SENATE BILL NO. 2628
(As Sent to Governor)

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

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

SECTION 1. This act shall be entitled and may be cited as the "Children First Act of 2009."
SECTION 2. A student who is enrolled in any grade higher than Grade 6 in a school district in this state must be suspended from participation in any extracurricular or athletic activity sponsored or sanctioned by the school district after a semester in which the student's cumulative grade point average is below a 2.0 on a 4.0 scale. The suspension from participation in extracurricular or athletic activities may not be removed until the student's cumulative grade point average in a succeeding semester is 2.0 or higher on a 4.0 scale. A student with a cumulative grade point average below a 2.0 on a 4.0 scale at the semester of an academic school year shall be suspended from participation in extracurricular or athletic activities in the succeeding academic school year until the student's cumulative grade point average is 2.0 or higher on a 4.0 scale.

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

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 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:

<table>
<thead>
<tr>
<th>Number of Students</th>
<th>Number of Certified Per School Library School Librarians</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 499 Students</td>
<td>1/2 Full-time Equivalent</td>
</tr>
</tbody>
</table>
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 such 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 such 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 which 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 mileage 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 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 such 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 which 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;

(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 which 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) (a) 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 Web site in a printable format. The public notice shall include information on the report's availability on the district's Web site, with the Web site address, and the location(s) in the school district where a copy of the report can be obtained.
(b) 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 such affected school district to present evidence or other reasons why its accreditation should not be withdrawn. Subsequent to its consideration of the results of such 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 which jeopardizes the safety, security or educational interests of the children enrolled in the schools in that district and such 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, the State Board of Education may request the Governor to declare a state of emergency in that school district. For purposes of this paragraph, such 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. Such 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 which 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 such 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 which 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 such action as prescribed in Section 37-17-13.

(d) At such time as 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) Not later than July 1 of each year, the State Department of Education shall develop an itemized accounting of the expenditures associated with the management of the conservator process with regard to each school district in which a conservator has been appointed, and an assessment as to the extent to which the conservator has achieved, or failed to achieve, the goals for which the conservator was appointed to guide the local school district.

(f) There is established a Mississippi Recovery School District within the State Department of Education under the management and supervision of a Deputy Superintendent who is appointed by the State Superintendent of Public Education. The Mississippi Recovery School District shall provide leadership, management and oversight of all school districts that are subject to state conservatorship, as defined in Title 37, Chapters 17 and 18, 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 responsible for the Mississippi Recovery School District shall be authorized to oversee the administration of the Mississippi Recovery School District, supervise 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 that the capacity 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.

(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 such 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, such 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 which 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, which 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 such time as the Governor, pursuant to 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 such district shall cease.

(b) In order to provide loans to school districts under a state of emergency which 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 such amounts, as determined by the board, which 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 such 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; such 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. Such 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) In the event 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 such 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 such 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 such 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 such school district be subject to recall. If
the Governor declares that the office of the superintendent of
such 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 such 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 _______

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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 such office, and at the expiration of such 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 such 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 such 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 such 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 such 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 such 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 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 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 4. Section 7-7-211, Mississippi Code of 1972, is amended as follows:

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

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

(b) To provide best practices, for all public offices of regional and local subdivisions of the state, systems of accounting, budgeting and reporting financial facts relating to said offices in conformity with legal requirements and with generally accepted accounting principles as promulgated by nationally recognized professional organizations; to assist such subdivisions in need of assistance in the installation of such systems; to revise such systems when deemed necessary, and to
report to the Legislature at periodic times the extent to which
each office is maintaining such systems, along with such
recommendations to the Legislature for improvement as seem
desirable;

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

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

(e) To postaudit and, when deemed necessary, preaudit
and investigate separately the financial affairs of (i) the
offices, boards and commissions of county governments and any
departments and institutions thereof and therein; (ii) public
school districts, departments of education and junior college
districts; and (iii) any other local offices or agencies which
share revenues derived from taxes or fees imposed by the State
Legislature or receive grants from revenues collected by
governmental divisions of the state; the cost of such audits,
investigations or other services to be paid as follows: Such part
shall be paid by the state from appropriations made by the
Legislature for the operation of the State Department of Audit as
may exceed the sum of Thirty Dollars ($30.00) per man hour for the
services of each staff person engaged in performing the audit or
other service, which sum shall be paid by the county, district,
department, institution or other agency audited out of its general
fund or any other available funds from which such payment is not
prohibited by law.

