

By: Senator(s) Carmichael, Baria, Browning,
Burton, Chassaniol, Dickerson, Fillingane,
Gordon, Hewes, Hopson, Hudson, Lee (47th),
Mettetal, Ward, Watson, Dearing, Stone

To: Education;
Appropriations

SENATE BILL NO. 2628
(As Sent to Governor)

1 AN ACT ENTITLED THE "CHILDREN FIRST ACT OF 2009"; TO PROHIBIT
2 PUBLIC SCHOOL STUDENTS IN GRADES 7-12 WHO FAIL TO MAINTAIN A
3 CUMULATIVE GRADE POINT AVERAGE OF 2.0 ON A 4.0 SCALE FROM
4 PARTICIPATING IN EXTRACURRICULAR ATHLETIC ACTIVITIES; TO AMEND
5 SECTION 37-17-6, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AND DIRECT
6 THE STATE BOARD OF EDUCATION TO DEFINE FAILING SCHOOLS AND SCHOOL
7 DISTRICTS UNDER CERTAIN STANDARDS; TO REQUIRE SCHOOL DISTRICTS TO
8 DEVELOP AND PUBLISH CERTAIN ANNUAL REPORTS PRESCRIBED BY THE STATE
9 BOARD OF EDUCATION; TO AUTHORIZE THE STATE BOARD OF EDUCATION TO
10 REQUEST THE GOVERNOR TO DECLARE A STATE OF EMERGENCY IN A SCHOOL
11 DISTRICT WHICH MEETS THE DEFINITION OF A FAILING SCHOOL DISTRICT
12 FOR TWO CONSECUTIVE YEARS; TO ESTABLISH A MISSISSIPPI RECOVERY
13 SCHOOL DISTRICT WITHIN THE STATE DEPARTMENT OF EDUCATION UNDER THE
14 DIRECTION OF A DEPUTY STATE SUPERINTENDENT OF EDUCATION TO PROVIDE
15 MANAGEMENT AND OVERSIGHT FOR ALL SCHOOL DISTRICTS THAT ARE SUBJECT
16 TO STATE CONSERVATORSHIP AND TO HEAR CERTAIN APPEALS FROM THOSE
17 SCHOOL DISTRICTS; TO AMEND SECTION 7-7-211, MISSISSIPPI CODE OF
18 1972, TO PROVIDE FOR THE ANNUAL AUDIT OF PUBLIC SCHOOL DISTRICTS
19 UNDER THE DIRECTION OF THE STATE AUDITOR; TO AMEND SECTION 37-3-4,
20 MISSISSIPPI CODE OF 1972, TO PRESCRIBE TRAINING REQUIREMENTS FOR
21 SCHOOL BOARD MEMBERS AND SCHOOL SUPERINTENDENTS IN FAILING SCHOOL
22 DISTRICTS; TO AMEND SECTION 37-3-46, MISSISSIPPI CODE OF 1972, TO
23 REQUIRE SCHOOL DISTRICTS RECEIVING ACCREDITATION ASSISTANCE FROM
24 THE STATE DEPARTMENT OF EDUCATION TO IMPLEMENT PROGRAMS SPECIFIED
25 BY THE STATE SUPERINTENDENT OF PUBLIC EDUCATION; TO AMEND SECTION
26 37-9-18, MISSISSIPPI CODE OF 1972, TO DIRECT THE STATE AUDITOR TO
27 CONDUCT A REVIEW OF THE FINANCES OF ANY SCHOOL DISTRICT DETERMINED
28 BY THE STATE SUPERINTENDENT OF PUBLIC EDUCATION TO BE IN A SERIOUS
29 FINANCIAL CONDITION AND MAKE AN IMMEDIATE REPORT THEREON; TO AMEND
30 SECTION 37-9-103, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE
31 EDUCATION EMPLOYMENT PROCEDURES LAW SHALL NOT APPLY TO ANY
32 CATEGORY OF EMPLOYEE IN A SCHOOL DISTRICT SUBJECT TO A STATE
33 CONSERVATORSHIP; TO AMEND SECTION 37-18-5, MISSISSIPPI CODE OF
34 1972, TO REQUIRE SCHOOL DISTRICTS WITH SCHOOLS DETERMINED TO BE
35 FAILING TO ESTABLISH COMMUNITY-BASED EDUCATION COUNCILS THAT ARE
36 ACCOUNTABLE TO THE COMMUNITY; TO REPEAL SECTION 37-9-16,
37 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE REMOVAL OF
38 APPOINTED OR ELECTED SCHOOL SUPERINTENDENTS OF UNDERPERFORMING
39 SCHOOL DISTRICTS UNDER CERTAIN CIRCUMSTANCES; AND FOR RELATED
40 PURPOSES.

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

42 **SECTION 1.** This act shall be entitled and may be cited as
43 the "Children First Act of 2009."



44 **SECTION 2.** A student who is enrolled in any grade higher
45 than Grade 6 in a school district in this state must be suspended
46 from participation in any extracurricular or athletic activity
47 sponsored or sanctioned by the school district after a semester in
48 which the student's cumulative grade point average is below a 2.0
49 on a 4.0 scale. The suspension from participation in
50 extracurricular or athletic activities may not be removed until
51 the student's cumulative grade point average in a succeeding
52 semester is 2.0 or higher on a 4.0 scale. A student with a
53 cumulative grade point average below a 2.0 on a 4.0 scale at the
54 semester of an academic school year shall be suspended from
55 participation in extracurricular or athletic activities in the
56 succeeding academic school year until the student's cumulative
57 grade point average is 2.0 or higher on a 4.0 scale.

58 **SECTION 3.** Section 37-17-6, Mississippi Code of 1972, is
59 amended as follows:

60 37-17-6. (1) The State Board of Education, acting through
61 the Commission on School Accreditation, shall establish and
62 implement a permanent performance-based accreditation system, and
63 all public elementary and secondary schools shall be accredited
64 under this system.

