2) to be appointed from each congressional district: three (3) school administrators; one (1) representative of public community/junior colleges within the state; one (1) representative of a school of education in an

institution of higher learning within the state; two (2) local school board members; one (1) classroom teacher; and two (2) laypersons. In making the initial appointments, three (3) members shall be appointed for a term of one (1) year, three (3) members shall be appointed for a term of two (2) years, two (2) members shall be appointed for a term of three (3) years, and two (2) members shall be appointed for a term of four (4) years. Thereafter, all members shall be appointed for a term of four (4) years. The advisory board shall meet when called by the director, but in no event fewer than three (3) times per year. The members of the advisory board shall be compensated at the per diem rate authorized by Section 25-3-69 and reimbursed for actual and necessary expenses as authorized by Section 25-3-41.

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

(5) (a) Basic Education Course. The Mississippi School Boards Association shall be responsible for preparing and conducting a course of training for basic education for the local school board members of this state, in order for board members to carry out their duties more effectively and be exposed to new ideas involving school restructuring. The basic course shall be known as the "School Board Member Training Course" and shall consist of at least twelve (12) hours of training. The

Mississippi School Boards Association shall issue certificates of completion to those school board members who complete the basic education course.

(b) Continuing Education Course. The Mississippi School Boards Association shall be responsible for preparing and conducting a course of training for continuing education for the local school board members of this state, in order for board members to carry out their duties more effectively and be exposed to new ideas involving school restructuring. The continuing education course shall be known as the "Continuing Education Course for School Board Members" and shall consist of at least six (6) hours of training.

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

The Mississippi School Boards Association shall, subject to appropriation, develop and conduct training specific to the local boards' role in improving learning outcomes and effective financial management. Such training shall be known as "Improving

Student Outcomes and Academic Success" which shall consist of not less than six (6) hours of training and "Effective Financial Management In Local School Districts" which shall consist of not less than six (6) hours of training. Any local board members and the local superintendent that serve in a school district that meets the criteria for both of the training modules shall annually attend both training sessions for a total of not less than twelve (12) hours of training. At such time the school district is determined to no longer have failing schools; or no longer has a serious financial condition, such board member and the local superintendent shall no longer be required to attend the training as provided herein. The training as required under subsection (c) shall not replace, but is in addition to, the training required for new school board members and continuing board members as required under Section 37-7-306.

The Mississippi School Boards Association shall issue certificates of completion to those school board members who complete the continuing education course. All costs and expenses for preparing and conducting the basic education course and the continuing education course provided for in this paragraph shall be paid out of any funds which are made available to the Mississippi School Boards Association upon authorization and appropriation by the Legislature to the State Department of Education.

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

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

The institute shall issue certificates of completion to those principals who complete such courses. All costs and expenses for

preparing and conducting the basic and continuing education courses provided for in this subsection shall be paid out of any funds which are made available to the institute upon authorization and appropriation by the Legislature.

(8) School district principals and other administrators with career level certifications at schools meeting the highest levels of accreditation standards, as defined by the State Board of Education, are exempt from the requirements of this section, subject to approval of the local school district superintendent.

SECTION 41. Section 37-3-5, Mississippi Code of 1972, is amended as follows:

37-3-5. The State Department of Education is hereby charged with the execution of all laws relating to the administrative, supervisory and consultative services to the public schools and agricultural high schools of the school districts throughout the State of Mississippi. The State Department of Education is also authorized to grant property to public * * * school districts and agricultural high schools of the State of Mississippi.

Subject to the direction of the State Board of Education as provided by law, the administration, management and control of the department is hereby vested in the State Superintendent of Public Education, who shall be directly responsible for the rightful functioning thereof.

SECTION 42. Section 37-3-11, Mississippi Code of 1972, is amended as follows:

37-3-11. The State Superintendent of Public Education shall perform the duties assigned to him by the State Board of Education, and he shall have the following duties:

(a) To serve as secretary for the State Board of Education;

(b) To be the chief administrative officer of the State Department of Education;

(c) To recommend to the State Board of Education, for its consideration, rules and regulations for the supervision of the public * * * schools and agricultural high schools of the school districts throughout the state and for the efficient organization and conduct of the same;

(d) To collect data and make it available to the state board for determining the proper distribution of the state common school funds;

(e) To keep a complete record of all official acts of the State Superintendent and the acts of the State Board of Education;

(f) To prepare, have printed and furnish all officers charged with the administration of the laws pertaining to the public schools, such blank forms and books as may be necessary to the proper discharge of their duties, which printing is to be paid for out of funds provided by the Legislature;

(g) To have printed in pamphlet form the laws pertaining to the public schools and publish therein forms for

conducting school business, the rules and regulations for the government of schools that the State Superintendent or the State Board of Education may recommend, and such other matters as may be deemed worthy of public interest pertaining to the public schools, which printing is to be paid for out of funds provided by the Legislature;

(h) To meet all superintendents annually at such time and place as the State Superintendent shall appoint for the purpose of accumulating facts relative to schools, to review the educational progress made in the various sections of the state, to compare views, discuss problems, hear discussions and suggestions relative to examinations and qualifications of teachers, methods of instruction, textbooks, summer schools for teachers, visitation of schools, consolidation of schools, health work in the schools, vocational education and other matters pertaining to the public school system;

(i) To advise all superintendents upon all matters involving the welfare of the schools, and at the request of any superintendent, to give an opinion upon a written statement of facts on all questions and controversies arising out of the interpretation and construction of the school laws, in regard to rights, powers and duties of school officers and superintendents, and to keep a record of all such decisions. Before giving any opinion, the superintendent may submit the statement of facts to the Attorney General, and it shall be the duty of the Attorney

General forthwith to examine such statement and suggest the proper decision to be made upon such fact;

(j) To require annually, and as often as the State Superintendent may deem proper, of all superintendents, detailed reports on the educational business of the various districts;

(k) On or before January 10 in each year to prepare, under the direction of the State Board of Education, the annual information report of the State Department of Education as described in Section 37-151-97;

(l) To determine the number of educable children in the several school districts under rules and regulations prescribed by the State Board of Education; and

(m) To perform such other duties as may be prescribed by the State Board of Education.

SECTION 43. Section 37-3-46, Mississippi Code of 1972, is amended as follows:

37-3-46. (1) The State Department of Education, in regard to any school <u>within a school district</u> or <u>any</u> school district not meeting adequate performance of accreditation standards, as defined by the State Board of Education, shall, subject to appropriation:

(a) Provide to local * * * school districts<u>, or specific schools within those districts,</u> financial, training and other assistance to implement and maintain a state program of educational accountability and assessment of performance.

(b) Provide to local * * * school districts, or specific schools within those districts, technical assistance and training in the development, implementation and administration of a personnel appraisal and compensation system for all school employees.

(c) Provide to local * * * school districts, or specific schools within those districts, technical assistance in the development, implementation and administration of programs designed to keep children in school voluntarily and to prevent dropouts.

(2) Schools or school districts receiving assistance from the State Department of Education as outlined in subsection (1) of this section shall be required to implement any training, programs, and any other requirements as specified by the State Superintendent of Public Education.

SECTION 44. Section 37-3-49, Mississippi Code of 1972, is amended as follows:

37-3-49. (1) The State Department of Education shall provide an instructional program and establish guidelines and procedures for managing such program in the public schools within the school districts throughout the state as part of the State Program of Educational Accountability and Assessment of Performance as prescribed in Section 37-3-46. Public school districts may (a) elect to adopt the instructional program and management system provided by the State Department of Education,

or (b) elect to adopt an instructional program and management system which meets or exceeds criteria established by the State Department of Education for such. This provision shall begin with the courses taught in Grades K-8 which contain skills tested through the Mississippi Basic Skills Assessment Program and shall proceed through all secondary school courses mandated for graduation and all secondary school courses in the Mississippi end-of-course testing program. Other state core objectives must be included in the district's instructional program as they are provided by the State Department of Education along with instructional practices, resources, evaluation items and management procedures. Districts are encouraged to adapt this program and accompanying procedures to all other instructional areas. The department shall provide that such program and guidelines, or a program and guidelines developed by a local school district which incorporates the core objectives from the curriculum structure are enforced through the performance-based accreditation system. It is the intent of the Legislature that every effort be made to protect the instructional time in the classroom and reduce the amount of paperwork which must be completed by teachers. The State Department of Education shall take steps to insure that school districts properly use staff development time to work on the districts' instructional management plans.

(2) The State Department of Education shall provide such instructional program and management guidelines which shall require for every public school district that:

(a) All courses taught in Grades K-8 which contain skills which are tested through the Mississippi Basic Skills Assessment Program, all secondary school courses mandated for graduation, and all courses in the end-of-course testing program shall include the State Department of Education's written list of learning objectives.

(b) The local school board must adopt the objectives that will form the core curriculum which will be systematically delivered throughout the district.

(c) The set of objectives provided by the State Department of Education must be accompanied by suggested instructional practices and resources that would help teachers organize instruction so as to promote student learning of the objectives. Objectives added by the school district must also be accompanied by suggested instructional practices and resources that would help teachers organize instruction. The instructional practices and resources that are identified are to be used as suggestions and not as requirements that teachers must follow. The goal of the program is to have students to achieve the desired objective and not to limit teachers in the way they teach.

(d) Standards for student performance must be established for each core objective in the local program and those

standards establish the district's definition of mastery for each objective.

(e) There shall be an annual review of student performance in the instructional program against locally established standards. When weaknesses exist in the local instructional program, the district shall take action to improve student performance.

(3) The State Board of Education and the board of trustees of each school district shall adopt policies to limit and reduce the number and length of written reports that classroom teachers are required to prepare.

(4) This section shall not be construed to limit teachers from using their own professional skills to help students master instructional objectives, nor shall it be construed as a call for more detailed or complex lesson plans or any increase in testing at the local school district level.

(5) Districts meeting the highest levels of accreditation standards, as defined by the State Board of Education, shall be exempted from the provisions of subsection (2) of this section.

SECTION 45. Section 37-3-51, Mississippi Code of 1972, is amended as follows:

37-3-51. (1) Upon the conviction of any licensed personnel, as defined in Section * * * 37-9-1, employed by a public school district or any person employed by a charter or private elementary or secondary school in a position that requires licensure in the

public school districts, of any felony, or of a sex offense as defined in subsection (2) of this section, the district attorney or other prosecuting attorney shall identify those defendants for the circuit clerk. Each circuit clerk shall provide the State Department of Education with notice of the conviction of any such personnel of a felony or a sex offense. In addition, if the convicted person is an employee of a charter school, the circuit clerk must provide the same notice to the Mississippi Charter School Authorizer Board.

(2) "Sex offense" shall mean any of the following offenses:

(a) Section 97-3-65, Mississippi Code of 1972, relating to the carnal knowledge of a child under fourteen (14) years of age;

(b) Section 97-3-95, Mississippi Code of 1972, relating to sexual battery;

(c) Section 97-5-21, Mississippi Code of 1972, relating to seduction of a child under age eighteen (18);

(d) Section 97-5-23, Mississippi Code of 1972, relating to the touching of a child for lustful purposes;

(e) Section 97-5-27, Mississippi Code of 1972, relating to the dissemination of sexually oriented material to children;

(f) Section 97-5-33, Mississippi Code of 1972, relating to the exploitation of children;

(g) Section 97-5-41, Mississippi Code of 1972, relating to the carnal knowledge of a stepchild, adopted child, or child of a cohabitating partner;

(h) Section 97-29-59, Mississippi Code of 1972, relating to unnatural intercourse; or

(i) Any other offense committed in another jurisdiction which, if committed in this state, would be deemed to be such a crime without regard to its designation elsewhere.

(3) In addition, the State Department of Education is considered to be the employer of such personnel for purposes of requesting * * * criminal record background checks.

SECTION 46. Section 37-3-53, Mississippi Code of 1972, is amended as follows:

37-3-53. Each school year, the State Board of Education, acting through the Office of Educational Accountability, shall develop a public school reporting system, or "Mississippi Report Card," on the performance of students and public schools, including charter schools, at the local, district and state level. In developing the report card, the Office of Educational Accountability shall collect school, district and state level student achievement data in the appropriate grades as designated by the State Board of Education in all core subjects, and compare the data with national standards to identify students' strengths and weaknesses. The Mississippi Report Card shall provide more than reports to parents on the level at which their children are

performing; the report shall provide clear and comparable public information on the level at which schools, school districts and the state public education system are performing. The Office of Educational Accountability shall encourage local school districts and the general public to use Mississippi Report Card information along with local individual student data to assess the quality of instructional programs and the performance of schools and to plan and implement programs of instructional improvement.

Beginning with the 1998-1999 school year, the Mississippi Report Card shall include information, as compiled by the Office of Compulsory School Attendance Enforcement, which demonstrates clearly the absenteeism and dropout rates in each school district, charter school and the state as a whole and whether those rates reflect a positive or negative change from the same information as reported in the previous year's Mississippi Report Card.

Each local school district shall be required to develop and publish an annual report as prescribed by the State Board of Education. By November 1 of each year, as prescribed by the State Board of Education, the report shall be published in a newspaper having general circulation in the county and posted on the school district's website in a printable format. The public notice shall include information on the report's availability on the district's website, with the website address, and the location(s) in the school district where a copy of the report can be obtained.

SECTION 47. Section 37-3-61, Mississippi Code of 1972, is amended as follows:

37-3-61. The State Board of Education may provide for the establishment of an Alliance for Families program for the purpose of mobilizing public and parental support for education and to strengthen communication between the school, student and parents. The program's goal shall be to increase student success in Mississippi public * * * school districts, K-12, by generating focused, effective parent involvement. The objectives of the program shall be as follows:

(a) To engage parents in supporting the schools and their children's education.

(b) To implement effective home-school communication systems which allow parents to be kept well informed about the school and their children's progress.

(c) To train school administrators on successful strategies for involving parents both at home and at school and in developing community support for the schools.

(d) To train teachers on successful strategies for communicating with parents and teaching parents to reinforce skills being learned at school.

(e) To promote reading as the key curricular activity for parental focus.

(f) To involve the business, medical and religious communities in supporting the schools through direct assistance,

and to develop positive public relations for the schools in the community.

(g) Publication of a resource manual to assist schools and school districts in implementation of Alliance for Families program.

SECTION 48. Section 37-3-105, Mississippi Code of 1972, is amended as follows:

37-3-105. Beginning with the 2009-2010 school year, the State Department of Education shall require that in-service training shall include an emphasis on intensive, comprehensive and researched-based reading methods for all licensed teachers teaching Grades K through 3 <u>in a public school district</u>. The education may be accomplished through self-review of suitable intensive, comprehensive and researched-based reading materials.

SECTION 49. Section 37-5-61, Mississippi Code of 1972, is amended as follows:

37-5-61. (1) There shall be a county superintendent of education in each county.

(2) Said superintendent shall serve as the executive secretary of the county board of education, but shall have no vote in the proceedings before the board and no voice in fixing the policies thereof.

(3) In addition, said superintendent shall be the director of all schools in the county <u>school district which are</u> outside the municipal separate school districts.

(4) Said superintendent shall be elected at the same time and in the same manner as other county officers are elected and shall hold office for a term of four (4) years.