Each school district in the state 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, except that, beginning with audits of fiscal
year 2010 activity, the State Auditor shall conduct the audit of
each school district at least once every four (4) years. If
financial and personnel resources are not made available to the
State Auditor for the purpose of ensuring that school districts
are audited by the State Auditor at least once every four (4)
years then, beginning with the audits of fiscal year 2010
activity, no certified public accountant shall be selected to
perform the annual audit of a school district who has audited that
district for three (3) or more consecutive years previously.
Certified public accountants shall be selected in a manner
determined by the State Auditor. The school district shall have
the responsibility to pay for the audit, including the review by
the State Auditor of audits performed by certified public
accountants;

(f) To postaudit and, when deemed necessary, preaudit
and investigate the financial affairs of the levee boards;
agencies created by the Legislature or by executive order of the
Governor; profit or nonprofit business entities administering
programs financed by funds flowing through the State Treasury or
through any of the agencies of the state, or its subdivisions; and
all other public bodies supported by funds derived in part or
wholly from public funds, except municipalities which annually
submit an audit prepared by a qualified certified public
accountant using methods and procedures prescribed by the
department;
(g) To make written demand, when necessary, for the recovery of any amounts representing public funds improperly withheld, misappropriated and/or otherwise illegally expended by an officer, employee or administrative body of any state, county or other public office, and/or for the recovery of the value of any public property disposed of in an unlawful manner by a public officer, employee or administrative body, such demands to be made (i) upon the person or persons liable for such amounts and upon the surety on official bond thereof, and/or (ii) upon any individual, partnership, corporation or association to whom the illegal expenditure was made or with whom the unlawful disposition of public property was made, if such individual, partnership, corporation or association knew or had reason to know through the exercising of reasonable diligence that the expenditure was illegal or the disposition unlawful. Such demand shall be premised on competent evidence, which shall include at least one (1) of the following: (i) sworn statements, (ii) written documentation, (iii) physical evidence, or (iv) reports and findings of government or other law enforcement agencies. Other provisions notwithstanding, a demand letter issued pursuant to this subsection shall remain confidential by the State Auditor until the individual against whom the demand letter is being filed has been served with a copy of such demand letter. If, however, such individual cannot be notified within fifteen (15) days using reasonable means and due diligence, such notification shall be made to the individual's bonding company, if he or she is bonded. Each such demand shall be paid into the proper treasury of the state, county or other public body through the office of the department in the amount demanded within thirty (30) days from the date thereof, together with interest thereon in the sum of one percent (1%) per month from the date such amount or amounts were improperly withheld, misappropriated and/or otherwise illegally expended. In the event, however, such person or persons or such
surety shall refuse, neglect or otherwise fail to pay the amount
 demanded and the interest due thereon within the allotted thirty
(30) days, the State Auditor shall have the authority and it shall
be his duty to institute suit, and the Attorney General shall
prosecute the same in any court of the state to the end that there
shall be recovered the total of such amounts from the person or
persons and surety on official bond named therein; and the amounts
so recovered shall be paid into the proper treasury of the state,
county or other public body through the State Auditor. In any
case where written demand is issued to a surety on the official
bond of such person or persons and the surety refuses, neglects or
otherwise fails within one hundred twenty (120) days to either pay
the amount demanded and the interest due thereon or to give the
State Auditor a written response with specific reasons for
nonpayment, then the surety shall be subject to a civil penalty in
an amount of twelve percent (12%) of the bond, not to exceed Ten
Thousand Dollars ($10,000.00), to be deposited into the State
General Fund;