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

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

74 Number of Students	Number of Certified
75 Per School Library	School Librarians
76 0 - 499 Students	1/2 Full-time Equivalent



77 Certified Librarian
78 500 or More Students 1 Full-time Certified
79 Librarian

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

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

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

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

94 (f) Any additional mileage levied to fund school
95 librarians required for accreditation under this subsection shall
96 be included in the tax increase limitation set forth in Sections
97 37-57-105 and 37-57-107 and shall not be deemed a new program for
98 purposes of the limitation.

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

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

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

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



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

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

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

117 (g) A determination of which schools are failing to
118 meet their standards and a determination of the appropriate role
119 of the State Board of Education and the State Department of
120 Education in providing assistance and initiating possible
121 intervention. A failing district is a district which fails to
122 meet both the absolute student achievement standards and the rate
123 of annual growth expectation standards as set by the State Board
124 of Education for two (2) consecutive years. The State Board of
125 Education shall establish the level of benchmarks by which
126 absolute student achievement and growth expectations shall be
127 assessed. In setting the benchmarks for school districts, the
128 State Board of Education may also take into account such factors
129 as graduation rates, dropout rates, completion rates, the extent
130 to which the school or district employs qualified teachers in
131 every classroom, and any other factors deemed appropriate by the
132 State Board of Education;

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

135 (i) The State Board of Education may, based on a
136 written request that contains specific reasons for requesting a
137 waiver from the school districts affected by Hurricane Katrina of
138 2005, hold harmless school districts from assignment of district
139 and school level accountability ratings for the 2005-2006 school
140 year. The State Board of Education upon finding an extreme
141 hardship in the school district may grant the request. It is the



142 intent of the Legislature that all school districts maintain the
143 highest possible academic standards and instructional programs in
144 all schools as required by law and the State Board of Education.

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

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

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

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

163 (8) Deleted.

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



174 (b) The State Board of Education shall establish, for
175 those school districts failing to meet accreditation standards, a
176 program of development to be complied with in order to receive
177 state funds, except as otherwise provided in subsection (14) of
178 this section when the Governor has declared a state of emergency
179 in a school district or as otherwise provided in Section 206,
180 Mississippi Constitution of 1890. The state board, in
181 establishing these standards, shall provide for notice to schools
182 and sufficient time and aid to enable schools to attempt to meet
183 these standards, unless procedures under subsection (14) of this
184 section have been invoked.

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

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

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



207 for implementing each component of the recommendation and how each
208 will be evaluated. All corrective action plans shall be provided
209 to the State Board of Education as may be required. The decision
210 of the State Board of Education establishing the probationary
211 period of time shall be final;

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

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

228 (e) Provide for publication of public notice at least
229 one time during the probationary period, in a newspaper published
230 within the jurisdiction of the school district failing to meet
231 accreditation standards, or if no newspaper is published therein,
232 then in a newspaper having a general circulation therein. The
233 publication shall include the following: declaration of school
234 system's status as being on probation; all details relating to the
235 impairment report; and other information as the State Board of
236 Education deems appropriate. Public notices issued under this
237 section shall be subject to Section 13-3-31 and not contrary to
238 other laws regarding newspaper publication.



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

250 (b) If the State Board of Education and the Commission
251 on School Accreditation determine that an extreme emergency
252 situation exists in a school district which jeopardizes the
253 safety, security or educational interests of the children enrolled
254 in the schools in that district and such emergency situation is
255 believed to be related to a serious violation or violations of
256 accreditation standards or state or federal law, or when a school
257 district meets the State Board of Education's definition of a
258 failing school district for two (2) consecutive full school years,
259 the State Board of Education may request the Governor to declare a
260 state of emergency in that school district. For purposes of this
261 paragraph, such declarations of a state of emergency shall not be
262 limited to those instances when a school district's impairments
263 are related to a lack of financial resources, but also shall
264 include serious failure to meet minimum academic standards, as
265 evidenced by a continued pattern of poor student performance.

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

270 (i) Declare a state of emergency, under which some
271 or all of state funds can be escrowed except as otherwise provided



272 in Section 206, Constitution of 1890, until the board determines
273 corrective actions are being taken or the deficiencies have been
274 removed, or that the needs of students warrant the release of
275 funds. Such funds may be released from escrow for any program
276 which the board determines to have been restored to standard even
277 though the state of emergency may not as yet be terminated for the
278 district as a whole;

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

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

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

293 (v) For states of emergency declared under
294 paragraph (a) only, if the accreditation deficiencies are related
295 to the fact that the school district is too small, with too few
296 resources, to meet the required standards and if another school
297 district is willing to accept those students, abolish that
298 district and assign that territory to another school district or
299 districts. If the school district has proposed a voluntary
300 consolidation with another school district or districts, then if
301 the State Board of Education finds that it is in the best interest
302 of the pupils of the district for such consolidation to proceed,
303 the voluntary consolidation shall have priority over any such
304 assignment of territory by the State Board of Education;



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

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

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

321 (e) Not later than July 1 of each year, the State
322 Department of Education shall develop an itemized accounting of
323 the expenditures associated with the management of the conservator
324 process with regard to each school district in which a conservator
325 has been appointed, and an assessment as to the extent to which
326 the conservator has achieved, or failed to achieve, the goals for
327 which the conservator was appointed to guide the local school
328 district.