SECTION 50. Section 37-7-455, Mississippi Code of 1972, is amended as follows:

37-7-455. (1) Any land, buildings or other property that is not used for school purposes and which is not needed in the operation of the schools of the district may be sold in the manner established in this section but only after each charter school located in the school district has notified the school board that it is not exercising its right of first refusal on the property, as provided under Section 31 of this act. Except as otherwise provided in subsections (2) and (3) of this section, all such land, buildings or other property shall be sold only after the receipt of sealed bids therefor after the time and place of making such sale has been duly advertised in some newspaper having a general circulation in the county in which the property is located once each week for three (3) consecutive weeks with the first publication to be made not less than fifteen (15) days prior to the date upon which such bids are to be received and opened. The property shall be sold to the highest and best bidder for cash, but the school board shall have the right to reject any and all bids. If the property is not sold pursuant to such advertisement, the school board, by resolution, may set a date for an open meeting of the school board to be held within sixty (60) days

after the date upon which the bids were opened. At the meeting held pursuant to such resolution, the school board may sell by auction the property for a consideration not less than the highest sealed bid previously received pursuant to the advertisement. At the meeting, any interested party may bid for cash, and the property shall be sold to the highest and best bidder for cash, but the school board shall have the right to reject any and all bids. The school board may require a written confirmation of bids received at such called meeting before selling the property at auction, but it shall not be necessary that sealed bids be received before conducting the auction.

(2) As an alternative to the procedures established under subsection (1) of this section, the school board of a school district may elect, in its discretion, to sell by public auction any property, other than real property or buildings of the school district, which is not used for school or related school purposes and not needed in the operation of the schools, according to the procedure in Section 17-25-25.

(3) As an alternative to the procedures established under subsection (1) or (2) of this section, the county board of education of a county having a population in excess of ten thousand (10,000) according to the 2000 decennial census and in which U.S. Highway 45 intersects with Mississippi Highway 16, may elect, in its discretion, to transfer and sell the buildings of the school district and the real property upon which the buildings

or to any county, municipality or other political subdivision, to be used as a charter school facility, to be used as a civic, community, recreational or youth center, or to be used by any county or district fair association in connection with its activities, or to be used for church purposes, or to be used as a library or other public building, or to be used as a factory or otherwise in connection with an industrial enterprise, or to be used as part of a development activity to stimulate economic development activities within the district, or to enhance property values within the district, or to be used for any similar or related purpose or activity.

SECTION 52. Section 37-9-1, Mississippi Code of 1972, is amended as follows:

37-9-1. (1) For the purposes of this chapter, the terms "superintendent" and "principal" shall have such meaning as are ascribed to them under the provisions of Section 37-19-1. The term "licensed employee" shall mean any other 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. The term "non-instructional employee" shall include all employees of school districts other than superintendents, principals and licensed employees.

(2) Unless a statute in this chapter specifically is made applicable to charter schools, the provisions of this chapter only apply to public school districts, the employees of public school

districts and the public schools that are within those school districts.

SECTION 53. Section 37-9-103, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

SECTION 54. Section 37-11-1, Mississippi Code of 1972, is amended as follows:

37-11-1. (1) Subject to the provisions of subsection (2) of this section, after a pupil has been assigned to a particular public school in a school district, the principal, or anyone else vested with the authority of assigning pupils to classes, knowingly shall not place such pupil in a class where the pupil's presence would serve to adversely affect, hinder, or retard the academic development of the other pupils in the class.

(2) (a) A parent or guardian of twins or higher order multiples, as defined in paragraph (d) of this subsection, may request that the children be placed in the same classroom or in separate classrooms if the children are in the same grade level at the same school in the school district. The school may recommend classroom placement and provide professional education advice to the parent or guardian to assist the parent or guardian in making the best decision for the children's education. A school must provide the placement requested by the children's parent or guardian unless: (i) the parent or guardian has requested that the children, who are different sexes, be placed in the same

classroom and the students in the school have been assigned to different classrooms according to sex, as authorized under Section 37-11-3; or (ii) the school board of the school district makes a classroom placement determination following the school principal's request according to this subsection.

(b) A parent or guardian making a request under this subsection must submit a written request for the classroom placement to the school principal no later than fourteen (14) calendar days after the first day of each school year or, if the children are enrolled in the school after the school year commences, no later than fourteen (14) calendar days after the children's first day of attendance in the school.

(c) At the end of the initial grading period during which children have been in the same classroom or separate classrooms pursuant to their parent or guardian's request under this subsection, if the principal, in consultation with the children's classroom teacher or teachers, determines that the requested classroom placement is disruptive to the school, the principal may request that the school board determine the children's classroom placement.

(d) For purposes of this section, the term "higher order multiples" means triplets, quadruplets, quintuplets or more.

SECTION 55. Section 37-11-17, Mississippi Code of 1972, is amended as follows:

37-11-17. (1) The State Board of Education, the Board of Trustees of State Institutions of Higher Learning, the * * * Mississippi Community College Board, the boards of trustees of the several junior colleges, the county boards of education, the governing authorities of any county, municipal or other public school districts, such other boards set up by law for any educational institution, school, college or university, or their authorized representative, or the State Health Officer or his authorized representative, may require any teacher, supervisor, janitor or other employee of the school to submit to a thorough physical examination, deemed advisable to determine whether he has any infectious or communicable disease.

(2) The State Board of Education may develop a program to accomplish the identification of public school district students with abnormal spinal curvature. No state funds shall be expended for the purposes of implementing this subsection. Such program shall:

(a) Provide that an adequate number of school personnel in each district be instructed by qualified medical experts in the proper examination of students for abnormal spinal curvatures;

(b) Provide that all public school district students who are at least ten (10) years old be screened at least every two (2) years but at least in the fourth, sixth, eighth and tenth grades or at such other times as may be recommended by medical experts on a per case basis;

(c) Provide that students identified as having abnormal spinal curvatures or potential for abnormal spinal curvatures be referred to the county health officer or to the student's personal physician or chiropractor with notice of the evaluation; and

(d) Provide for notification of the parent or guardian of any student identified under this program and for the supplying to such parent or guardian information on the condition and resources available for the correction or treatment of such condition. However, the requirement for screening shall not apply to a child whose parent or guardian objects thereto on grounds that the requirement conflicts with his conscientiously held religious beliefs.

SECTION 56. Section 37-11-25, Mississippi Code of 1972, is brought forward as follows:

37-11-25. If any public school official of this state or of any county or municipality or school district thereof, or any superintendent, principal, or teacher in the public schools, or any trustee of a school district shall be interested, either directly or indirectly, in the proceeds or profits of the sale or rental of any book, furniture, equipment or other property to be used in any public schools of this state such person shall be guilty of a misdemeanor and, upon conviction, he shall be fined not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00). However, nothing in this section shall

be construed to apply to the receipt of royalties on books or other publications used in the public schools.

SECTION 57. Section 37-11-57, Mississippi Code of 1972, is amended as follows:

37-11-57. (1) Except in the case of excessive force or cruel and unusual punishment, a public school teacher, assistant teacher, principal, or an assistant principal acting within the course and scope of his employment shall not be liable for any action carried out in conformity with state or federal law or rules or regulations of the State Board of Education or the local school board or governing board of a charter school regarding the control, discipline, suspension and expulsion of students. The local school board shall provide any necessary legal defense to a teacher, assistant teacher, principal, or assistant principal in the school district who was acting within the course and scope of his employment in any action which may be filed against such school personnel. A school district or charter school, as the case may be, shall be entitled to reimbursement for legal fees and expenses from its employee if a court finds that the act of the employee was outside the course and scope of his employment, or that the employee was acting with criminal intent. Any action by a school district or charter school against its employee and any action by the employee against the school district or charter school for necessary legal fees and expenses shall be tried to the court in the same suit brought against the school employee.

(2) Corporal punishment administered in a reasonable manner, or any reasonable action to maintain control and discipline of students taken by a public school teacher, assistant teacher, principal or assistant principal acting within the scope of his employment or function and in accordance with any state or federal laws or rules or regulations of the State Board of Education or the local school board or governing board of a charter school does not constitute negligence or child abuse. No public school teacher, assistant teacher, principal or assistant principal so acting shall be held liable in a suit for civil damages alleged to have been suffered by a student as a result of the administration of corporal punishment, or the taking of action to maintain control and discipline of a student, unless the court determines that the teacher, assistant teacher, principal or assistant principal acted in bad faith or with malicious purpose or in a manner exhibiting a wanton and willful disregard of human rights or safety. For the purposes of this subsection, "corporal punishment" means the reasonable use of physical force or physical contact by a teacher, assistant teacher, principal or assistant principal, as may be necessary to maintain discipline, to enforce a school rule, for self-protection or for the protection of other students from disruptive students.

SECTION 58. Section 37-13-21, Mississippi Code of 1972, is amended as follows:

37-13-21. The State Board of Health and the various county health departments are hereby authorized and empowered to establish and provide for health education programs in the public * * * school districts of this state and to employ county health educators for such purpose. In order to effectuate such programs the county superintendents of education of counties in which such programs have been established, with the approval of the county board of education, and the board of trustees of the municipal separate school districts are authorized and empowered, in their discretion, to cooperate and join with the said State Board of Health and the county health departments in such program. For such purposes the said county superintendents of education, with the approval of the county board of education, are hereby authorized and empowered to expend such funds as may be necessary from the common school funds of the county, and the board of trustees of municipal separate school districts are hereby authorized and empowered to expend such funds as may be necessary from the maintenance funds of such districts for the purpose of defraying the expenses of such cooperative health education programs. Those students whose parents or guardians shall make written application to the proper authorities on the ground that such program is inconsistent with the tenets and practices of the known religious organization with which they are affiliated shall not be required to participate in the program.

The State Board of Health and various county health departments shall have the power and authority to enter into such agreements and joint programs with the said county superintendents of education and boards of trustees of municipal separate school districts as may be necessary, proper and desirable in carrying out the purposes of this section, and in establishing and carrying on health education programs in the public * * * school districts of this state, and the said county superintendents of education, with the approval and consent of the county board of education, and the board of trustees of municipal separate school districts shall have the power and authority to enter into such agreements and joint programs with each other and with the State Board of Health and county health departments as may be necessary for such purpose.

SECTION 59. Section 37-13-41, Mississippi Code of 1972, is amended as follows:

37-13-41. All principals and/or superintendents of public schools * * * in all school districts in Mississippi shall report to their county superintendent of education upon forms prepared and sent to the county superintendent of education by the director of the division of instruction, giving the type and amount of work done in each grade of their respective school, with other information that may be desired by the director. The county superintendents of education shall compile this information on forms sent out by the director. This shall be made in duplicate,

one (1) copy to be sent to the director, and the other filed as other public records are filed in the county superintendents' offices. This report shall be made to the director by the county superintendents of education not later than the first of June each year.

SECTION 60. Section 37-13-91, Mississippi Code of 1972, is amended as follows:

37-13-91. (1) This section shall be referred to as the "Mississippi Compulsory School Attendance Law."

(2) The following terms as used in this section are defined as follows:

(a) "Parent" means the father or mother to whom a child has been born, or the father or mother by whom a child has been legally adopted.

(b) "Guardian" means a guardian of the person of a child, other than a parent, who is legally appointed by a court of competent jurisdiction.

(c) "Custodian" means any person having the present care or custody of a child, other than a parent or guardian of the child.

(d) "School day" means not less than five (5) and not more than eight (8) hours of actual teaching in which both teachers and pupils are in regular attendance for scheduled schoolwork.

(e) "School" means any public school, including a charter school, in this state or any nonpublic school in this state which is in session each school year for at least one hundred eighty (180) school days, except that the "nonpublic" school term shall be the number of days that each school shall require for promotion from grade to grade.

(f) "Compulsory-school-age child" means a child who has attained or will attain the age of six (6) years on or before September 1 of the calendar year and who has not attained the age of seventeen (17) years on or before September 1 of the calendar year; and shall include any child who has attained or will attain the age of five (5) years on or before September 1 and has enrolled in a full-day public school kindergarten program. Provided, however, that the parent or guardian of any child enrolled in a full-day public school kindergarten program shall be allowed to disenroll the child from the program on a one-time basis, and such child shall not be deemed a compulsory-school-age child until the child attains the age of six (6) years.

(g) "School attendance officer" means a person employed by the State Department of Education pursuant to Section 37-13-89.

(h) "Appropriate school official" means the superintendent of the school district, or his designee, or, in the case of a nonpublic school, the principal or the headmaster.

(i) "Nonpublic school" means an institution for the teaching of children, consisting of a physical plant, whether

owned or leased, including a home, instructional staff members and students, and which is in session each school year. This definition shall include, but not be limited to, private, church, parochial and home instruction programs.

(3) A parent, guardian or custodian of a compulsory-school-age child in this state shall cause the child to enroll in and attend a public school or legitimate nonpublic school for the period of time that the child is of compulsory school age, except under the following circumstances:

(a) When a compulsory-school-age child is physically, mentally or emotionally incapable of attending school as determined by the appropriate school official based upon sufficient medical documentation.

(b) When a compulsory-school-age child is enrolled in and pursuing a course of special education, remedial education or education for handicapped or physically or mentally disadvantaged children.

(c) When a compulsory-school-age child is being educated in a legitimate home instruction program.

The parent, guardian or custodian of a compulsory-school-age child described in this subsection, or the parent, guardian or custodian of a compulsory-school-age child attending any <u>charter school or</u> nonpublic school, or the appropriate school official for any or all children attending a <u>charter school or</u> nonpublic school

shall complete a "certificate of enrollment" in order to facilitate the administration of this section.

The form of the certificate of enrollment shall be prepared by the Office of Compulsory School Attendance Enforcement of the State Department of Education and shall be designed to obtain the following information only:

(i) The name, address, telephone number and date of birth of the compulsory-school-age child;

(ii) The name, address and telephone number of the parent, guardian or custodian of the compulsory-school-age child;

(iii) A simple description of the type of education the compulsory-school-age child is receiving and, if the child is enrolled in a nonpublic school, the name and address of the school; and

(iv) The signature of the parent, guardian or custodian of the compulsory-school-age child or, for any or all compulsory-school-age child or children attending a <u>charter school or</u> nonpublic school, the signature of the appropriate school official and the date signed.

The certificate of enrollment shall be returned to the school attendance officer where the child resides on or before September 15 of each year. Any parent, guardian or custodian found by the school attendance officer to be in noncompliance with this section shall comply, after written notice of the noncompliance by the school attendance officer, with this subsection within ten (10)

days after the notice or be in violation of this section. However, in the event the child has been enrolled in a public school within fifteen (15) calendar days after the first day of the school year as required in subsection (6), the parent or custodian may, at a later date, enroll the child in a legitimate nonpublic school or legitimate home instruction program and send the certificate of enrollment to the school attendance officer and be in compliance with this subsection.

For the purposes of this subsection, a legitimate nonpublic school or legitimate home instruction program shall be those not operated or instituted for the purpose of avoiding or circumventing the compulsory attendance law.

(4) An "unlawful absence" is an absence during a school day by a compulsory-school-age child, which absence is not due to a valid excuse for temporary nonattendance. Days missed from school due to disciplinary suspension shall not be considered an "excused" absence under this section. This subsection shall not apply to children enrolled in a nonpublic school.