329 (f) There is established a Mississippi Recovery School
330 District within the State Department of Education under the
331 management and supervision of a Deputy Superintendent who is
332 appointed by the State Superintendent of Public Education. The
333 Mississippi Recovery School District shall provide leadership,
334 management and oversight of all school districts that are subject
335 to state conservatorship, as defined in Title 37, Chapters 17 and
336 18, Mississippi Code of 1972, and shall have all the authority
337 granted under these two (2) chapters. The Mississippi Department



338 of Education, with the approval of the State Board of Education,
339 shall develop policies for the operation and management of the
340 Mississippi Recovery School District. The Deputy State
341 Superintendent responsible for the Mississippi Recovery School
342 District shall be authorized to oversee the administration of the
343 Mississippi Recovery School District, supervise conservators
344 assigned by the State Board of Education to a local school
345 district, hear appeals from school districts under conservatorship
346 that would normally be filed by students, parents or employees and
347 heard by a local school board, which hearings on appeal shall be
348 conducted in a prompt and timely manner in the school district
349 from which the appeal originated in order to ensure that the
350 capacity of appellants, other parties and witnesses to appeal
351 without undue burden of travel costs or loss of time from work,
352 and perform other related duties as assigned by the State
353 Superintendent of Public Education.

354 (12) Upon the declaration of a state of emergency in a
355 school district under subsection (11) of this section, the
356 Commission on School Accreditation shall be responsible for public
357 notice at least once a week for at least three (3) consecutive
358 weeks in a newspaper published within the jurisdiction of the
359 school district failing to meet accreditation standards, or if no
360 newspaper is published therein, then in a newspaper having a
361 general circulation therein. The size of such notice shall be no
362 smaller than one-fourth (1/4) of a standard newspaper page and
363 shall be printed in bold print. If a conservator has been
364 appointed for the school district, such notice shall begin as
365 follows: "By authority of Section 37-17-6, Mississippi Code of
366 1972, as amended, adopted by the Mississippi Legislature during
367 the 1991 Regular Session, this school district (name of school
368 district) is hereby placed under the jurisdiction of the State
369 Department of Education acting through its appointed conservator
370 (name of conservator)."



371 The notice also shall include, in the discretion of the State
372 Board of Education, any or all details relating to the school
373 district's emergency status, including the declaration of a state
374 of emergency in the school district and a description of the
375 district's impairment deficiencies, conditions of any
376 conservatorship and corrective actions recommended and being
377 taken. Public notices issued under this section shall be subject
378 to Section 13-3-31 and not contrary to other laws regarding
379 newspaper publication.

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

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

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

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



403 the school district, including, but not limited to, the following
404 activities:

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

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

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

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

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

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

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



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

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

450 At such time as the Governor, pursuant to the request of the
451 State Board of Education, declares that the state of emergency no
452 longer exists in a school district, the powers and
453 responsibilities of the interim conservator assigned to such
454 district shall cease.

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

461 The State Board of Education may loan monies from the School
462 District Emergency Assistance Fund to a school district that is
463 under a state of emergency in such amounts, as determined by the
464 board, which are necessary to correct the district's impairments
465 related to a lack of financial resources. The loans shall be
466 evidenced by an agreement between the school district and the
467 State Board of Education and shall be repayable in principal,
468 without necessity of interest, to the State General Fund or the



469 Education Enhancement Fund, depending on the source of funding for
470 such loan, by the school district from any allowable funds that
471 are available. The total amount loaned to the district shall be
472 due and payable within five (5) years after the impairments
473 related to a lack of financial resources are corrected. If a
474 school district fails to make payments on the loan in accordance
475 with the terms of the agreement between the district and the State
476 Board of Education, the State Department of Education, in
477 accordance with rules and regulations established by the State
478 Board of Education, may withhold that district's adequate
479 education program funds in an amount and manner that will
480 effectuate repayment consistent with the terms of the agreement;
481 such funds withheld by the department shall be deposited into the
482 State General Fund or the Education Enhancement Fund, as the case
483 may be.

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

498 (15) In the event a majority of the membership of the school
499 board of any school district resigns from office, the State Board
500 of Education shall be authorized to assign an interim conservator,
501 who shall be responsible for the administration, management and



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

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

522 (i) If the office of superintendent is an elected
523 office, in those years in which there is no general election, the
524 name shall be submitted by the State Board of Education to the
525 county election commission, and the county election commission
526 shall submit the question at a special election to the voters
527 eligible to vote for the office of superintendent within the
528 county, and such special election shall be held within sixty (60)
529 days from notification by the State Board of Education. The
530 ballot shall read substantially as follows:

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



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

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

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

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



568 "Members of the _____ (here the title of the school
569 district shall be inserted) School Board who are not up for
570 election this year are subject to recall because of the school
571 district's failure to meet critical accountability standards as
572 defined in the letter of notification to the Governor from the
573 State Board of Education. Shall the member of the school board
574 representing this area, _____ (here the name of the school
575 board member holding the office shall be inserted), be retained in
576 office? Yes _____ No _____"

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

592 (ii) If the local school board is an appointed
593 school board, the name of all school board members shall be
594 submitted as a collective board by the president of the municipal
595 or county governing authority, as the case may be, at the next
596 regular meeting of the governing authority for retention in office
597 or dismissal from office. If a majority of the governing
598 authority voting on the question vote against retaining the board
599 in office, a vacancy shall exist in each school board member's
600 office, which shall be filled as provided by law; otherwise, the



601 members of the appointed school board shall remain in office for
602 the duration of their term of appointment, and such members may be
603 reappointed.

604 (iii) If the local school board is comprised of
605 both elected and appointed members, the elected members shall be
606 subject to recall in the manner provided in subparagraph (i) of
607 this subsection, and the appointed members shall be subject to
608 recall in the manner provided in subparagraph (ii).

609 (17) Beginning with the school district audits conducted for
610 the 1997-1998 fiscal year, the State Board of Education, acting
611 through the Commission on School Accreditation, shall require each
612 school district to comply with standards established by the State
613 Department of Audit for the verification of fixed assets and the
614 auditing of fixed assets records as a minimum requirement for
615 accreditation.

616 (18) Before December 1, 1999, the State Board of Education
617 shall recommend a program to the Education Committees of the House
618 of Representatives and the Senate for identifying and rewarding
619 public schools that improve or are high performing. The program
620 shall be described by the board in a written report, which shall
621 include criteria and a process through which improving schools and
622 high-performing schools will be identified and rewarded.