Each of the following shall constitute a valid excuse for temporary nonattendance of a compulsory-school-age child enrolled in a <u>noncharter</u> public school, provided satisfactory evidence of the excuse is provided to the superintendent of the school district, or his designee:

(a) An absence is excused when the absence results from the compulsory-school-age child's attendance at an authorized

school activity with the prior approval of the superintendent of the school district, or his designee. These activities may include field trips, athletic contests, student conventions, musical festivals and any similar activity.

(b) An absence is excused when the absence results from illness or injury which prevents the compulsory-school-age child from being physically able to attend school.

(c) An absence is excused when isolation of a compulsory-school-age child is ordered by the county health officer, by the State Board of Health or appropriate school official.

(d) An absence is excused when it results from the death or serious illness of a member of the immediate family of a compulsory-school-age child. The immediate family members of a compulsory-school-age child shall include children, spouse, grandparents, parents, brothers and sisters, including stepbrothers and stepsisters.

(e) An absence is excused when it results from a medical or dental appointment of a compulsory-school-age child.

(f) An absence is excused when it results from the attendance of a compulsory-school-age child at the proceedings of a court or an administrative tribunal if the child is a party to the action or under subpoena as a witness.

(g) An absence may be excused if the religion to which the compulsory-school-age child or the child's parents adheres,

requires or suggests the observance of a religious event. The approval of the absence is within the discretion of the superintendent of the school district, or his designee, but approval should be granted unless the religion's observance is of such duration as to interfere with the education of the child.

(h) An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that the purpose of the absence is to take advantage of a valid educational opportunity such as travel, including vacations or other family travel. Approval of the absence must be gained from the superintendent of the school district, or his designee, before the absence, but the approval shall not be unreasonably withheld.

(i) An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that conditions are sufficient to warrant the compulsory-school-age child's nonattendance. However, no absences shall be excused by the school district superintendent, or his designee, when any student suspensions or expulsions circumvent the intent and spirit of the compulsory attendance law.

(5) Any parent, guardian or custodian of a compulsory-school-age child subject to this section who refuses or willfully fails to perform any of the duties imposed upon him or her under this section or who intentionally falsifies any information required to be contained in a certificate of

enrollment, shall be guilty of contributing to the neglect of a child and, upon conviction, shall be punished in accordance with Section 97-5-39.

Upon prosecution of a parent, guardian or custodian of a compulsory-school-age child for violation of this section, the presentation of evidence by the prosecutor that shows that the child has not been enrolled in school within eighteen (18) calendar days after the first day of the school year of the public school which the child is eligible to attend, or that the child has accumulated twelve (12) unlawful absences during the school year at the public school in which the child has been enrolled, shall establish a prima facie case that the child's parent, guardian or custodian is responsible for the absences and has refused or willfully failed to perform the duties imposed upon him or her under this section. However, no proceedings under this section shall be brought against a parent, guardian or custodian of a compulsory-school-age child unless the school attendance officer has contacted promptly the home of the child and has provided written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance.

(6) If a compulsory-school-age child has not been enrolled in a school within fifteen (15) calendar days after the first day of the school year of the school which the child is eligible to attend or the child has accumulated five (5) unlawful absences during the school year of the public school in which the child is

enrolled, the school district superintendent or his designee shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officer. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer. The superintendent, or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur.

(7) When a school attendance officer has made all attempts to secure enrollment and/or attendance of a compulsory-school-age child and is unable to effect the enrollment and/or attendance, the attendance officer shall file a petition with the youth court under Section 43-21-451 or shall file a petition in a court of competent jurisdiction as it pertains to parent or child. Sheriffs, deputy sheriffs and municipal law enforcement officers shall be fully authorized to investigate all cases of nonattendance and unlawful absences by compulsory-school-age children, and shall be authorized to file a petition with the youth court under Section 43-21-451 or file a petition or information in the court of competent jurisdiction as it pertains to parent or child for violation of this section. The youth court shall expedite a hearing to make an appropriate adjudication and a disposition to ensure compliance with the Compulsory School Attendance Law, and may order the child to enroll or re-enroll in school. The superintendent of the school district to which the

child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

(8) The State Board of Education shall adopt rules and regulations for the purpose of reprimanding any school superintendents who fail to timely report unexcused absences under the provisions of this section.

(9) Notwithstanding any provision or implication herein to the contrary, it is not the intention of this section to impair the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the proper education and training for such child, and nothing in this section shall ever be construed to grant, by implication or otherwise, to the State of Mississippi, any of its officers, agencies or subdivisions any right or authority to control, manage, supervise or make any suggestion as to the control, management or supervision of any private or parochial school or institution for the education or training of children, of any kind whatsoever that is not a public school according to the laws of this state; and this section shall never be construed so as to grant, by implication or otherwise, any right or authority to any state agency or other entity to control, manage, supervise, provide for or affect the operation, management, program, curriculum, admissions policy or discipline of any such school or home instruction program.

SECTION 61. Section 37-15-1, Mississippi Code of 1972, is amended as follows:

37-15-1. The State Board of Education shall prepare and provide necessary forms for keeping permanent records and cumulative folders for each pupil in the public schools, including charter schools, of the state. In the permanent record and cumulative folders, the teachers and principals shall keep information concerning the pupil's date of birth, as verified by the documentation authorized in this section, record of attendance, grades and withdrawal from the school, including the date of any expulsion from the school * * * and a description of the student's act or behavior resulting in the expulsion. The records also shall contain information pertaining to immunization and such other information as the State Board of Education may prescribe. The cumulative folder, in addition to that information maintained in the permanent records, also shall contain such other information as the State Board of Education shall prescribe. It shall be the responsibility of the person in charge of each school to enforce the requirement for evidence of the age of each pupil before enrollment. If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

(a) A certified birth certificate;

(b) A duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of the

child, accompanied by an affidavit sworn to by a parent, grandparent or custodian;

(c) An insurance policy on the child's life which has been in force for at least two (2) years;

(d) A bona fide contemporary Bible record of the child's birth accompanied by an affidavit sworn to by the parent, grandparent or custodian;

(e) A passport or certificate of arrival in the United States showing the age of the child;

(f) A transcript of record of age shown in the child's school record of at least four (4) years prior to application, stating date of birth; or

(g) If none of these evidences can be produced, an affidavit of age sworn to by a parent, grandparent or custodian. Any child enrolling in kindergarten or Grade 1 shall present the required evidence of age upon enrollment. Any child in Grades 2 through 12 not in compliance at the end of sixty (60) days from enrollment shall be suspended until in compliance.

SECTION 62. Section 37-15-3, Mississippi Code of 1972, is amended as follows:

37-15-3. Such cumulative folders as are provided for in Section 37-15-1 shall be kept in the school wherein the pupils are in attendance. Both the permanent records and the cumulative folders shall be available to school officials, including teachers within the school district who have been determined by the school

district to have legitimate educational interests. In no case, however, shall such records be available to the general public. Transcripts of courses and grades may be furnished when requested by the parent or guardian or eligible pupil as prescribed in the Family Educational Rights and Privacy Act of 1974, as amended, 20 USCS Section 1232. Such records shall be kept for each pupil throughout his entire public school enrollment period. In the event a pupil transfers to a public school, <u>including a charter school,</u> then the cumulative folder shall be furnished to the head of the school to which the pupil transfers; if a pupil transfers to a private school, then a copy of the cumulative folder shall be furnished to the head of the school to which the pupil transfers. The permanent record shall be kept permanently by the school district from which the pupil transferred.

At no time may a permanent record of a student be destroyed, but cumulative folders may be destroyed by order of the school board of the school district in not less than five (5) years after the permanent record of the pupil has become inactive and has been transferred to the central depository of the district. Provided, however, that where a school district makes complete copies of inactive permanent records on photographic film, microfilm, or any other acceptable form of medium for storage which may be reproduced as needed, such permanent records may be destroyed after the photographic film or microfilm copy has been stored in the central depository of the district.

SECTION 63. Section 37-15-6, Mississippi Code of 1972, is amended as follows:

37-15-6. For the purpose of providing notice to public and private school officials, both within and outside the boundaries of the state, of the expulsion of any public school student, the State Department of Education may develop a central reporting system for maintaining information concerning each expulsion from a public school. In establishing and maintaining the reporting system, the department may require each school district <u>and charter school</u> to report, within a certain period of time after an expulsion, as established by the department, information such as the following:

(a) The name of the student expelled;

(b) The date the student was expelled;

(c) The age of the student at the time of the expulsion;

(d) The school from which the student was expelled;

(e) The reason for the expulsion, including a detailed description of the student's act or acts;

(f) The duration of the period of expulsion, if not indefinite; and

(g) Any other information that the department deems necessary for school officials in a public or private school, where a student is seeking enrollment, to determine whether or not

a student should be denied enrollment based upon a previous expulsion.

Any information maintained by the department under the authority of this section shall be strictly confidential. The information shall be available to school officials at a public or private school only upon their request and only when a student seeks enrollment or admission to that school. In no case shall the information be available to the general public.

SECTION 64. Section 37-15-9, Mississippi Code of 1972, is amended as follows:

37-15-9. (1) Except as provided in subsection (2) and subject to the provisions of subsection (3) of this section, no child shall be enrolled or admitted to any kindergarten which is a part of * * * a public school * * * during any school year unless such child will reach his fifth birthday on or before September 1 of said school year, and no child shall be enrolled or admitted to the first grade in any public school * * * during any school year unless such child will reach his sixth birthday on or before September 1 of said school year. No pupil shall be permanently enrolled in a public school in the State of Mississippi who formerly was enrolled in another public or private school within the state until the cumulative record of the pupil shall have been received from the school from which he transferred. Should such record have become lost or destroyed, then it shall be the duty of

the superintendent or principal of the school where the pupil last attended school to initiate a new record.

(2) Subject to the provisions of subsection (3) of this section, any child who transfers from an out-of-state public or private school in which that state's law provides for a first-grade or kindergarten enrollment date subsequent to September 1, shall be allowed to enroll in the public schools of Mississippi, at the same grade level as their prior out-of-state enrollment, if:

(a) The parent, legal guardian or custodian of such child was a legal resident of the state from which the child is transferring;

(b) The out-of-state school from which the child is transferring is duly accredited by that state's appropriate accrediting authority;

(c) Such child was legally enrolled in a public or private school for a minimum of four (4) weeks in the previous state; and

(d) The superintendent of schools in the applicable Mississippi school district <u>or the principal of a charter school, as the case may be,</u> has determined that the child was making satisfactory educational progress in the previous state.

(3) When any child applies for admission or enrollment in any public school in the state, the parent, guardian or child, in the absence of an accompanying parent or guardian, shall indicate

on the school registration form if the enrolling child has been expelled from any public or private school or is currently a party to an expulsion proceeding. If it is determined from the child's cumulative record or application for admission or enrollment that the child has been expelled, the school district or charter school may deny the student admission and enrollment until the superintendent of the school, or his designee, or principal of the charter school, as the case may be, has reviewed the child's cumulative record and determined that the child has participated in successful rehabilitative efforts including, but not limited to, progress in an alternative school or similar program. If the child is a party to an expulsion proceeding, the child may be admitted to a public school pending final disposition of the expulsion proceeding. If the expulsion proceeding results in the expulsion of the child, the public school may revoke such admission to school. If the child was expelled or is a party to an expulsion proceeding for an act involving violence, weapons, alcohol, illegal drugs or other activity that may result in expulsion, the school district or charter school shall not be required to grant admission or enrollment to the child before one (1) calendar year after the date of the expulsion.

SECTION 65. Section 37-16-1, Mississippi Code of 1972, is amended as follows:

37-16-1. The primary purpose of the statewide testing program is to provide information needed for state-level decisions. The program shall be designed to:

(a) Assist in the identification of educational needs at the state, district and school levels.

(b) Assess how well districts and schools are meeting state goals and minimum performance standards.

(c) Provide information to aid in the development of policy issues and concerns.

(d) Provide a basis for comparisons among districts, between charter schools throughout the state and nonpublic charter schools in those school districts in which charter schools are located, and between districts, the state and the nation, where appropriate.

(e) Produce data which can be used to aid in the identification of exceptional educational programs or processes.

SECTION 66. Section 37-16-3, Mississippi Code of 1972, is amended as follows:

37-16-3. (1) The State Department of Education is directed to implement a program of statewide assessment testing which shall provide for the improvement of the operation and management of the public schools. The statewide program shall be timed, as far as possible, so as not to conflict with ongoing district assessment programs. As part of the program, the department shall:

(a) Establish, with the approval of the State Board of Education, minimum performance standards related to the goals for education contained in the state's plan including, but not limited to, basic skills in reading, writing and mathematics. The minimum performance standards shall be approved by April 1 in each year they are established.

(b) Conduct a uniform statewide testing program in grades deemed appropriate in the public schools, including charter schools. The program may test skill areas, basic skills and high school course content.

(c) Monitor the results of the assessment program and, at any time the composite student performance of a school or basic program is found to be below the established minimum standards, notify the district superintendent or the governing board of the charter school, as the case may be, the school principal and the school advisory committee or other existing parent group of the situation within thirty (30) days of its determination. The department shall further provide technical assistance to * * * a school district in the identification of the causes of this deficiency and shall recommend courses of action for its correction.

(d) Provide technical assistance to the school districts, when requested, in the development of student performance standards in addition to the established minimum statewide standards.

(e) Issue security procedure regulations providing for the security and integrity of the tests that are administered under the basic skills assessment program.

(2) Uniform basic skills tests shall be completed by each student in the appropriate grade. These tests shall be administered in such a manner as to preserve the integrity and validity of the assessment. In the event of excused or unexcused student absences, make-up tests shall be given. The school superintendent of every school district in the state and the principal of each charter school shall annually certify to the State Department of Education that each student enrolled in the appropriate grade has completed the required basic skills assessment test for his or her grade in a valid test administration.

SECTION 67. Section 37-17-1, Mississippi Code of 1972, is amended as follows:

37-17-1. (1) The power and authority to prescribe standards for the accreditation of noncharter public schools, to insure compliance with such standards and to establish procedures for the accreditation of noncharter public schools is hereby vested in the State Board of Education. The board shall, by orders placed upon its minutes, adopt all necessary rules and regulations to effectuate the purposes of this chapter and shall provide, through the State Department of Education, for the necessary personnel for the enforcement of standards so established.

(2) A charter school authorized by the Mississippi Charter School Authorizer Board must be granted accreditation by the State Board of Education based solely on the approval of the school by the authorizer. If the authorizer, at any time, revokes a school's charter, the State Board of Education shall withdraw the accreditation of the charter school immediately.

SECTION 68. Section 37-17-6, Mississippi Code of 1972, is amended as follows:

[Effective until the date Laws of 2012, Chapter 525, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]

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

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

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

Number of Students Per School Library	Number of Certified School Librarians
0 - 499 Students	1/2 Full-time Equivalent Certified Librarian
500 or More Students	1 Full-time Certified Librarian

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

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

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

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

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

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

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

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

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

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

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

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

(g) A determination of which schools are failing to meet their standards and a determination of the appropriate role of the State Board of Education and the State Department of Education in providing assistance and initiating possible intervention. A failing district is a district that fails to meet both the absolute student achievement standards and the rate of annual growth expectation standards as set by the State Board of

Education for two (2) consecutive years. The State Board of Education shall establish the level of benchmarks by which absolute student achievement and growth expectations shall be assessed. In setting the benchmarks for school districts, the State Board of Education may also take into account such factors as graduation rates, dropout rates, completion rates, the extent to which the school or district employs qualified teachers in every classroom, and any other factors deemed appropriate by the State Board of Education. The State Board of Education, acting through the State Department of Education, shall apply a simple "A," "B," "C," "D" and "F" designation to the current school and school district statewide accountability performance classification labels beginning with the State Accountability Results for the 2011-2012 school year and following, and in the school, district and state report cards required under state and federal law. Under the new designations, a school or school district that has earned a "Star" rating shall be designated an "A" school or school district; a school or school district that has earned a "High-Performing" rating shall be designated a "B" school or school district; a school or school district that has earned a "Successful" rating shall be designated a "C" school or school district; a school or school district that has earned an "Academic Watch" rating shall be designated a "D" school or school district; a school or school district that has earned a "Low-Performing," "At-Risk of Failing" or "Failing" rating shall

be designated an "F" school or school district. Effective with the implementation of any new curriculum and assessment standards, the State Board of Education, acting through the State Department of Education, is further authorized and directed to change the school and school district accreditation rating system to a simple "A," "B," "C," "D" and "F" designation based on a combination of student achievement scores and student growth as measured by the statewide testing programs developed by the State Board of Education pursuant to Chapter 16, Title 37, Mississippi Code of 1972. In any statute or regulation containing the former accreditation designations, the new designations shall be applicable;

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

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

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

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

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

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

(8) Deleted.

(9) The State Board of Education shall establish, for those school districts failing to meet accreditation standards, a program of development to be complied with in order to receive state funds, except as otherwise provided in subsection (14) of this section when the Governor has declared a state of emergency in a school district or as otherwise provided in Section 206,

Mississippi Constitution of 1890. The state board, in establishing these standards, shall provide for notice to schools and sufficient time and aid to enable schools to attempt to meet these standards, unless procedures under subsection (14) of this section have been invoked.

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

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

(b) Notify any applicable school district failing to meet accreditation standards that it is on probation until corrective actions are taken or until the deficiencies have been removed. The local school district shall develop a corrective action plan to improve its deficiencies. For district academic deficiencies, the corrective action plan for each such school district shall be based upon a complete analysis of the following: student test data, student grades, student attendance reports, student dropout data, existence and other relevant data. The corrective action plan shall describe the specific measures to be taken by the particular school district and school to improve: (i) instruction; (ii) curriculum; (iii) professional development; (iv) personnel and classroom organization; (v) student incentives for performance; (vi) process deficiencies; and (vii) reporting to

the local school board, parents and the community. The corrective action plan shall describe the specific individuals responsible for implementing each component of the recommendation and how each will be evaluated. All corrective action plans shall be provided to the State Board of Education as may be required. The decision of the State Board of Education establishing the probationary period of time shall be final;

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

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

(e) Provide for publication of public notice at least one time during the probationary period, in a newspaper published

within the jurisdiction of the school district failing to meet accreditation standards, or if no newspaper is published therein, then in a newspaper having a general circulation therein. The publication shall include the following: declaration of school system's status as being on probation; all details relating to the impairment report; and other information as the State Board of Education deems appropriate. Public notices issued under this section shall be subject to Section 13-3-31 and not contrary to other laws regarding newspaper publication.

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

(b) If the State Board of Education and the Commission on School Accreditation determine that an extreme emergency situation exists in a school district that jeopardizes the safety, security or educational interests of the children enrolled in the schools in that district and that emergency situation is believed

to be related to a serious violation or violations of accreditation standards or state or federal law, or when a school district meets the State Board of Education's definition of a failing school district for two (2) consecutive full school years, or if more than fifty percent (50%) of the schools within the school district are designated as Schools At-Risk in any one (1) year, the State Board of Education may request the Governor to declare a state of emergency in that school district. For purposes of this paragraph, the declarations of a state of emergency shall not be limited to those instances when a school district's impairments are related to a lack of financial resources, but also shall include serious failure to meet minimum academic standards, as evidenced by a continued pattern of poor student performance.

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

(i) Declare a state of emergency, under which some or all of state funds can be escrowed except as otherwise provided in Section 206, Constitution of 1890, until the board determines corrective actions are being taken or the deficiencies have been removed, or that the needs of students warrant the release of funds. The funds may be released from escrow for any program which the board determines to have been restored to standard even

though the state of emergency may not as yet be terminated for the district as a whole;

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

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

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

(v) For states of emergency declared under paragraph (a) only, if the accreditation deficiencies are related to the fact that the school district is too small, with too few resources, to meet the required standards and if another school district is willing to accept those students, abolish that district and assign that territory to another school district or districts. If the school district has proposed a voluntary consolidation with another school district or districts, then if the State Board of Education finds that it is in the best interest

of the pupils of the district for the consolidation to proceed, the voluntary consolidation shall have priority over any such assignment of territory by the State Board of Education;

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

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

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

(e) There is established a Mississippi Recovery School District within the State Department of Education under the supervision of a deputy superintendent appointed by the State Superintendent of Public Education, who is subject to the approval by the State Board of Education. The Mississippi Recovery School District shall provide leadership and oversight of all school

districts that are subject to state conservatorship, as defined in Chapters 17 and 18, Title 37, Mississippi Code of 1972, and shall have all the authority granted under these two (2) chapters. The Mississippi Department of Education, with the approval of the State Board of Education, shall develop policies for the operation and management of the Mississippi Recovery School District. The deputy state superintendent is responsible for the Mississippi Recovery School District and shall be authorized to oversee the administration of the Mississippi Recovery School District, oversee conservators assigned by the State Board of Education to a local school district, hear appeals from school districts under conservatorship that would normally be filed by students, parents or employees and heard by a local school board, which hearings on appeal shall be conducted in a prompt and timely manner in the school district from which the appeal originated in order to ensure the ability of appellants, other parties and witnesses to appeal without undue burden of travel costs or loss of time from work, and perform other related duties as assigned by the State Superintendent of Public Education. The deputy state superintendent is responsible for the Mississippi Recovery School District and shall determine, based on rigorous professional qualifications set by the State Board of Education, the appropriate individuals to be engaged to be conservators and financial advisors, if applicable, of all school districts subject to state conservatorship. After State Board of Education

approval, these individuals shall be deemed independent contractors.

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

The notice also shall include, in the discretion of the State Board of Education, any or all details relating to the school district's emergency status, including the declaration of a state of emergency in the school district and a description of the district's impairment deficiencies, conditions of any conservatorship and corrective actions recommended and being

taken. Public notices issued under this section shall be subject to Section 13-3-31 and not contrary to other laws regarding newspaper publication.

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

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

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

(14) (a) Whenever the Governor declares a state of emergency in a school district in response to a request made under subsection (11) of this section, the State Board of Education, in its discretion, may assign an interim conservator to the school district, or in its discretion, may contract with an appropriate private entity with experience in the academic, finance and other operational functions of schools and school districts, who will be

responsible for the administration, management and operation of the school district, including, but not limited to, the following activities:

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

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

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

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

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

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

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

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

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

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

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

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

the agreement between the district and the State Board of Education, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may withhold that district's adequate education program funds in an amount and manner that will effectuate repayment consistent with the terms of the agreement; the funds withheld by the department shall be deposited into the State General Fund or the Education Enhancement Fund, as the case may be.

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

(15) If a majority of the membership of the school board of any school district resigns from office, the State Board of Education shall be authorized to assign an interim conservator,

who shall be responsible for the administration, management and operation of the school district until the time as new board members are selected or the Governor declares a state of emergency in that school district under subsection (11), whichever occurs first. In that case, the State Board of Education, acting through the interim conservator, shall have all powers which were held by the previously existing school board, and may take any action as prescribed in Section 37-17-13 and/or one or more of the actions authorized in this section.

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

(i) If the office of superintendent is an elected office, in those years in which there is no general election, the name shall be submitted by the State Board of Education to the county election commission, and the county election commission

shall submit the question at a special election to the voters eligible to vote for the office of superintendent within the county, and the special election shall be held within sixty (60) days from notification by the State Board of Education. The ballot shall read substantially as follows:

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

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

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

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

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

"Members of the _____ (here the title of the school district shall be inserted) School Board who are not up for election this year are subject to recall because of the school district's failure to meet critical accountability standards as defined in the letter of notification to the Governor from the State Board of Education. Shall the member of the school board representing this area, _____ (here the name of the school

board member holding the office shall be inserted), be retained in office? Yes _____ No _____"

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

(ii) If the local school board is an appointed school board, the name of all school board members shall be submitted as a collective board by the president of the municipal or county governing authority, as the case may be, at the next regular meeting of the governing authority for retention in office or dismissal from office. If a majority of the governing authority voting on the question vote against retaining the board in office, a vacancy shall exist in each school board member's

office, which shall be filled as provided by law; otherwise, the members of the appointed school board shall remain in office for the duration of their term of appointment, and those members may be reappointed.

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

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

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

The State Superintendent of Public Education and the State Board of Education also shall develop a comprehensive

accountability plan to ensure that local school boards, superintendents, principals and teachers are held accountable for student achievement. A written report on the accountability plan shall be submitted to the Education Committees of both houses of the Legislature before December 1, 1999, with any necessary legislative recommendations.

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

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

[Effective from and after the date Laws of 2012, Chapter 525, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]

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

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

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

Number of Students Per School Library	Number of Certified School Librarians
0 - 499 Students	1/2 Full-time Equivalent Certified Librarian
500 or More Students	1 Full-time Certified Librarian

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

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

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

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

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

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

State Board of Education. The State Board of Education, acting through the State Department of Education, shall apply a simple "A," "B," "C," "D" and "F" designation to the current school and school district statewide accountability performance classification labels beginning with the State Accountability Results for the 2011-2012 school year and following, and in the school, district and state report cards required under state and federal law. Under the new designations, a school or school district that has earned a "Star" rating shall be designated an "A" school or school district; a school or school district that has earned a "High-Performing" rating shall be designated a "B" school or school district; a school or school district that has earned a "Successful" rating shall be designated a "C" school or school district; a school or school district that has earned an "Academic Watch" rating shall be designated a "D" school or school district; a school or school district that has earned a "Low-Performing," "At-Risk of Failing" or "Failing" rating shall be designated an "F" school or school district. Effective with the implementation of any new curriculum and assessment standards, the State Board of Education, acting through the State Department of Education, is further authorized and directed to change the school and school district accreditation rating system to a simple "A," "B," "C," "D" and "F" designation based on a combination of student achievement scores and student growth as measured by the statewide testing programs developed by the State Board of

Education pursuant to Chapter 16, Title 37, Mississippi Code of 1972. In any statute or regulation containing the former accreditation designations, the new designations shall be applicable;

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

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

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

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

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

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

(8) Deleted.

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

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

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

(b) Notify any applicable school district failing to meet accreditation standards that it is on probation until corrective actions are taken or until the deficiencies have been removed. The local school district shall develop a corrective action plan to improve its deficiencies. For district academic deficiencies, the corrective action plan for each such school district shall be based upon a complete analysis of the following: student test data, student grades, student attendance reports, student dropout data, existence and other relevant data. The corrective action plan shall describe the specific measures to be taken by the particular school district and school to improve: (i) instruction; (ii) curriculum; (iii) professional development; (iv) personnel and classroom organization; (v) student incentives for performance; (vi) process deficiencies; and (vii) reporting to the local school board, parents and the community. The corrective action plan shall describe the specific individuals responsible for implementing each component of the recommendation and how each will be evaluated. All corrective action plans shall be provided to the State Board of Education as may be required. The decision of the State Board of Education establishing the probationary period of time shall be final;

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

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

(e) Provide for publication of public notice at least one time during the probationary period, in a newspaper published within the jurisdiction of the school district failing to meet accreditation standards, or if no newspaper is published therein, then in a newspaper having a general circulation therein. The publication shall include the following: declaration of school system's status as being on probation; all details relating to the impairment report; and other information as the State Board of Education deems appropriate. Public notices issued under this

section shall be subject to Section 13-3-31 and not contrary to other laws regarding newspaper publication.

(11) (a) If the recommendations for corrective action are not taken by the local school district or if the deficiencies are not removed by the end of the probationary period, the Commission on School Accreditation shall conduct a hearing to allow the affected school district to present evidence or other reasons why its accreditation should not be withdrawn. Additionally, if the local school district violates accreditation standards that have been determined by the policies and procedures of the State Board of Education to be a basis for withdrawal of school district's accreditation without a probationary period, the Commission on School Accreditation shall conduct a hearing to allow the affected school district to present evidence or other reasons why its accreditation should not be withdrawn. After its consideration of the results of the hearing, the Commission on School Accreditation shall be authorized, with the approval of the State Board of Education, to withdraw the accreditation of a public school district, and issue a request to the Governor that a state of emergency be declared in that district.

(b) If the State Board of Education and the Commission on School Accreditation determine that an extreme emergency situation exists in a school district that jeopardizes the safety, security or educational interests of the children enrolled in the schools in that district and that emergency situation is believed

to be related to a serious violation or violations of accreditation standards or state or federal law, or when a school district meets the State Board of Education's definition of a failing school district for two (2) consecutive full school years, or if more than fifty percent (50%) of the schools within the school district are designated as Schools At-Risk in any one (1) year, the State Board of Education may request the Governor to declare a state of emergency in that school district. For purposes of this paragraph, the declarations of a state of emergency shall not be limited to those instances when a school district's impairments are related to a lack of financial resources, but also shall include serious failure to meet minimum academic standards, as evidenced by a continued pattern of poor student performance.

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

(i) Declare a state of emergency, under which some or all of state funds can be escrowed except as otherwise provided in Section 206, Constitution of 1890, until the board determines corrective actions are being taken or the deficiencies have been removed, or that the needs of students warrant the release of funds. The funds may be released from escrow for any program which the board determines to have been restored to standard even

though the state of emergency may not as yet be terminated for the district as a whole;

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

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

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

(v) For states of emergency declared under paragraph (a) only, if the accreditation deficiencies are related to the fact that the school district is too small, with too few resources, to meet the required standards and if another school district is willing to accept those students, abolish that district and assign that territory to another school district or districts. If the school district has proposed a voluntary consolidation with another school district or districts, then if the State Board of Education finds that it is in the best interest

of the pupils of the district for the consolidation to proceed, the voluntary consolidation shall have priority over any such assignment of territory by the State Board of Education;

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

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

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

(e) The parent or legal guardian of a school-age child who is enrolled in a school district whose accreditation has been withdrawn by the Commission on School Accreditation and without approval of that school district may file a petition in writing to a school district accredited by the Commission on School Accreditation for a legal transfer. The school district

accredited by the Commission on School Accreditation may grant the transfer according to the procedures of Section 37-15-31(1)(b). In the event the accreditation of the student's home district is restored after a transfer has been approved, the student may continue to attend the transferee school district. The per-pupil amount of the adequate education program allotment, including the collective "add-on program" costs for the student's home school district shall be transferred monthly to the school district accredited by the Commission on School Accreditation that has granted the transfer of the school-age child.

(f) Upon the declaration of a state of emergency for any school district in which the Governor has previously declared a state of emergency, the State Board of Education may either (i) establish a conservatorship or (ii) abolish the school district and administratively consolidate the school district with one or more existing school districts or (iii) reduce the size of the district and administratively consolidate parts of the district, as determined by the State Board of Education; provided, however, that no school district which is not under conservatorship shall be required to accept additional territory over the objection of the district.