623 The State Superintendent of Education and the State Board of
624 Education also shall develop a comprehensive accountability plan
625 to ensure that local school boards, superintendents, principals
626 and teachers are held accountable for student achievement. A
627 written report on the accountability plan shall be submitted to
628 the Education Committees of both houses of the Legislature before
629 December 1, 1999, with any necessary legislative recommendations.

630 (19) Before January 1, 2008, the State Board of Education
631 shall evaluate and submit a recommendation to the Education
632 Committees of the House of Representatives and the Senate on



633 inclusion of graduation rate and dropout rate in the school level
634 accountability system.

635 (20) If a local school district determined as failing and
636 placed into conservatorship for reasons authorized by the
637 provisions of this section, the conservator appointed to the
638 district shall, within forty-five (45) days after being appointed,
639 present a detailed and structured corrective action plan to move
640 the local school district out of conservatorship status to the
641 local school board and local superintendent of education if they
642 have not been removed by the conservator, or if the board and
643 superintendent have been removed, to the local governing authority
644 of the municipality or county in which the school district under
645 conservatorship is located. A copy of the conservator's
646 corrective action plan shall also be filed with the State Board of
647 Education.

648 **SECTION 4.** Section 7-7-211, Mississippi Code of 1972, is
649 amended as follows:

650 7-7-211. The department shall have the power and it shall be
651 its duty:

652 (a) To identify and define for all public offices of
653 the state and its subdivisions generally accepted accounting
654 principles as promulgated by nationally recognized professional
655 organizations and to consult with the State Fiscal Officer in the
656 prescription and implementation of accounting rules and
657 regulations;

658 (b) To provide best practices, for all public offices
659 of regional and local subdivisions of the state, systems of
660 accounting, budgeting and reporting financial facts relating to
661 said offices in conformity with legal requirements and with
662 generally accepted accounting principles as promulgated by
663 nationally recognized professional organizations; to assist such
664 subdivisions in need of assistance in the installation of such
665 systems; to revise such systems when deemed necessary, and to



666 report to the Legislature at periodic times the extent to which
667 each office is maintaining such systems, along with such
668 recommendations to the Legislature for improvement as seem
669 desirable;

670 (c) To study and analyze existing managerial policies,
671 methods, procedures, duties and services of the various state
672 departments and institutions upon written request of the Governor,
673 the Legislature or any committee or other body empowered by the
674 Legislature to make such request to determine whether and where
675 operations can be eliminated, combined, simplified and improved;

676 (d) To postaudit each year and, when deemed necessary,
677 preaudit and investigate the financial affairs of the departments,
678 institutions, boards, commissions or other agencies of state
679 government, as part of the publication of a comprehensive annual
680 financial report for the State of Mississippi. In complying with
681 the requirements of this subsection, the department shall have the
682 authority to conduct all necessary audit procedures on an interim
683 and year-end basis;

684 (e) To postaudit and, when deemed necessary, preaudit
685 and investigate separately the financial affairs of (i) the
686 offices, boards and commissions of county governments and any
687 departments and institutions thereof and therein; (ii) public
688 school districts, departments of education and junior college
689 districts; and (iii) any other local offices or agencies which
690 share revenues derived from taxes or fees imposed by the State
691 Legislature or receive grants from revenues collected by
692 governmental divisions of the state; the cost of such audits,
693 investigations or other services to be paid as follows: Such part
694 shall be paid by the state from appropriations made by the
695 Legislature for the operation of the State Department of Audit as
696 may exceed the sum of Thirty Dollars (\$30.00) per man hour for the
697 services of each staff person engaged in performing the audit or
698 other service, which sum shall be paid by the county, district,



699 department, institution or other agency audited out of its general
700 fund or any other available funds from which such payment is not
701 prohibited by law.

702 Each school district in the state shall have its financial
703 records audited annually, at the end of each fiscal year, either
704 by the State Auditor or by a certified public accountant approved
705 by the State Auditor, except that, beginning with audits of fiscal
706 year 2010 activity, the State Auditor shall conduct the audit of
707 each school district at least once every four (4) years. If
708 financial and personnel resources are not made available to the
709 State Auditor for the purpose of ensuring that school districts
710 are audited by the State Auditor at least once every four (4)
711 years then, beginning with the audits of fiscal year 2010
712 activity, no certified public accountant shall be selected to
713 perform the annual audit of a school district who has audited that
714 district for three (3) or more consecutive years previously.
715 Certified public accountants shall be selected in a manner
716 determined by the State Auditor. The school district shall have
717 the responsibility to pay for the audit, including the review by
718 the State Auditor of audits performed by certified public
719 accountants;

720 (f) To postaudit and, when deemed necessary, preaudit
721 and investigate the financial affairs of the levee boards;
722 agencies created by the Legislature or by executive order of the
723 Governor; profit or nonprofit business entities administering
724 programs financed by funds flowing through the State Treasury or
725 through any of the agencies of the state, or its subdivisions; and
726 all other public bodies supported by funds derived in part or
727 wholly from public funds, except municipalities which annually
728 submit an audit prepared by a qualified certified public
729 accountant using methods and procedures prescribed by the
730 department;



731 (g) To make written demand, when necessary, for the
732 recovery of any amounts representing public funds improperly
733 withheld, misappropriated and/or otherwise illegally expended by
734 an officer, employee or administrative body of any state, county
735 or other public office, and/or for the recovery of the value of
736 any public property disposed of in an unlawful manner by a public
737 officer, employee or administrative body, such demands to be made
738 (i) upon the person or persons liable for such amounts and upon
739 the surety on official bond thereof, and/or (ii) upon any
740 individual, partnership, corporation or association to whom the
741 illegal expenditure was made or with whom the unlawful disposition
742 of public property was made, if such individual, partnership,
743 corporation or association knew or had reason to know through the
744 exercising of reasonable diligence that the expenditure was
745 illegal or the disposition unlawful. Such demand shall be
746 premised on competent evidence, which shall include at least one
747 (1) of the following: (i) sworn statements, (ii) written
748 documentation, (iii) physical evidence, or (iv) reports and
749 findings of government or other law enforcement agencies. Other
750 provisions notwithstanding, a demand letter issued pursuant to
751 this subsection shall remain confidential by the State Auditor
752 until the individual against whom the demand letter is being filed
753 has been served with a copy of such demand letter. If, however,
754 such individual cannot be notified within fifteen (15) days using
755 reasonable means and due diligence, such notification shall be
756 made to the individual's bonding company, if he or she is bonded.
757 Each such demand shall be paid into the proper treasury of the
758 state, county or other public body through the office of the
759 department in the amount demanded within thirty (30) days from the
760 date thereof, together with interest thereon in the sum of one
761 percent (1%) per month from the date such amount or amounts were
762 improperly withheld, misappropriated and/or otherwise illegally
763 expended. In the event, however, such person or persons or such



764 surety shall refuse, neglect or otherwise fail to pay the amount
765 demanded and the interest due thereon within the allotted thirty
766 (30) days, the State Auditor shall have the authority and it shall
767 be his duty to institute suit, and the Attorney General shall
768 prosecute the same in any court of the state to the end that there
769 shall be recovered the total of such amounts from the person or
770 persons and surety on official bond named therein; and the amounts
771 so recovered shall be paid into the proper treasury of the state,
772 county or other public body through the State Auditor. In any
773 case where written demand is issued to a surety on the official
774 bond of such person or persons and the surety refuses, neglects or
775 otherwise fails within one hundred twenty (120) days to either pay
776 the amount demanded and the interest due thereon or to give the
777 State Auditor a written response with specific reasons for
778 nonpayment, then the surety shall be subject to a civil penalty in
779 an amount of twelve percent (12%) of the bond, not to exceed Ten
780 Thousand Dollars (\$10,000.00), to be deposited into the State
781 General Fund;

782 (h) To investigate any alleged or suspected violation
783 of the laws of the state by any officer or employee of the state,
784 county or other public office in the purchase, sale or the use of
785 any supplies, services, equipment or other property belonging
786 thereto; and in such investigation to do any and all things
787 necessary to procure evidence sufficient either to prove or
788 disprove the existence of such alleged or suspected violations.
789 The Department of Investigation of the State Department of Audit
790 may investigate, for the purpose of prosecution, any suspected
791 criminal violation of the provisions of this chapter. For the
792 purpose of administration and enforcement of this chapter, the
793 enforcement employees of the Department of Investigation of the
794 State Department of Audit have the powers of a law enforcement
795 officer of this state, and shall be empowered to make arrests and
796 to serve and execute search warrants and other valid legal process



797 anywhere within the State of Mississippi. All enforcement
798 employees of the Department of Investigation of the State
799 Department of Audit hired on or after July 1, 1993, shall be
800 required to complete the Law Enforcement Officers Training Program
801 and shall meet the standards of the program;

802 (i) To issue subpoenas, with the approval of, and
803 returnable to, a judge of a chancery or circuit court, in termtime
804 or in vacation, to examine the records, documents or other
805 evidence of persons, firms, corporations or any other entities
806 insofar as such records, documents or other evidence relate to
807 dealings with any state, county or other public entity. The
808 circuit or chancery judge must serve the county in which the
809 records, documents or other evidence is located; or where all or
810 part of the transaction or transactions occurred which are the
811 subject of the subpoena;

812 (j) In any instances in which the State Auditor is or
813 shall be authorized or required to examine or audit, whether
814 preaudit or postaudit, any books, ledgers, accounts or other
815 records of the affairs of any public hospital owned or owned and
816 operated by one or more political subdivisions or parts thereof or
817 any combination thereof, or any school district, including
818 activity funds thereof, it shall be sufficient compliance
819 therewith, in the discretion of the State Auditor, that such
820 examination or audit be made from the report of any audit or other
821 examination certified by a certified public accountant and
822 prepared by or under the supervision of such certified public
823 accountant. Such audits shall be made in accordance with
824 generally accepted standards of auditing, with the use of an audit
825 program prepared by the State Auditor, and final reports of such
826 audits shall conform to the format prescribed by the State
827 Auditor. All files, working papers, notes, correspondence and all
828 other data compiled during the course of the audit shall be
829 available, without cost, to the State Auditor for examination and



830 abstracting during the normal business hours of any business day.
831 The expense of such certified reports shall be borne by the
832 respective hospital, or any available school district funds other
833 than minimum program funds, subject to examination or audit. The
834 State Auditor shall not be bound by such certified reports and
835 may, in his or their discretion, conduct such examination or audit
836 from the books, ledgers, accounts or other records involved as may
837 be appropriate and authorized by law;

838 (k) The State Auditor shall have the authority to
839 contract with qualified public accounting firms to perform
840 selected audits required in paragraphs (d), (e) and (f) of this
841 section, if funds are made available for such contracts by the
842 Legislature, or if funds are available from the governmental
843 entity covered by paragraphs (d), (e) and (f). Such audits shall
844 be made in accordance with generally accepted standards of
845 auditing. All files, working papers, notes, correspondence and
846 all other data compiled during the course of the audit shall be
847 available, without cost, to the State Auditor for examination and
848 abstracting during the normal business hours of any business day;

849 (l) The State Auditor shall have the authority to
850 establish training courses and programs for the personnel of the
851 various state and local governmental entities under the
852 jurisdiction of the Office of the State Auditor. The training
853 courses and programs shall include, but not be limited to, topics
854 on internal control of funds, property and equipment control and
855 inventory, governmental accounting and financial reporting, and
856 internal auditing. The State Auditor is authorized to charge a
857 fee from the participants of these courses and programs, which fee
858 shall be deposited into the Department of Audit Special Fund.
859 State and local governmental entities are authorized to pay such
860 fee and any travel expenses out of their general funds or any
861 other available funds from which such payment is not prohibited by
862 law;



863 (m) Upon written request by the Governor or any member
864 of the State Legislature, the State Auditor may audit any state
865 funds and/or state and federal funds received by any nonprofit
866 corporation incorporated under the laws of this state;

867 (n) To conduct performance audits of personal or
868 professional service contracts by state agencies on a random
869 sampling basis, or upon request of the State Personal Service
870 Contract Review Board under Section 25-9-120(3).