(g) There is established a Mississippi Recovery School District within the State Department of Education under the supervision of a deputy superintendent appointed by the State Superintendent of Public Education, who is subject to the approval

by the State Board of Education. The Mississippi Recovery School District shall provide leadership and oversight of all school districts that are subject to state conservatorship, as defined in Chapters 17 and 18, Title 37, Mississippi Code of 1972, and shall have all the authority granted under these two (2) chapters. The Mississippi Department of Education, with the approval of the State Board of Education, shall develop policies for the operation and management of the Mississippi Recovery School District. The deputy state superintendent is responsible for the Mississippi Recovery School District and shall be authorized to oversee the administration of the Mississippi Recovery School District, oversee conservators assigned by the State Board of Education to a local school district, hear appeals from school districts under conservatorship that would normally be filed by students, parents or employees and heard by a local school board, which hearings on appeal shall be conducted in a prompt and timely manner in the school district from which the appeal originated in order to ensure the ability of appellants, other parties and witnesses to appeal without undue burden of travel costs or loss of time from work, and perform other related duties as assigned by the State Superintendent of Public Education. The deputy state superintendent is responsible for the Mississippi Recovery School District and shall determine, based on rigorous professional qualifications set by the State Board of Education, the appropriate individuals to be engaged to be conservators and

financial advisors, if applicable, of all school districts subject to state conservatorship. After State Board of Education approval, these individuals shall be deemed independent contractors.

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

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

district's impairment deficiencies, conditions of any conservatorship and corrective actions recommended and being taken. Public notices issued under this section shall be subject to Section 13-3-31 and not contrary to other laws regarding newspaper publication.

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

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

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

(14) (a) Whenever the Governor declares a state of emergency in a school district in response to a request made under subsection (11) of this section, the State Board of Education, in its discretion, may assign an interim conservator to the school district, or in its discretion, may contract with an appropriate

private entity with experience in the academic, finance and other operational functions of schools and school districts, who will be responsible for the administration, management and operation of the school district, including, but not limited to, the following activities:

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

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

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

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

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

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

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

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

Except when, in the determination of the State Board of Education, the school district's impairment is related to a lack of financial resources, the cost of the salary of the conservator and any other actual and necessary costs related to the conservatorship paid by the State Department of Education shall be reimbursed by the local school district from funds other than adequate education program funds. The department shall submit an itemized statement to the superintendent of the local school

district for reimbursement purposes, and any unpaid balance may be withheld from the district's adequate education program funds.

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

(b) In order to provide loans to school districts under a state of emergency or under conservatorship that have impairments related to a lack of financial resources, the School District Emergency Assistance Fund is created as a special fund in the State Treasury into which monies may be transferred or appropriated by the Legislature from any available public education funds. Funds in the School District Emergency Assistance Fund up to a maximum balance of Three Million Dollars ($3,000,000.00) annually shall not lapse but shall be available for expenditure in subsequent years subject to approval of the State Board of Education. Any amount in the fund in excess of Three Million Dollars ($3,000,000.00) at the end of the fiscal year shall lapse into the State General Fund or the Education Enhancement Fund, depending on the source of the fund.

The State Board of Education may loan monies from the School District Emergency Assistance Fund to a school district that is under a state of emergency or under conservatorship, in those amounts, as determined by the board, that are necessary to correct

the district's impairments related to a lack of financial resources. The loans shall be evidenced by an agreement between the school district and the State Board of Education and shall be repayable in principal, without necessity of interest, to the School District Emergency Assistance Fund * * * by the school district from any allowable funds that are available. The total amount loaned to the district shall be due and payable within five (5) years after the impairments related to a lack of financial resources are corrected. If a school district fails to make payments on the loan in accordance with the terms of the agreement between the district and the State Board of Education, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may withhold that district's adequate education program funds in an amount and manner that will effectuate repayment consistent with the terms of the agreement; the funds withheld by the department shall be deposited into the School District Emergency Assistance Fund.

The State Board of Education shall develop a protocol that will outline the performance standards and requisite time line deemed necessary for extreme emergency measures. If the State Board of Education determines that an extreme emergency exists, simultaneous with the powers exercised in this subsection, it shall take immediate action against all parties responsible for the affected school districts having been determined to be in an extreme emergency. The action shall include, but not be limited

to, initiating civil actions to recover funds and criminal actions to account for criminal activity. Any funds recovered by the State Auditor or the State Board of Education from the surety bonds of school officials or from any civil action brought under this subsection shall be applied toward the repayment of any loan made to a school district hereunder.

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

(16) (a) If the Governor declares a state of emergency in a school district, the State Board of Education may take all such action pertaining to that school district as is authorized under subsection (11) or (14) of Section 37-17-6, including the appointment of an interim conservator. The State Board of Education shall also have the authority to issue a written request with documentation to the Governor asking that the office of the

superintendent of the school district be subject to recall. If the Governor declares that the office of the superintendent of the school district is subject to recall, the local school board or the county election commission, as the case may be, shall take the following action:

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

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

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

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

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

(i) If the members of the local school board are elected to office, in those years in which the specific member's office is not up for election, the name of the school board member shall be submitted by the State Board of Education to the county election commission, and the county election commission at a special election shall submit the question to the voters eligible to vote for the particular member's office within the county or school district, as the case may be, and the special election shall be held within sixty (60) days from notification by the

State Board of Education. The ballot shall read substantially as follows:

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

If a majority of those voting on the question vote against retaining the member of the school board in office, a vacancy in that board member's office shall exist, which shall be filled in the manner provided by law; otherwise, the school board member shall remain in office for the term of that office, and at the expiration of the term of office, the member shall be eligible for qualification and election to another term or terms of office. However, if a majority of the school board members are recalled in the special election, the Governor shall authorize the board of supervisors of the county in which the school district is situated to appoint members to fill the offices of the members recalled. The board of supervisors shall make those appointments in the manner provided by law for filling vacancies on the school board,

and the appointed members shall serve until the office is filled at the next regular special election or general election.

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

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

(17) Beginning with the school district audits conducted for the 1997-1998 fiscal year, the State Board of Education, acting through the Commission on School Accreditation, shall require each school district to comply with standards established by the State Department of Audit for the verification of fixed assets and the

auditing of fixed assets records as a minimum requirement for accreditation.

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

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

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

(20) If a local school district is determined as failing and placed into conservatorship for reasons authorized by the provisions of this section, the conservator appointed to the

district shall, within forty-five (45) days after being appointed, present a detailed and structured corrective action plan to move the local school district out of conservatorship status to the local school board and local superintendent of education if they have not been removed by the conservator, or if the board and superintendent have been removed, to the local governing authority of the municipality or county in which the school district under conservatorship is located. A copy of the conservator's corrective action plan shall also be filed with the State Board of Education.

SECTION 69. Section 37-18-1, Mississippi Code of 1972, is amended as follows:

37-18-1. (1) The State Board of Education shall establish, design and implement a Superior-Performing Schools Program and an Exemplary Schools Program for identifying and rewarding public schools, including charter schools, that improve. The State Board of Education shall develop rules and regulations for the program, establish criteria and establish a process through which Superior-Performing and Exemplary Schools will be identified and rewarded. Upon full implementation of the statewide testing program, Superior-Performing, Exemplary or School At-Risk designation shall be made by the State Board of Education in accordance with the following:

(a) A growth expectation will be established by testing students annually and, using a psychometrically approved formula,

by tracking their progress. This growth expectation will result in a composite score each year for each school.

(b) A determination will be made as to the percentage of students proficient in each school. This measurement will define what a student must know in order to be deemed proficient at each grade level and will clearly show how well a student is performing. The definition of proficiency shall be developed for each grade, based on a demonstrated range of performance in relation to content as reflected in the Mississippi Curriculum Frameworks. This range of performance must be established through a formal procedure including educators, parents, community leaders and other stakeholders.

(c) A school has the following two (2) methods for designation as either a Superior-Performing or an Exemplary School, to be determined on an annual basis:

(i) A school exceeds its growth expectation by a percentage established by the State Board of Education; or

(ii) A school achieves the grade level proficiency standard established by the State Board of Education.

Any school designated as a School At-Risk which exceeds its growth expectation by a percentage established by the State Board of Education shall no longer be considered a School At-Risk and shall be eligible for monetary awards under this section.

(2) Superior-Performing and Exemplary Schools may apply to the State Board of Education for monetary incentives to be used

for selected school needs, as identified by a vote of all licensed and instructional personnel employed at the school. These incentive funds may be used for specific school needs, including, but not limited to:

(a) Funding for professional development activities. Staff participating in such activities will report to the school and school district or, in the case of a charter school, the governing board of the school about the benefits and lessons learned from such training;

(b) Technology needs;

(c) Sabbaticals for teachers or administrators, or both, to pursue additional professional development or educational enrichment;

(d) Paid professional leave;

(e) Training for parents, including, but not limited to, the following:

(i) Curriculum;

(ii) Chapter 1;

(iii) Special need students;

(iv) Student rights and responsibility;

(v) School and community relations;

(vi) Effective parenting.

All funds awarded under this subsection shall be subject to specific appropriation therefor by the Legislature.

(3) The State Board of Education shall provide special recognition to all schools receiving Superior-Performing or Exemplary designation and, in the case of noncharter public schools, their school districts. Examples of such recognition include, but are not limited to: public announcements and events; special recognition of student progress and effort; certificates of recognition and plaques for teachers, principals, superintendents, support and classified personnel and parents; and media announcements utilizing the services of Mississippi Educational Television.

SECTION 70. Section 37-21-3, Mississippi Code of 1972, is amended as follows:

37-21-3. (1) No person shall act in the capacity of teacher, assistant teacher or teacher's aide in any federal or state funded program of early childhood education or "Headstart," or perform any of the functions, duties or powers of the same, unless that person shall be qualified in the following manner:

(a) A head teacher or any other employee or consultant receiving a salary or fee equivalent to that of a head teacher, shall possess a college degree or its equivalent.

(b) A teacher shall possess a full junior college or two (2) years of college education or its equivalent.

(c) An assistant teacher shall possess a high school diploma or its equivalent.

(d) A teacher's aide shall possess an eighth-grade education or its equivalent.

(2) Persons employed as a teacher, assistant teacher or in any other capacity in a pre-kindergarten or early childhood education program in a charter school authorized by the Mississippi Charter School Authorizer Board are exempt from the requirements of this section.

SECTION 71. Section 37-41-1, Mississippi Code of 1972, is amended as follows:

37-41-1. The State Board of Education is authorized, empowered and directed to promulgate rules and regulations relating to the transportation of students enrolled in the public school districts, including rules and regualtions for:

(a) Setting standards for public school district bus routes;

(b) Setting standards for public school district buses;

(c) Setting standards for public school district bus drivers;

(d) Formulating procedure for selecting public school district bus drivers;

(e) Formulating courses of training for public school district bus drivers and mechanics, and assist in administering and financing such courses;

(f) Providing operation procedure for public school district buses to insure safety of pupils;

(g) Formulating specifications for use in purchasing public school district buses; getting bids on public school district buses; equipment and supplies; and fixing prices based upon said bids which school districts may not exceed in purchasing said equipment;

(h) Formulating specifications for use by school districts in purchasing used school buses; and

(i) Providing a system of records and reports for the purpose of carrying out the provisions of Sections 37-41-1 through 37-41-51, and providing the superintendent of schools with a sufficient supply of report forms.

All rules and regulations adopted and promulgated by the State Board of Education relating to school district bus drivers shall also be applicable to drivers of privately owned buses transporting public school district children.

All rules and regulations adopted and promulgated by the State Board of Education pursuant to the authority conferred by this section shall be spread at large upon the minutes of the State Board of Education and copies thereof shall be furnished to all school boards not less than thirty (30) days prior to the effective date of such rules and regulations.

The provisions of this chapter are applicable to school districts and the transportation of students enrolled in public school districts. Charter schools authorized by the Mississippi

Charter School Authorizer Board are exempt from the provisions of this chapter.

SECTION 72. Section 37-41-3, Mississippi Code of 1972, is amended as follows:

37-41-3. Pupils of legal school age, which shall include kindergarten pupils, and in actual attendance in the public schools who live a distance of one (1) mile or more by the nearest traveled road from the school to which they are assigned by the school district in which they are enrolled shall be entitled to transportation within the meaning of this chapter. Nothing contained in this section shall be construed to bar any child from such transportation where he or she lives less than one (1) mile and is on the regular route of travel of a school bus and space is available in such bus for such transportation. No state funds shall be paid for the transportation of children living within one (1) mile of the school, except as otherwise provided in this chapter, and such children shall not be included in transportation reports. In the development of route plans, economy shall be a prime consideration. There shall be no duplication of routes except in circumstances where it is totally unavoidable. The State Department of Education shall have authority to investigate school bus routing when there is reason to believe the provisions of this statute are being violated. The State Board of Education shall have authority to withhold transportation funds when school districts fail to correct unnecessary route duplication. Provided

further, that all school districts are hereby authorized to lease or contract with any public or private individual, partnership, corporation, association, agency or other organization for the implementation of transportation of pupils as provided for in this section.

The school boards may provide transportation to such crippled and physically handicapped children as may be designated by such boards, when the failure to do so would result in undue hardship, even though the children are not otherwise entitled to transportation under the provisions of this chapter. The State Department of Education shall require all school districts during the 1993-1994 school year to equip school buses with properly designed seat belts to protect such physically handicapped children, and school districts are authorized to expend funds therefor from nonminimum program or other sources.

Where space is available, students attending junior colleges shall be allowed transportation on established routes in district-owned buses. However, no additional funds shall be allocated or expended for such purposes, and such persons shall not be included in transportation reports.

Children enrolled in special or alternative programs approved by school boards may be provided transportation even though such children are not otherwise entitled to transportation under the provisions of this chapter. No additional funds shall be

allocated or expended for such purpose, and such children shall not be included in transportation reports.

SECTION 73. Section 37-41-23, Mississippi Code of 1972, is amended as follows:

37-41-23. The State Board of Education shall prescribe keeping and preservation of all records and the making of all reports and the description thereof as the board may deem necessary for the efficient operation of the school district transportation system of this state. It shall be unlawful for any pay certificate to be issued to any school district carrier or bus driver until all such reports required by the regulations of the State Board of Education shall have been filed in accordance with said regulations. Any person making a false list, report, or record required by the aforesaid rules and regulations of the State Board of Education shall be subject to the penalties provided by Section 37-41-25.

SECTION 74. Section 37-41-25, Mississippi Code of 1972, is brought forward as follows:

37-41-25. Any superintendent of schools, member of the school board, superintendent, principal or carrier, or bus driver, who shall knowingly make any false report, list or record, or who shall knowingly make use of any false report, list or record concerning the number of school children being transported or entitled to be transported in any county or school district shall be guilty of a misdemeanor and upon conviction shall be punished

by imprisonment in the county jail for a period not to exceed sixty (60) days, or by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00), or by both such fine and imprisonment, in the discretion of the court. In addition, any such person shall be civilly liable for all amounts of public funds which are illegally, unlawfully or wrongfully expended or paid out by virtue of or pursuant to such false report, list or record, and upon conviction or adjudication of civil liability hereunder such person shall forfeit his license to teach for a period of three (3) years, if such person is the holder of such a license. Any suit to recover such funds illegally, unlawfully, or wrongfully expended or paid out may be brought in the name of the State of Mississippi by the Attorney General or the proper district attorney or county attorney. In the event such suit be brought against a person who is under bond, the sureties upon such bond shall likewise be liable for such amount illegally, unlawfully or wrongfully expended or paid out.

SECTION 75. Section 37-41-31, Mississippi Code of 1972, is amended as follows:

37-41-31. In each case where pupils are transported to and from the public schools in <u>the school districts of</u> this state in privately owned vehicles, the contract for such transportation shall be let to the lowest responsible bidder who is able to furnish a solvent bond for the faithful performance of his contract. This shall be done after each route over which such

pupils are to be transported has been laid out and established as provided in this chapter. Such contracts shall be awarded upon receipt of sealed bids or proposals after the time and place of letting such contracts and the manner of bidding have been duly advertised in some newspaper published in the county in accordance with the procedures provided in Section 31-7-13(c). If no newspaper is published in the county, then the advertisement shall be made by publication for the required time in some newspaper having a general circulation therein, and, in addition, by posting a copy thereof for that time in at least three (3) public places in the county, one (1) of which shall be at the county courthouse in each judicial district of the county. The awarding of all such contracts shall, however, in all respects be subject to the provisions of Section 37-41-29.

Private contracts for the transportation of exceptional children, as defined in Section 37-23-3, may be negotiated by the local school board without the necessity of the advertising for or taking of bids. The same may apply under extraordinary circumstances where regular transportation is considered to be impractical. The local school board may negotiate and contract for the transportation described in this paragraph so long as the local school board complies with the school transportation regulations promulgated by the State Board of Education.

Contracts shall be made for four (4) years, at the discretion of the local school board. Any and all bids may be rejected. At

the expiration of any transportation contract, if the school board believes a route should remain substantially as established and finds that the carrier thereon has rendered efficient and satisfactory services it may extend the contract for not more than four (4) years, subject, however, to the provisions of Section 37-41-29.

SECTION 76. Section 37-41-43, Mississippi Code of 1972, is amended as follows:

37-41-43. All publicly owned school district buses which are hereafter acquired, and all publicly owned school district buses which shall hereafter be repainted, whether presently owned or hereafter acquired, and all publicly owned school district buses which do not have the name of the county or school district owning same painted thereon, whether such buses be owned by the county or a school district, shall have painted on both sides thereof the name of the county or school district owning same. Such words shall be painted on each such bus in letters at least five (5) inches in height and in a color which is in contrast with the color of the vehicle.

SECTION 77. Section 37-41-45, Mississippi Code of 1972, is amended as follows:

37-41-45. It shall be a misdemeanor for any person to use a publicly owned school district bus for any purpose other than one in connection with the school, and, upon conviction thereof, such person shall be fined not less than Fifty Dollars ($50.00). When

any publicly owned school district bus is being operated on the public roads or highways at a time other than the usual and customary time for the transportation of children to and from the public schools, members of the Highway Safety Patrol, sheriffs, constables and other peace officers shall have the power and authority to stop such bus for the purpose of ascertaining whether the trip then being made is authorized by law. If it be found that such trip is unauthorized, such highway patrolman, sheriff, constable or other peace or police officer shall forthwith report the same to the school board owning such bus and to the State Department of Education.

SECTION 78. Section 37-41-49, Mississippi Code of 1972, is amended as follows:

37-41-49. In case of any violation by a school district bus driver or carrier of the safety regulations established by the State Board of Education, such violation shall be deemed a misdemeanor and such offender may be punished as provided in Section 37-41-47.

SECTION 79. Section 37-41-53, Mississippi Code of 1972, is amended as follows:

37-41-53. (1) Each school board, person, firm or corporation transporting public school district children on the public roads, streets and highways of the state with motor vehicles shall have the motor vehicles inspected according to the laws of the state. Each motor vehicle shall be inspected by a

competent mechanic to be safe for transporting pupils on the roads, streets and highways of the state before it is released for such purpose. If such motor vehicle is found to be unsafe for transporting pupils, then it shall be properly repaired or adjusted as necessary before being used to transport pupils. The provisions of this subsection shall not apply to vehicles owned by individuals and under private contract to the school district and used exclusively for transporting members of their immediate families.

(2) The State Department of Education may inspect, at its discretion, any school bus used for transporting school district pupils to and from the public schools or for activity purposes to determine the safety of such motor vehicle for operation on the roads, streets and highways of this state. In the event a vehicle is inspected and is found to be unsafe for transporting pupils, a report shall be filed with the appropriate school district official indicating its deficiencies with recommendations for correcting such deficiencies.

(3) If it is determined that any school district buses are in such defective condition as to constitute an emergency safety hazard, those buses may be condemned and removed from service and shall not be returned to service until adequate repairs are completed and such buses are reinspected by the State Department of Education. Any school district official who approves the operation of any school bus that has been removed from service

under the conditions listed above, prior to being reinspected by the State Department of Education, shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment in the county jail for a period not to exceed sixty (60) days, or a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment, in the discretion of the court.

SECTION 80. Section 37-41-57, Mississippi Code of 1972, is brought forward as follows:

37-41-57. The State Board of Education shall adopt and enforce regulations not inconsistent with the traffic laws and regulations of this state to govern the design and operation of all school buses used for the transportation of school children when owned and operated by any school board or privately owned and operated under contract with any school board in this state. Such regulations shall by reference be made a part of any such contract with a school board. Every school board, its officers and employees, and every person employed under contract by a school board shall be subject to said regulations.

Any officer or employee of any school board who violates any of said regulations or fails to include the obligation to comply with said regulations in any contract executed by them on behalf of a school board shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under a contract with a school board who fails to comply with

any of said regulations shall be guilty of breach of contract and such contract shall be cancelled after notice and hearing by the responsible officers of such school board.

SECTION 81. Section 37-43-1, Mississippi Code of 1972, is amended as follows:

37-43-1. (1) This chapter is intended to furnish a plan for the adoption, purchase, distribution, care and use of free textbooks to be loaned to the pupils in all elementary and high schools, other than charter schools, of Mississippi.

(2) The books herein provided by the State Board of Education, which shall be the State Textbook Procurement Commission, shall be distributed and loaned free of cost to the children of the free public * * * school districts of the state and of all other schools located in the state, which maintain educational standards equivalent to the standards established by the State Department of Education for the state schools as outlined in the Approval Requirements of the State Board of Education for Nonpublic Schools.

(3) Teachers shall permit all pupils in all grades of any public school in any school district to carry to their homes for home study, the free textbooks loaned to them, and any other regular textbooks whether they be free textbooks or not.

(4) For the purposes of this chapter, the term "board" shall mean the State Board of Education.

(5) "Textbook" shall be defined as any medium or manual of instruction which contains a systematic presentation of the principles of a subject and which constitutes a major instructional vehicle for that subject.

(6) In addition to the authority granted in this chapter, local school boards shall make available to the parents or legal guardians of any children of school age who reside in the school district administered by the school board, upon request, any textbooks on the state surplus inventory list. The parent or legal guardian is responsible for the return of the textbook(s) to the local school district upon completion of the textbook(s) use. Failure to return the textbook(s) to the school district will result in the parents or legal guardians being responsible for compensating the school district for the fair market value of the textbook(s).

SECTION 82. Section 37-43-39, Mississippi Code of 1972, is brought forward as follows:

37-43-39. No teacher in any of the schools of the state, and no county or municipal superintendent of schools, and no person officially connected with the government of or direction of any school shall, during the term of his office as said superintendent or during the time of his or her employment as teacher, act as agent or attorney for any textbook publishing company selling textbooks in this state. If, after election as county or municipal superintendent or employment as teacher, any person

filling such position accepts the agency or attorneyship of any textbook publishing company, the acceptance of such agency or attorneyship shall work a forfeiture of the office or position as teacher held at the time of the acceptance of such agency or attorneyship.

SECTION 83. Section 37-45-23, Mississippi Code of 1972, is amended as follows:

37-45-23. Subject to the provisions of any applicable statute, the commission shall formulate policies and approve or disapprove plans for the location and construction of all necessary elementary and secondary <u>noncharter public</u> school buildings.

SECTION 84. Section 37-47-9, Mississippi Code of 1972, is amended as follows:

37-47-9. It is found and determined that the state should make an annual grant of Twenty-four Dollars ($24.00) for each child in average daily attendance in the public schools <u>of the various school districts</u> of this state during each school year, and that such monies should be applied for the purpose of establishing and maintaining adequate physical facilities for the public school * * * <u>district</u> and/or the payment of existing debt therefor.

The grant to which * * * <u>each</u> public school is entitled under the provisions of this section shall be credited to the school district of which such school is part. If any change is made in

the operation or boundaries of any such school district, equitable reallocations shall be made by the commission of all balances to the credit of such school district, and all debits charged against the districts affected by the change in the boundaries or system of operation. The obligation of the state to make remittance of the sums appropriated or otherwise provided to make the annual grants provided by this section shall be subordinate to the pledge made to secure the state school bonds authorized under this chapter and the sinking fund created for their retirement. The grants shall be computed annually as soon as practicable after the end of the school year, and shall be based on the average daily attendance for such school year in all of the public schools operated by each school district as determined by the State Department of Education.

SECTION 85. Section 37-143-11, Mississippi Code of 1972, is amended as follows:

37-143-11. (1) It is the intention of the Legislature to attract and retain qualified teachers by awarding incentive loans to persons declaring an intention to serve in the teaching field and who actually render service to the state while possessing an appropriate teaching license.

(2) There is established the "William F. Winter Teacher Scholar Loan Program."

(3) To the extent of appropriations available, students who are enrolled in any baccalaureate degree-granting institution of

higher learning in the State of Mississippi accredited by the Southern Association of Colleges and Schools and approved by the Mississippi Commission on College Accreditation, or any accredited nonprofit community or junior college, and who have expressed in writing a present intention to teach in Mississippi, shall be eligible for student loans to be applied to the costs of their college education. Persons who have been admitted to a teacher education program or a nontraditional teacher internship licensure program authorized under Section 37-3-2(6)(b), as approved by the State Board of Education, shall also qualify for loans at approved institutions. The Board of Trustees of State Institutions of Higher Learning shall provide that teacher education majors and noneducation majors shall have equal access to scholarship/loans under authority of this section.

(4) A freshman establishing initial eligibility shall be eligible for a maximum of four (4) annual loans and a senior shall be eligible for one (1) annual loan.

(5) The maximum annual loan shall be set by the Board of Trustees of State Institutions of Higher Learning at an amount not to exceed the cost of attendance at any baccalaureate degree-granting institution of higher learning in the State of Mississippi. However, it is the intent of the Legislature that the maximum annual loan amounts under the William F. Winter Teacher Scholar Loan Program shall not be of such amounts that would compete with the Critical Needs Teacher Scholarship Program.

(6) The loans of persons who actually render service as licensed teachers or nontraditional teacher interns authorized under Section 37-3-2(6)(b) in a public school, including a charter school, in Mississippi for a major portion of the school day for at least seventy-eight (78) school days during each of eight (8) school semesters of the ten (10) immediately after obtaining a baccalaureate degree, shall be converted to interest-free scholarships. Conversion shall be based on two (2) semesters of service for each year a loan was received, and the Board of Trustees of State Institutions of Higher Learning shall not authorize the conversion of loans into interest-free scholarships at any other ratio, except as follows: Participants in the William F. Winter Teacher Scholar Loan Program may have their loans converted into interest-free scholarships at the same ratio as under the Critical Needs Teacher Scholarship Program if they render service as a licensed teacher or nontraditional teacher intern authorized under Section 37-3-2(6)(b) in a public school district in a geographical area of the state where there is a critical shortage of teachers, as designated by the State Board of Education, or in a charter school located in such a school district.

(7) Persons failing to complete an appropriate program of study shall immediately become liable to the Board of Trustees of State Institutions of Higher Learning for the sum of all outstanding loans, except in the case of a deferral of debt for

cause by the board, after which period of deferral, study may be resumed. Persons failing to meet teaching requirements in any required semester shall immediately be in breach of contract and become liable to the board for the amount of the corresponding loan received, with interest accruing at the current Stafford Loan rate at the time the breach occurs, except in the case of a deferral of debt for cause by the board, after which period of deferral, teaching duties required hereunder will be resumed. If the claim for payment of such loan is placed in the hands of an attorney for collection after default, then the obligor shall be liable for an additional amount equal to a reasonable attorney's fee.

(8) A loan made pursuant to this section shall not be voidable by reason of the age of the borrower at the time of receiving the loan.

(9) Failure to repay any loan and interest that becomes due shall be cause for the revocation of a person's teaching license by the State Department of Education.

(10) All monies repaid to the Board of Trustees of State Institutions of Higher Learning hereunder shall be added to the appropriations made for purposes of this section, and those appropriations shall not lapse.

(11) The Board of Trustees of State Institutions of Higher Learning with the concurrence of the State Board of Education

shall jointly promulgate regulations necessary for the proper administration of this section.

(12) If insufficient funds are available for requested loans to a qualified student during any fiscal year, the Board of Trustees of State Institutions of Higher Learning shall make pro rata reductions in the loans made to qualifying applicants. Priority consideration shall be given to persons receiving previous loans and participating in the program.

(13) The Board of Trustees of State Institutions of Higher Learning shall make an annual report to the Legislature. Each report shall contain a complete enumeration of the board's activities, loans or scholarships granted, names of persons to whom granted and the institutions attended by those receiving the same, names of persons to whom loans or scholarships were granted who were not education majors, the teaching location of applicants who have received their education and become licensed teachers within this state as a result of the loans and/or scholarships. The board shall make a full report and account of receipts and expenditures for salaries and expenses incurred under the provisions of this section. The board shall, upon its records and any published reports, distinguish between those recipients who have breached their contracts but with the board's permission who have paid their financial obligations in full, and those recipients who have breached their contracts and remain financially indebted to the state.

SECTION 86. Section 37-143-12, Mississippi Code of 1972, is amended as follows:

37-143-12. **Speech-Language Pathologists Loan Forgiveness Program.** (1) There is established a Speech-Language Pathologists Loan Forgiveness Program. It is the intent of the Legislature that persons declaring an intention to work in an accredited public school (K-12), including a charter school, located in the State of Mississippi as a speech-language pathologist shall be eligible for a loan for the purpose of acquiring a master's level education in such profession. The Board of Trustees of State Institutions of Higher Learning shall enter into contracts with applicants, providing that such loans may be discharged by working as a master's level speech-language pathologist in an accredited public school (K-12), including a charter school, located in the State of Mississippi, for a period of time after graduation equal to the period of study provided under the loan. Such contracts shall provide that for each year of service, the appropriate portion of the outstanding balance of principal and interest of such loan shall be converted to interest-free scholarships and discharged.

(2) The Board of Trustees of State Institutions of Higher Learning, with the concurrence of the State Board of Education, shall jointly establish rules and regulations as it deems necessary and proper to carry out the purposes and intent of this section.

The provisions of this section shall be subject to specific appropriation therefor by the Legislature.

SECTION 87. Section 37-151-5, Mississippi Code of 1972, is amended as follows:

37-151-5. As used in Sections 37-151-5 and 37-151-7:

(a) "Adequate program" or "adequate education program" or "Mississippi Adequate Education Program (MAEP)" shall mean the program to establish adequate current operation funding levels necessary for the programs of such school district to meet at least a successful Level III rating of the accreditation system as established by the State Board of Education using current statistically relevant state assessment data.