871 **SECTION 5.** Section 37-3-4, Mississippi Code of 1972, is
872 amended as follows:

873 37-3-4. (1) There is established within the State
874 Department of Education, the School Executive Management
875 Institute. The director shall be appointed by the State Board of
876 Education upon recommendation by the State Superintendent of
877 Public Education. The State Superintendent of Public Education,
878 with the approval of the State Board of Education, shall assign
879 sufficient staff members from the State Department of Education to
880 the institute.

881 (2) It shall be the purpose and duty of the institute to
882 conduct thorough empirical studies and analyses of the school
883 management needs of the local school districts throughout the
884 state, to make recommendations to the State Board of Education
885 regarding standards and programs of training that aid in the
886 development of administrative and management skills of local
887 school administrators, and to conduct such programs related to
888 these purposes as they are implemented under guidelines
889 established by the State Board of Education.

890 (3) The State Board of Education shall develop and implement
891 through the School Executive Management Institute a program for
892 the development of administrative and management skills of local
893 school administrators under which all local school administrators
894 shall be required to participate. Subject to the extent of
895 appropriations available for such purpose, the School Executive



896 Management Institute or the Mississippi School Boards Association
897 shall be required to offer courses at least twice a year on the
898 uses of technology to principals, superintendents and other
899 administrative personnel. These courses shall relate to the
900 application of technology to learning, as well as administrative
901 problems.

902 (4) (a) The institute shall have an advisory board composed
903 of ten (10) qualified members appointed by the State Board of
904 Education after consultation with the State Superintendent of
905 Public Education. This advisory board will offer recommendations
906 to the institute on the types of training to be instituted and
907 supported. The membership of the advisory board shall be composed
908 of the following members, two (2) to be appointed from each
909 congressional district: three (3) school administrators; one (1)
910 representative of public community/junior colleges within the
911 state; one (1) representative of a school of education in an
912 institution of higher learning within the state; two (2) local
913 school board members; one (1) classroom teacher; and two (2) lay
914 persons. In making the initial appointments, three (3) members
915 shall be appointed for a term of one (1) year, three (3) members
916 shall be appointed for a term of two (2) years, two (2) members
917 shall be appointed for a term of three (3) years, and two (2)
918 members shall be appointed for a term of four (4) years.

919 Thereafter, all members shall be appointed for a term of four (4)
920 years. The advisory board shall meet when called by the director,
921 but in no event fewer than three (3) times per year. The members
922 of the advisory board shall be compensated at the per diem rate
923 authorized by Section 25-3-69 and reimbursed for actual and
924 necessary expenses as authorized by Section 25-3-41.

925 (b) Board members of the Oxford-Lafayette Business and
926 Industrial Complex shall be paid per diem and reimbursed for
927 expenses and mileage from local funds in accordance with Section
928 37-6-13.



929 (5) (a) Basic Education Course. The Mississippi School
930 Boards Association shall be responsible for preparing and
931 conducting a course of training for basic education for the local
932 school board members of this state, in order for board members to
933 carry out their duties more effectively and be exposed to new
934 ideas involving school restructuring. The basic course shall be
935 known as the "School Board Member Training Course" and shall
936 consist of at least twelve (12) hours of training. The
937 Mississippi School Boards Association shall issue certificates of
938 completion to those school board members who complete the basic
939 education course.

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

949 (c) Additional Required Training. Effective July 1,
950 2009, local school board members and, the local superintendent
951 that serve in a district with one or more failing schools as
952 determined by the Mississippi Board of Education accountability
953 system as provided for in Section 37-17-6, or serving in a school
954 district that has a serious financial condition as determined by
955 the State Auditor as provided for in Section 37-9-18, shall
956 annually attend additional training provided by the Mississippi
957 School Boards Association.

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



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

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

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

992 (7) The School Executive Management Institute of the State
993 Department of Education, or the Mississippi School Boards
994 Association with the oversight of the State Board of Education, at



995 least twice a year, shall prepare and conduct required courses of
996 training for continuing education for the elementary and secondary
997 school principals of this state, in order for principals to carry
998 out their duties more effectively and be exposed to new ideas
999 involving school management. The continuing education course
1000 shall be known as the "Continuing Education Course for Principals"
1001 and shall consist of at least six (6) hours of training. The
1002 content of the continuing education courses and the time and place
1003 such courses are to be conducted shall be determined by the School
1004 Executive Management Institute or the Mississippi School Boards
1005 Association; however, to the extent practicable, such training
1006 sessions shall be held within geographical proximity of local
1007 districts in order that travel times and costs shall not be
1008 prohibitive.

1009 The institute shall issue certificates of completion to those
1010 principals who complete such courses. All costs and expenses for
1011 preparing and conducting the basic and continuing education
1012 courses provided for in this subsection shall be paid out of any
1013 funds which are made available to the institute upon authorization
1014 and appropriation by the Legislature.

1015 (8) Principals and other administrators with career level
1016 certifications at schools meeting the highest levels of
1017 accreditation standards as defined by the State Board of Education
1018 are exempt from the requirements of this section, subject to
1019 approval of the local superintendent.

1020 **SECTION 6.** Section 37-3-46, Mississippi Code of 1972, is
1021 amended as follows:

1022 37-3-46. (1) The State Department of Education, in regard
1023 to any district not meeting adequate performance of accreditation
1024 standards, as defined by the State Board of Education, shall,
1025 subject to appropriation:

1026 (a) Provide to local school districts financial,
1027 training and other assistance to implement and maintain a state



1028 program of educational accountability and assessment of
1029 performance.

1030 (b) Provide to local school districts technical
1031 assistance and training in the development, implementation and
1032 administration of a personnel appraisal and compensation system
1033 for all school employees.

1034 (c) Provide to local school districts technical
1035 assistance in the development, implementation and administration
1036 of programs designed to keep children in school voluntarily and to
1037 prevent dropouts.

1038 (2) Districts receiving assistance from the State Department
1039 of Education, as outlined in subsection (1) of this section, shall
1040 be required to implement any training, programs and any other
1041 requirements as specified by the State Superintendent of Public
1042 Education.

1043 **SECTION 7.** Section 37-9-18, Mississippi Code of 1972, is
1044 amended as follows:

1045 37-9-18. (1) The superintendent of schools shall furnish to
1046 the school board a financial statement of receipts and
1047 disbursements, by funds, on or before the last working day of the
1048 following month covering the prior month. The school board shall
1049 be authorized to investigate and audit all financial records of
1050 the superintendent of schools at any and all times.

1051 (2) The State Auditor * * * shall audit the financial
1052 records of school districts in accordance with Section 7-7-211(e).
1053 The State Auditor shall give reasonable notice to school districts
1054 regarding the times during which the State Auditor will perform
1055 such audits. In any fiscal year in which the State Auditor is not
1056 scheduled to perform an audit, the school board shall cause all
1057 the financial records of the superintendent of schools to be
1058 audited in accordance with Section 7-7-211(e). If the school
1059 board so elects by resolution adopted each year, the audit shall
1060 be performed by the State Auditor. Contracts for the audit of



1061 public school districts shall be let by the school board in the
1062 manner prescribed by the State Auditor. The audit shall be
1063 conducted in accordance with generally accepted auditing standards
1064 and generally accepted accounting principles, and the report
1065 presented thereon shall be in accordance with generally accepted
1066 accounting principles. If the Auditor's opinion on the general
1067 purpose financial statements is a disclaimer, as that term is
1068 defined by generally accepted auditing standards, or if the State
1069 Auditor determines the existence of serious financial conditions
1070 in the district, the State Auditor shall immediately notify the
1071 State Board of Education. Upon receiving the notice, the State
1072 Superintendent of Public Education shall direct the school
1073 district to immediately cease all expenditures until a financial
1074 advisor is appointed by the state superintendent. However, if the
1075 disclaimer is a result of conditions caused by Hurricane Katrina
1076 2005 and applies to fiscal years 2005 and/or 2006, then the
1077 Superintendent of Education may appoint a financial advisor, and
1078 may direct the school district to immediately cease all
1079 expenditures until a financial advisor is appointed. The
1080 financial advisor shall be an agent of the State Board of
1081 Education and shall be a certified public accountant or a
1082 qualified business officer. The financial advisor shall, with the
1083 approval of the State Board of Education:

1084 (a) Approve or disapprove all expenditures and all
1085 financial obligations of the district;

1086 (b) Ensure compliance with any statutes and State Board
1087 of Education rules or regulations concerning expenditures by
1088 school districts;

1089 (c) Review salaries and the number of all district
1090 personnel and make recommendations to the local school board of
1091 any needed adjustments. Should such recommendations necessitate
1092 the reduction in local salary supplement, such recommended
1093 reductions shall be only to the extent which will result in the



1094 salaries being comparable to districts similarly situated, as
1095 determined by the State Board of Education. The local school
1096 board, in considering either a reduction in personnel or a
1097 reduction in local supplements, shall not be required to comply
1098 with the time limitations prescribed in Sections 37-9-15 and
1099 37-9-105 and, further, shall not be required to comply with
1100 Sections 37-19-11 and 37-19-7(1) in regard to reducing local
1101 supplements and the number of personnel;

1102 (d) Work with the school district's business office to
1103 correct all inappropriate accounting procedures and/or uses of
1104 school district funds and to prepare the school district's budget
1105 for the next fiscal year; * * *

1106 (e) Report frequently to the State Board of Education
1107 on the corrective actions being taken and the progress being made
1108 in the school district. The financial advisor shall serve until
1109 such time as corrective action and progress is being made in such
1110 school district as determined by the State Board of Education with
1111 the concurrence of the State Auditor, or until such time as an
1112 interim conservator is assigned to such district by the State
1113 Board of Education under Section 37-17-6. The school district
1114 shall be responsible for all expenses associated with the use of
1115 the financial advisor. If the audit report reflects a failure by
1116 the school district to meet accreditation standards, the State
1117 Board of Education shall proceed under Section 37-17-6; and

1118 (f) If a financial advisor is appointed to a school
1119 district in accordance with this subsection and it is determined
1120 by the financial advisor and/or any other official of the school
1121 district that an audit by a certified public accountant for that
1122 district was deficient in any manner, the financial advisor and/or
1123 any other official of the school district shall, within thirty
1124 (30) days, refer the matter to the State Board of Public
1125 Accountancy for follow-up and possible disciplinary action. Any
1126 disciplinary action by the State Board of Public Accountancy with



1127 regard to the certified public accountant shall, within thirty
1128 (30) days after notifying such certified public accountant, be
1129 reported to the Office of State Auditor.

1130 (3) (a) When conducting an audit of a public school
1131 district, the State Auditor shall test to insure that the school
1132 district is complying with the requirements of Section
1133 37-61-33(3)(a)(iii) relating to classroom supply funds. The audit
1134 must include a report of all classroom supply funds carried over
1135 from previous years. Based upon the audit report, the State
1136 Auditor shall compile a report on the compliance or noncompliance
1137 by all school districts with the requirements of Section
1138 37-61-33(3)(a)(iii), which report must be submitted to the
1139 Chairmen of the Education and Appropriations Committees of the
1140 House of Representatives and Senate.