(b) "Educational programs or elements of programs not included in the adequate education program calculations, but which may be included in appropriations and transfers to school districts" shall mean:

(i) "Capital outlay" shall mean those funds used for the constructing, improving, equipping, renovating or major repairing of school buildings or other school facilities, or the cost of acquisition of land whereon to construct or establish such school facilities.

(ii) "Pilot programs" shall mean programs of a pilot or experimental nature usually designed for special purposes and for a specified period of time other than those included in the adequate education program.

(iii) "Adult education" shall mean public education dealing primarily with students above eighteen (18) years of age not enrolled as full-time public school students and not classified as students of technical schools, colleges or universities of the state.

(iv) "Food service programs" shall mean those programs dealing directly with the nutritional welfare of the student, such as the school lunch and school breakfast programs.

(c) "Base student" shall mean that student classification that represents the most economically educated pupil in a school system meeting the definition of successful, as determined by the State Board of Education.

(d) "Base student cost" shall mean the funding level necessary for providing an adequate education program for one (1) base student, subject to any minimum amounts prescribed in Section 37-151-7(1).

(e) "Add-on program costs" shall mean those items which are included in the adequate education program appropriations and are outside of the program calculations:

(i) "Transportation" shall mean transportation to and from public schools for the students of Mississippi's public schools provided for under law and funded from state funds.

(ii) "Vocational or technical education program" shall mean a secondary vocational or technical program approved by

the State Department of Education and provided for from state funds.

(iii) "Special education program" shall mean a program for exceptional children as defined and authorized by Sections 37-23-1 through 37-23-9, and approved by the State Department of Education and provided from state funds.

(iv) "Gifted education program" shall mean those programs for the instruction of intellectually or academically gifted children as defined and provided for in Section 37-23-175 et seq.

(v) "Alternative school program" shall mean those programs for certain compulsory-school-age students as defined and provided for in Sections 37-13-92 and 37-19-22.

(vi) "Extended school year programs" shall mean those programs authorized by law which extend beyond the normal school year.

(vii) "University-based programs" shall mean those university-based programs for handicapped children as defined and provided for in Section 37-23-131 et seq.

(viii) "Bus driver training" programs shall mean those driver training programs as provided for in Section 37-41-1.

(f) "Teacher" shall include any employee of a local school who is required by law to obtain a teacher's license from the State Board of Education and who is assigned to an

instructional area of work as defined by the State Department of Education.

(g) "Principal" shall mean the head of an attendance center or division thereof.

(h) "Superintendent" shall mean the head of a school district.

(i) "School district" shall mean any type of school district in the State of Mississippi, and shall include agricultural high schools.

(j) "Minimum school term" shall mean a term of at least one hundred eighty (180) days of school in which both teachers and pupils are in regular attendance for scheduled classroom instruction for not less than sixty percent (60%) of the normal school day. It is the intent of the Legislature that any tax levies generated to produce additional local funds required by any school district to operate school terms in excess of one hundred seventy-five (175) days shall not be construed to constitute a new program for the purposes of exemption from the limitation on tax revenues as allowed under Sections 27-39-321 and 37-57-107 for new programs mandated by the Legislature.

(k) The term "transportation density" shall mean the number of transported children in average daily attendance per square mile of area served in a school district, as determined by the State Department of Education.

(l) The term "transported children" shall mean children being transported to school who live within legal limits for transportation and who are otherwise qualified for being transported to school at public expense as fixed by Mississippi state law.

(m) The term "year of teaching experience" shall mean nine (9) months of actual teaching in the public or private schools. In no case shall more than one (1) year of teaching experience be given for all services in one (1) calendar or school year. In determining a teacher's experience, no deduction shall be made because of the temporary absence of the teacher because of illness or other good cause, and the teacher shall be given credit therefor. Beginning with the 2003-2004 school year, the State Board of Education shall fix a number of days, not to exceed forty-five (45) consecutive school days, during which a teacher may not be under contract of employment during any school year and still be considered to have been in full-time employment for a regular scholastic term. If a teacher exceeds the number of days established by the State Board of Education that a teacher may not be under contract but may still be employed, that teacher shall not be credited with a year of teaching experience. In determining the experience of school librarians, each complete year of continuous, full-time employment as a professional librarian in a public library in this or some other state shall be considered a year of teaching experience. If a full-time school

administrator returns to actual teaching in the public schools, the term "year of teaching experience" shall include the period of time he or she served as a school administrator. In determining the salaries of teachers who have experience in any branch of the military, the term "year of teaching experience" shall include each complete year of actual classroom instruction while serving in the military. In determining the experience of speech-language pathologists and audiologists, each complete year of continuous full-time post master's degree employment in an educational setting in this or some other state shall be considered a year of teaching experience. Provided, however, 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.

(n) The term "average daily attendance" shall be the figure which results when the total aggregate attendance during the period or months counted is divided by the number of days during the period or months counted upon which both teachers and pupils are in regular attendance for scheduled classroom instruction less the average daily attendance for self-contained special education classes and, prior to full implementation of the adequate education program the department shall deduct the average

daily attendance for the alternative school program provided for in Section 37-19-22.

(o) The term "local supplement" shall mean the amount paid to an individual teacher over and above the adequate education program salary schedule for regular teaching duties.

(p) The term "aggregate amount of support from ad valorem taxation" shall mean the amounts produced by the district's total tax levies for operations.

(q) The term "adequate education program funds" shall mean all funds, both state and local, constituting the requirements for meeting the cost of the adequate program as provided for in Section 37-151-7.

(r) "Department" shall mean the State Department of Education.

(s) "Commission" shall mean the Mississippi Commission on School Accreditation created under Section 37-17-3.

(t) The term "successful school district" shall mean a Level III school district as designated by the State Board of Education using current statistically relevant state assessment data.

(u) "Dual enrollment-dual credit programs" shall mean programs for potential or recent high school student dropouts to dually enroll in their home high school and a local community college in a dual credit program consisting of high school completion coursework and a credential, certificate or degree

program at the community college, as provided in Section 37-15-38(19).

(v) "Charter school" means a public school that is established and operating under the terms of a charter contract between the school's governing board and the Mississippi Charter School Authorizer Board.

SECTION 88. Section 37-151-7, Mississippi Code of 1972, is amended as follows:

37-151-7. The annual allocation to each school district for the operation of the adequate education program shall be determined as follows:

(1) **Computation of the basic amount to be included for current operation in the adequate education program.** The following procedure shall be followed in determining the annual allocation to each school district:

(a) **Determination of average daily attendance.** Effective with fiscal year 2011, the State Department of Education shall determine the percentage change from the prior year of each year of each school district's average of months two (2) and three (3) average daily attendance (ADA) for the three (3) immediately preceding school years of the year for which funds are being appropriated. For any school district that experiences a positive growth in the average of months two (2) and three (3) ADA each year of the three (3) years, the average percentage growth over the three-year period shall be multiplied times the school

district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated. The resulting amount shall be added to the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated to arrive at the ADA to be used in determining a school district's MAEP allocation. Otherwise, months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated will be used in determining a school district's MAEP allocation. In any fiscal year prior to 2010 in which the MAEP formula is not fully funded, for those districts that do not demonstrate a three-year positive growth in months two (2) and three (3) ADA, months one (1) through nine (9) ADA of the second preceding year for which funds are being appropriated or months two (2) and three (3) ADA of the preceding year for which funds are being appropriated, whichever is greater, shall be used to calculate the district's MAEP allocation. The district's average daily attendance shall be computed and currently maintained in accordance with regulations promulgated by the State Board of Education. The district's average daily attendance shall include any student enrolled in a Dual Enrollment-Dual Credit Program as defined and provided in Section 37-15-38(19). The State Department of Education shall make payments for Dual Enrollment-Dual Credit Programs to the home school in which the student is enrolled, in accordance with

regulations promulgated by the State Board of Education. The community college providing services to students in a Dual Enrollment-Dual Credit Program shall require payment from the home school district for services provided to such students at a rate of one hundred percent (100%) of ADA. All MAEP/state funding shall cease upon completion of high school graduation requirements.

(b) **Determination of base student cost.** Effective with fiscal year 2011 and every fourth fiscal year thereafter, the State Board of Education, on or before August 1, with adjusted estimate no later than January 2, shall submit to the Legislative Budget Office and the Governor a proposed base student cost adequate to provide the following cost components of educating a pupil in a successful school district: (i) Instructional Cost; (ii) Administrative Cost; (iii) Operation and Maintenance of Plant; and (iv) Ancillary Support Cost. For purposes of these calculations, the Department of Education shall utilize financial data from the second preceding year of the year for which funds are being appropriated.

For the instructional cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of a number of teachers per one thousand (1,000) students that is between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average of teachers per one

thousand (1,000) students. The instructional cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA into the instructional expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 1110-1199 Objects 100-999, Functions 1210, 1220, 2150-2159 Objects 210 and 215;

Fund 1130 All Functions, Object Code 210 and 215;

Fund 2001 Functions 1110-1199 Objects 100-999;

Fund 2070 Functions 1110-1199 Objects 100-999;

Fund 2420 Functions 1110-1199 Objects 100-999;

Fund 2711 All Functions, Object Code 210 and 215.

Prior to the calculation of the instructional cost component, there shall be subtracted from the above expenditures any revenue received for Chickasaw Cession payments, Master Teacher Certification payments and the district's portion of state revenue received from the MAEP at-risk allocation.

For the administrative cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of an administrative staff to nonadministrative staff between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average administrative staff to nonadministrative staff. The administrative cost component shall

be calculated by dividing the latest available months one (1) through nine (9) ADA of the selected districts into the administrative expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 2300-2599, Functions 2800-2899, Objects 100-999;

Fund 2711 Functions 2300-2599, Functions 2800-2899, Objects 100-999.

For the plant and maintenance cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of plant and maintenance expenditures per one hundred thousand (100,000) square feet of building space and a ratio of maintenance workers per one hundred thousand (100,000) square feet of building space that are both between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average. The plant and maintenance cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA of the selected districts into the plant and maintenance expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 2600-2699, Objects 100-699 and Objects 800-999;

Fund 2711 Functions 2600-2699, Objects 100-699 and Objects 800-999;

Fund 2430 Functions 2600-2699, Objects 100-699 and Objects 800-999.

For the ancillary support cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of a number of librarians, media specialists, guidance counselors and psychologists per one thousand (1,000) students that is between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average of librarians, media specialists, guidance counselors and psychologists per one thousand (1,000) students. The ancillary cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA into the ancillary expenditures instructional expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 2110-2129, Objects 100-999;

Fund 1120 Functions 2140-2149, Objects 100-999;

Fund 1120 Functions 2220-2229, Objects 100-999;

Fund 2001 Functions 2100-2129, Objects 100-999;

Fund 2001 Functions 2140-2149, Objects 100-999;

Fund 2001 Functions 2220-2229, Objects 100-999.

The total base cost for each year shall be the sum of the instructional cost component, administrative cost component, plant and maintenance cost component and ancillary support cost component, and any estimated adjustments for additional state requirements as determined by the State Board of Education. Provided, however, that the base student cost in fiscal year 1998 shall be Two Thousand Six Hundred Sixty-four Dollars ($2,664.00).

For each of the fiscal years between the recalculation of the base student cost under the provisions of this paragraph (b), the base student cost shall be increased by an amount equal to forty percent (40%) of the base student cost for the previous fiscal year, multiplied by the latest annual rate of inflation for the State of Mississippi as determined by the State Economist, plus any adjustments for additional state requirements such as, but not limited to, teacher pay raises and health insurance premium increases.

(c) **Determination of the basic adequate education program cost.** The basic amount for current operation to be included in the Mississippi Adequate Education Program for each school district shall be computed as follows:

Multiply the average daily attendance of the district by the base student cost as established by the Legislature, which yields the total base program cost for each school district.

(d) **Adjustment to the base student cost for at-risk pupils.** The amount to be included for at-risk pupil programs for

each school district shall be computed as follows: Multiply the base student cost for the appropriate fiscal year as determined under paragraph (b) by five percent (5%), and multiply that product by the number of pupils participating in the federal free school lunch program in such school district, which yields the total adjustment for at-risk pupil programs for such school district.

(e) **Add-on program cost.** The amount to be allocated to school districts in addition to the adequate education program cost for add-on programs for each school district shall be computed as follows:

(i) Transportation cost shall be the amount allocated to such school district for the operational support of the district transportation system from state funds.

(ii) Vocational or technical education program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(iii) Special education program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(iv) Gifted education program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(v) Alternative school program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(vi) Extended school year programs shall be the amount allocated to school districts for those programs authorized by law which extend beyond the normal school year.

(vii) University-based programs shall be the amount allocated to school districts for those university-based programs for handicapped children as defined and provided for in Section 37-23-131 et seq., Mississippi Code of 1972.

(viii) Bus driver training programs shall be the amount provided for those driver training programs as provided for in Section 37-41-1, Mississippi Code of 1972.

The sum of the items listed above (i) transportation, (ii) vocational or technical education, (iii) special education, (iv) gifted education, (v) alternative school, (vi) extended school year, (vii) university-based, and (viii) bus driver training shall yield the add-on cost for each school district.

(f) **Total projected adequate education program cost.** The total Mississippi Adequate Education Program cost shall be the sum of the total basic adequate education program cost (paragraph (c)), and the adjustment to the base student cost for at-risk pupils (paragraph (d)) for each school district. In any year in which the MAEP is not fully funded, the Legislature shall direct

the Department of Education in the K-12 appropriation bill as to how to allocate MAEP funds to school districts for that year.

(g) The State Auditor shall annually verify the State Board of Education's estimated calculations for the Mississippi Adequate Education Program that are submitted each year to the Legislative Budget Office on August 1 and the final calculation that is submitted on January 2.

(2) **Computation of the required local revenue in support of the adequate education program.** The amount that each district shall provide toward the cost of the adequate education program shall be calculated as follows:

(a) The State Department of Education shall certify to each school district that twenty-eight (28) mills, less the estimated amount of the yield of the School Ad Valorem Tax Reduction Fund grants as determined by the State Department of Education, is the millage rate required to provide the district required local effort for that year, or twenty-seven percent (27%) of the basic adequate education program cost for such school district as determined under paragraph (c), whichever is a lesser amount. In the case of an agricultural high school, the millage requirement shall be set at a level which generates an equitable amount per pupil to be determined by the State Board of Education. <u>The local contribution amount for school districts in which there is located one or more charter schools will be calculated using the following methodology: using the adequate education program</u>

twenty-eight (28) mill value, or the twenty-seven percent (27%) cap amount (whichever is less) for each school district in which a charter school is located, an average per pupil amount will be calculated. This average per pupil amount will be multiplied times the number of students attending the charter school in that school district. The sum becomes the charter school's local contribution to the adequate education program.

(b) The State Department of Education shall determine the following from the annual assessment information submitted to the department by the tax assessors of the various counties: (i) the total assessed valuation of nonexempt property for school purposes in each school district; (ii) assessed value of exempt property owned by homeowners aged sixty-five (65) or older or disabled as defined in Section 27-33-67(2), Mississippi Code of 1972; (iii) the school district's tax loss from exemptions provided to applicants under the age of sixty-five (65) and not disabled as defined in Section 27-33-67(1), Mississippi Code of 1972; and (iv) the school district's homestead reimbursement revenues.