1141 (b) When conducting an audit of a public school
1142 district, the State Auditor shall test to insure correct and
1143 appropriate coding at the function level. The audit must include
1144 a report showing correct and appropriate functional level
1145 expenditure codes in expenditures by the school district.
1146 Compliance standards for this audit provision shall be established
1147 by the Office of the State Auditor. Based upon the audit report,
1148 the State Auditor shall compile a report on the compliance or
1149 noncompliance by all public school districts with correct and
1150 appropriate coding at the function level, which report must be
1151 submitted to the Chairmen of the Education and Appropriations
1152 Committees of the House of Representatives and Senate.

1153 (4) In the event the State Auditor does not perform the
1154 audit examination, then the audit report of the school district
1155 shall be reviewed by the State Auditor for compliance with
1156 applicable state laws before final payment is made on the audit by
1157 the school board. All financial records, books, vouchers,
1158 cancelled checks and other financial records required by law to be
1159 kept and maintained in the case of municipalities shall be



1160 faithfully kept and maintained in the office of the superintendent
1161 of schools under the same provisions and penalties provided by law
1162 in the case of municipal officials.

1163 **SECTION 8.** Section 37-9-103, Mississippi Code of 1972, is
1164 amended as follows:

1165 37-9-103. (1) As used in Sections 37-9-101 through
1166 37-9-113, the word "employee" shall include:

1167 (a) Any teacher, principal, superintendent or other
1168 professional personnel employed by the local school district for a
1169 continuous period of two (2) years with that district and required
1170 to have a valid license issued by the State Department of
1171 Education as a prerequisite of employment; or

1172 (b) Any teacher, principal, superintendent or other
1173 professional personnel who has completed a continuous period of
1174 two (2) years of employment in a Mississippi public school
1175 district and one (1) full year of employment with the school
1176 district of current employment, and who is required to have a
1177 valid license issued by the State Department of Education as a
1178 prerequisite of employment.

1179 (2) The Education Employment Procedures Law shall not apply
1180 to any category of employee as defined in this section employed in
1181 any school district after the Governor declares a state of
1182 emergency under the provisions of Section 37-17-6(11). The
1183 Education Employment Procedures Law shall not be applicable in any
1184 school district for the full period of time that those conditions,
1185 as defined in Section 37-17-6(11), exist.

1186 For purposes of Sections 37-9-101 through 37-9-113, the term
1187 "days" means calendar days.

1188 **SECTION 9.** Section 37-18-5, Mississippi Code of 1972, is
1189 amended as follows:

1190 37-18-5. (1) Based on the findings of the evaluation report
1191 and the results of the public meeting, the State Department of
1192 Education and the evaluation team leader shall assist the school



1193 principal and other local school officials in the development of a
1194 school improvement plan to improve its deficiencies. A local
1195 parents/citizens advisory council shall be established by the
1196 evaluation team at the school in order to provide input and
1197 guidance into the development of the school improvement plan and
1198 its evaluation during the implementation period. Local
1199 parent-teacher associations and other community-based
1200 organizations shall have input in the selection of the
1201 parents/citizens advisory council. Where no active local
1202 parent-teacher group exists, the State Department of Education may
1203 request assistance from the Mississippi Parent-Teacher Association
1204 and other community-based organizations in the selection of the
1205 local parents/citizens advisory council. The local
1206 parents/citizens advisory council shall consist of representatives
1207 from each of the following local groups: (a) five (5)
1208 representatives of the local PTA, PTSA or other parent
1209 organization, (b) two (2) local elected officials or community
1210 activist, (c) two (2) students, (d) two (2) local business
1211 leaders. Persons who are employed by the local school district
1212 are not eligible for membership on the parents/citizens advisory
1213 council.

1214 (2) The school improvement plan shall be developed and
1215 approved by the principal of the School At-Risk, the
1216 superintendent of the local school district, the local school
1217 board and a majority of the teachers of the school, within a time
1218 period to be determined by the evaluation team. If the plan is
1219 not approved, the State Board of Education may approve and
1220 implement the plan in the school.

1221 (3) The State Department of Education shall provide
1222 technical assistance and shall assist in identifying funding to
1223 the School At-Risk in the implementation of the school improvement
1224 plan, including the implementation of any recommended professional
1225 development plan, and the department may contract with the



1226 institutions of higher learning to provide such technical
1227 assistance. The assistance team shall collaborate with school and
1228 school district employees in the implementation and monitoring of
1229 the school improvement plan and the State Department of Education
1230 shall ensure that a report is issued monthly to the local school
1231 board and the local parents/citizens advisory council.

1232 (4) A school district that has been designated as failing as
1233 defined by the State Board of Education shall also establish a
1234 community-based prekindergarten through higher education council
1235 comprised of a broad spectrum of the community, including economic
1236 developers, elected officials, civic leaders, business leaders,
1237 faith-based leaders, social services, nonprofit organizations,
1238 school attendance officers, law enforcement officials, health
1239 department officials, day care providers, librarians, parents and
1240 others with the knowledge and resources that can be leveraged to
1241 build strong communities. The State Board of Education shall
1242 develop procedures for appointments to the council, which shall
1243 not be appointed solely by the school board. The council will
1244 serve as a community-led group that is inclusive, accountable and
1245 required to publicly report progress to the community as a whole.

1246 **SECTION 10.** Section 37-9-16, Mississippi Code of 1972, which
1247 provides for the removal of appointed or elected school
1248 superintendents of underperforming school districts under certain
1249 circumstances, is hereby repealed.

1250 **SECTION 11.** This act shall take effect and be in force from
1251 and after its passage.