(c) The amount of the total adequate education program funding which shall be contributed by each school district shall be the sum of the ad valorem receipts generated by the millage required under this subsection plus the following local revenue sources for the appropriate fiscal year which are or may be available for current expenditure by the school district:

One hundred percent (100%) of Grand Gulf income as prescribed in Section 27-35-309.

One hundred percent (100%) of any fees in lieu of taxes as prescribed in Section 27-31-104.

(3) **Computation of the required state effort in support of the adequate education program.**

(a) The required state effort in support of the adequate education program shall be determined by subtracting the sum of the required local tax effort as set forth in subsection (2)(a) of this section and the other local revenue sources as set forth in subsection (2)(c) of this section in an amount not to exceed twenty-seven percent (27%) of the total projected adequate education program cost as set forth in subsection (1)(f) of this section from the total projected adequate education program cost as set forth in subsection (1)(f) of this section.

(b) Provided, however, that in fiscal year 1998 and in the fiscal year in which the adequate education program is fully funded by the Legislature, any increase in the said state contribution to any district calculated under this section shall be not less than eight percent (8%) in excess of the amount received by said district from state funds for the fiscal year immediately preceding. For purposes of this paragraph (b), state funds shall include minimum program funds less the add-on programs, State Uniform Millage Assistance Grant Funds, Education Enhancement Funds appropriated for Uniform Millage Assistance

Grants and state textbook allocations, and State General Funds allocated for textbooks.

(c) If the school board of any school district shall determine that it is not economically feasible or practicable to operate any school within the district for the full one hundred eighty (180) days required for a school term of a scholastic year as required in Section 37-13-63, Mississippi Code of 1972, due to an enemy attack, a man-made, technological or natural disaster in which the Governor has declared a disaster emergency under the laws of this state or the President of the United States has declared an emergency or major disaster to exist in this state, said school board may notify the State Department of Education of such disaster and submit a plan for altering the school term. If the State Board of Education finds such disaster to be the cause of the school not operating for the contemplated school term and that such school was in a school district covered by the Governor's or President's disaster declaration, it may permit said school board to operate the schools in its district for less than one hundred eighty (180) days and, in such case, the State Department of Education shall not reduce the state contributions to the adequate education program allotment for such district, because of the failure to operate said schools for one hundred eighty (180) days.

(4) The Interim School District Capital Expenditure Fund is hereby established in the State Treasury which shall be used to

distribute any funds specifically appropriated by the Legislature to such fund to school districts entitled to increased allocations of state funds under the adequate education program funding formula prescribed in Sections 37-151-3 through 37-151-7, Mississippi Code of 1972, until such time as the said adequate education program is fully funded by the Legislature. The following percentages of the total state cost of increased allocations of funds under the adequate education program funding formula shall be appropriated by the Legislature into the Interim School District Capital Expenditure Fund to be distributed to all school districts under the formula: Nine and two-tenths percent (9.2%) shall be appropriated in fiscal year 1998, twenty percent (20%) shall be appropriated in fiscal year 1999, forty percent (40%) shall be appropriated in fiscal year 2000, sixty percent (60%) shall be appropriated in fiscal year 2001, eighty percent (80%) shall be appropriated in fiscal year 2002, and one hundred percent (100%) shall be appropriated in fiscal year 2003 into the State Adequate Education Program Fund. Until July 1, 2002, such money shall be used by school districts 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, school barns and garages for transportation vehicles, school athletic fields and necessary facilities

connected therewith, and purchasing land therefor. Any such capital improvement project by a school district shall be approved by the State Board of Education, and based on an approved long-range plan. The State Board of Education shall promulgate minimum requirements for the approval of school district capital expenditure plans.

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

(c) Paying debt service on existing capital improvement debt of the district or refinancing outstanding debt of a district if such refinancing will result in an interest cost savings to the district.

(d) From and after October 1, 1997, through June 30, 1998, pursuant to a school district capital expenditure plan approved by the State Department of Education, a school district may pledge such funds until July 1, 2002, plus funds provided for in paragraph (e) of this subsection (4) that are not otherwise permanently pledged under such paragraph (e) 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, Mississippi Code of 1972, or debt issued by boards of supervisors for agricultural high schools pursuant to Section 37-27-65, Mississippi Code of 1972, or

lease-purchase contracts entered into pursuant to Section 31-7-13, Mississippi Code of 1972, or to retire or refinance outstanding debt of a district, if such pledge is accomplished pursuant to a written contract or resolution approved and spread upon the minutes of an official meeting of the district's school board or board of supervisors. It is the intent of this provision to allow school districts to irrevocably pledge their Interim School District Capital Expenditure Fund allotments as a constant stream of revenue to secure a debt issued under the foregoing code sections. To allow school districts to make such an irrevocable pledge, the state shall take all action necessary to ensure that the amount of a district's Interim School District Capital Expenditure Fund allotments shall not be reduced below the amount certified by the department or the district's total allotment under the Interim Capital Expenditure Fund if fully funded, so long as such debt remains outstanding.

(e) [Repealed]

(f) [Repealed]

(g) The State Board of Education may authorize the school district to expend not more than twenty percent (20%) of its annual allotment of such funds or Twenty Thousand Dollars ($20,000.00), whichever is greater, for technology needs of the school district, including computers, software, telecommunications, cable television, interactive video, film, low-power television, satellite communications, microwave

communications, technology-based equipment installation and maintenance, and the training of staff in the use of such technology-based instruction. Any such technology expenditure shall be reflected in the local district technology plan approved by the State Board of Education under Section 37-151-17, Mississippi Code of 1972.

(h) To the extent a school district has not utilized twenty percent (20%) of its annual allotment for technology purposes under paragraph (g), a school district may expend not more than twenty percent (20%) of its annual allotment or Twenty Thousand Dollars ($20,000.00), whichever is greater, for instructional purposes. The State Board of Education may authorize a school district to expend more than said twenty percent (20%) of its annual allotment for instructional purposes if it determines that such expenditures are needed for accreditation purposes.

(i) The State Department of Education or the State Board of Education may require that any project commenced under this section with an estimated project cost of not less than Five Million Dollars ($5,000,000.00) shall be done only pursuant to program management of the process with respect to design and construction. Any individuals, partnerships, companies or other entities acting as a program manager on behalf of a local school district and performing program management services for projects

covered under this subsection shall be approved by the State Department of Education.

Any interest accruing on any unexpended balance in the Interim School District Capital Expenditure Fund shall be invested by the State Treasurer and placed to the credit of each school district participating in such fund in its proportionate share.

The provisions of this subsection (4) shall be cumulative and supplemental to any existing funding programs or other authority conferred upon school districts or school boards.

(5) The State Department of Education shall make payments to charter schools for each student in average daily attendance at the charter school equal to the state share of the adequate education program payments for each student in average daily attendance at the school district in which the public charter school is located. In calculating the local contribution for purposes of determining the state share of the adequate education program payments, the department shall deduct the pro rata local contribution of the school district in which the student resides as determined in subsection (2)(a) of this section.

SECTION 89. Section 37-151-101, Mississippi Code of 1972, is amended as follows:

37-151-101. It shall be the duty of the State Department of Education to file with the State Treasurer and the State Fiscal Officer such data and information as may be required to enable the said State Treasurer and State Fiscal Officer to distribute the

common school funds and adequate education program funds by electronic funds transfer to the several school districts and charter schools at the time required and provided under the provisions of this chapter. Such data and information so filed shall show in detail the amount of funds to which each school district and charter school is entitled from such common school fund and adequate education program fund. Such data and information so filed may be revised from time to time as necessitated by law. At the time provided by law, the State Treasurer and the State Fiscal Officer shall distribute to the several school districts and charter schools the amounts to which they are entitled from the common school fund and the adequate education program fund as provided by this chapter. Such distribution shall be made by electronic funds transfer to the depositories of the several school districts and charter schools designated in writing to the State Treasurer based upon the data and information supplied by the State Department of Education for such distribution. In such instances, the State Treasurer shall submit a request for an electronic funds transfer to the State Fiscal Officer, which shall set forth the purpose, amount and payees, and shall be in such form as may be approved by the State Fiscal Officer so as to provide the necessary information as would be required for a requisition and issuance of a warrant. A copy of the record of said electronic funds transfers shall be transmitted by the school district and charter school depositories

to the Treasurer, who shall file duplicates with the State Fiscal Officer. The Treasurer and State Fiscal Officer shall jointly promulgate regulations for the utilization of electronic funds transfers to school districts and charter schools.

SECTION 90. Section 37-151-103, Mississippi Code of 1972, is amended as follows:

37-151-103. (1) Funds due each school district and charter school under the terms of this chapter from the Adequate Education Program Fund shall be paid in the following manner: On the two (2) days prior to the last day of each month, or the next business date after that date, there shall be paid to each school district and charter school, by electronic funds transfer, one-twelfth (1/12) of the funds to which the district or charter school is entitled from funds appropriated for the Adequate Education Program Fund. However, in December those payments shall be made on December 15th or the next business day after that date. All school districts shall process a single monthly payroll with electronic settlement of payroll checks secured through direct deposit of net pay for all school district employees. In addition, the State Department of Education may pay school districts and charter schools from the common school fund and the Adequate Education Program Fund on a date earlier than provided for by this section if it is determined that it is in the best interest of school districts and charter schools to do so.

Provided, however, that if the cash balance in the State General Fund is not adequate on the due date to pay the amounts due to all school districts and charter schools in the state as determined by the State Superintendent of Education, the State Fiscal Officer shall not transfer said funds payable to any school district or districts or charter schools until money is available to pay the amount due to all districts and charter schools.

(2) Notwithstanding any provision of this chapter or any other law requiring the number of children in average daily attendance or the average daily attendance of transported children to be determined on the basis of the preceding year, the State Board of Education is hereby authorized and empowered to make proper adjustments in allotments in cases where major changes in the number of children in average daily attendance or the average daily attendance of transported children occurs from one year to another as a result of changes or alterations in the boundaries of school districts, the sending of children from one county or district to another upon a contract basis, the termination or discontinuance of a contract for the sending of children from one county or district to another, a change in or relocation of attendance centers, or for any other reason which would result in a major decrease or increase in the number of children in average daily attendance or the average daily attendance of transported children during the current school year as compared with the preceding year.

(3) In the event of an inordinately large number of absentees in any school district or charter school as a result of epidemic, natural disaster, or any concerted activity discouraging school attendance, then in such event school attendance for the purposes of determining average daily attendance under the adequate education program shall be based upon the average daily attendance for the preceding school year for such school district or charter school.

SECTION 91. Section 37-57-107, Mississippi Code of 1972, is amended as follows:

37-57-107. (1) Beginning with the tax levy for the 1997 fiscal year and for each fiscal year thereafter, the aggregate receipts from taxes levied for school district purposes pursuant to Sections 37-57-105 and 37-57-1 shall not exceed the aggregate receipts from those sources during any one (1) of the immediately preceding three (3) fiscal years, as determined by the school board, plus an increase not to exceed seven percent (7%). For the purpose of this limitation, the term "aggregate receipts" when used in connection with the amount of funds generated in a preceding fiscal year shall not include excess receipts required by law to be deposited into a special account. However, the term "aggregate receipts" includes any receipts required by law to be paid to a charter school. The additional revenue from the ad valorem tax on any newly constructed properties or any existing properties added to the tax rolls or any properties previously

exempt which were not assessed in the next preceding year may be excluded from the seven percent (7%) increase limitation set forth herein. Taxes levied for payment of principal of and interest on general obligation school bonds issued heretofore or hereafter shall be excluded from the seven percent (7%) increase limitation set forth herein. Any additional millage levied to fund any new program mandated by the Legislature shall be excluded from the limitation for the first year of the levy and included within such limitation in any year thereafter. For the purposes of this section, the term "new program" shall include, but shall not be limited to, (a) the Early Childhood Education Program required to commence with the 1986-1987 school year as provided by Section 37-21-7 and any additional millage levied and the revenue generated therefrom, which is excluded from the limitation for the first year of the levy, to support the mandated Early Childhood Education Program shall be specified on the minutes of the school board and of the governing body making such tax levy; (b) any additional millage levied and the revenue generated therefrom which shall be excluded from the limitation for the first year of the levy, for the purpose of generating additional local contribution funds required for the adequate education program for the 2003 fiscal year and for each fiscal year thereafter under Section 37-151-7(2); and (c) any additional millage levied and the revenue generated therefrom which shall be excluded from the limitation for the first year of the levy, for the purpose of

support and maintenance of any agricultural high school which has been transferred to the control, operation and maintenance of the school board by the board of trustees of the community college district under provisions of Section 37-29-272.

(2) The seven percent (7%) increase limitation prescribed in this section may be increased an additional amount only when the school board has determined the need for additional revenues and has held an election on the question of raising the limitation prescribed in this section. The limitation may be increased only if three-fifths (3/5) of those voting in the election shall vote for the proposed increase. The resolution, notice and manner of holding the election shall be as prescribed by law for the holding of elections for the issuance of bonds by the respective school boards. Revenues collected for the fiscal year in excess of the seven percent (7%) increase limitation pursuant to an election shall be included in the tax base for the purpose of determining aggregate receipts for which the seven percent (7%) increase limitation applies for subsequent fiscal years.

(3) Except as otherwise provided for excess revenues generated pursuant to an election, if revenues collected as the result of the taxes levied for the fiscal year pursuant to this section and Section 37-57-1 exceed the increase limitation, then it shall be the mandatory duty of the school board of the school district to deposit such excess receipts over and above the increase limitation into a special account and credit it to the

fund for which the levy was made. It will be the further duty of such board to hold said funds and invest the same as authorized by law. Such excess funds shall be calculated in the budgets for the school districts for the purpose for which such levies were made, for the succeeding fiscal year. Taxes imposed for the succeeding year shall be reduced by the amount of excess funds available. Under no circumstances shall such excess funds be expended during the fiscal year in which such excess funds are collected.

(4) For the purposes of determining ad valorem tax receipts for a preceding fiscal year under this section, the term "fiscal year" means the fiscal year beginning October 1 and ending September 30.

(5) Beginning with the 2013-2014 school year, each school district in which a charter school is located shall pay to the charter school an amount for each student enrolled in the charter school equal to the ad valorem taxes levied per pupil for the support of the school district in which the charter school is located. The pro rata ad valorem taxes to be transferred to the charter school must include all levies for the support of the school district under Sections 37-57-1 (local contribution to the adequate education program) and 37-57-105 (school district operational levy) but may not include any taxes levied for the retirement of school district bonded indebtedness or short-term notes or any taxes levied for the support of vocational-technical education programs. Payments made pursuant to this subsection by

a school district to a charter school must be made before the expiration of three (3) business days after the funds are distributed to the school district.

SECTION 92. Sections 37-165-1, 37-165-3, 37-165-5, 37-165-7, 37-165-9, 37-165-11, 37-165-13, 37-165-15, 37-165-17, 37-165-19, 37-165-21, 37-165-23, 37-165-25 and 37-165-27, Mississippi Code of 1972, which are the Conversion Charter School Act of 2010, are repealed.

SECTION 93. Sections 1 through 31 of this act shall stand repealed from and after July 1, 2020.

SECTION 94. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE HOUSE OF REPRESENTATIVES
April 2, 2013

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 3, 2013

Tate Reeves

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

Mississippi 4/17/13
1:50 pm