(h) To investigate any alleged or suspected violation
of the laws of the state by any officer or employee of the state,
county or other public office in the purchase, sale or the use of
any supplies, services, equipment or other property belonging
thereto; and in such investigation to do any and all things
necessary to procure evidence sufficient either to prove or
disprove the existence of such alleged or suspected violations.
The Department of Investigation of the State Department of Audit
may investigate, for the purpose of prosecution, any suspected
criminal violation of the provisions of this chapter. For the
purpose of administration and enforcement of this chapter, the
enforcement employees of the Department of Investigation of the
State Department of Audit have the powers of a law enforcement
officer of this state, and shall be empowered to make arrests and
to serve and execute search warrants and other valid legal process
anywhere within the State of Mississippi. All enforcement employees of the Department of Investigation of the State Department of Audit hired on or after July 1, 1993, shall be required to complete the Law Enforcement Officers Training Program and shall meet the standards of the program;

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

(j) In any instances in which the State Auditor is or shall be authorized or required to examine or audit, whether preaudit or postaudit, any books, ledgers, accounts or other records of the affairs of any public hospital owned or owned and operated by one or more political subdivisions or parts thereof or any combination thereof, or any school district, including activity funds thereof, it shall be sufficient compliance therewith, in the discretion of the State Auditor, that such examination or audit be made from the report of any audit or other examination certified by a certified public accountant and prepared by or under the supervision of such certified public accountant. Such audits shall be made in accordance with generally accepted standards of auditing, with the use of an audit program prepared by the State Auditor, and final reports of such audits shall conform to the format prescribed by the State Auditor. All files, working papers, notes, correspondence and all other data compiled during the course of the audit shall be available, without cost, to the State Auditor for examination and
abstracting during the normal business hours of any business day. The expense of such certified reports shall be borne by the respective hospital, or any available school district funds other than minimum program funds, subject to examination or audit. The State Auditor shall not be bound by such certified reports and may, in his or their discretion, conduct such examination or audit from the books, ledgers, accounts or other records involved as may be appropriate and authorized by law;

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

(l) The State Auditor shall have the authority to establish training courses and programs for the personnel of the various state and local governmental entities under the jurisdiction of the Office of the State Auditor. The training courses and programs shall include, but not be limited to, topics on internal control of funds, property and equipment control and inventory, governmental accounting and financial reporting, and internal auditing. The State Auditor is authorized to charge a fee from the participants of these courses and programs, which fee shall be deposited into the Department of Audit Special Fund. State and local governmental entities are authorized to pay such fee and any travel expenses out of their general funds or any other available funds from which such payment is not prohibited by law;
(m) Upon written request by the Governor or any member of the State Legislature, the State Auditor may audit any state funds and/or state and federal funds received by any nonprofit corporation incorporated under the laws of this state;

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

SECTION 5. 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 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 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) lay persons. 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 of this state, in order for 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) 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 superintendent.

SECTION 6. 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 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 financial,
program of educational accountability and assessment of performance.

(b) Provide to local school 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 technical assistance in the development, implementation and administration of programs designed to keep children in school voluntarily and to prevent dropouts.

(2) 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 7. Section 37-9-18, Mississippi Code of 1972, is amended as follows:

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

(2) The State Auditor shall audit the financial records of school districts in accordance with Section 7-7-211(e). The State Auditor shall give reasonable notice to school districts regarding the times during which the State Auditor will perform such audits. In any fiscal year in which the State Auditor is not scheduled to perform an audit, the school board shall cause all the financial records of the superintendent of schools to be audited in accordance with Section 7-7-211(e). If the school board so elects by resolution adopted each year, the audit shall be performed by the State Auditor. Contracts for the audit of
public school districts shall be let by the school board in the
manner prescribed by the State Auditor. The audit shall be
conducted in accordance with generally accepted auditing standards
and generally accepted accounting principles, and the report
presented thereon shall be in accordance with generally accepted
accounting principles. If the Auditor’s opinion on the general
purpose financial statements is a disclaimer, as that term is
defined by generally accepted auditing standards, or if the State
Auditor determines the existence of serious financial conditions
in the district, the State Auditor shall immediately notify the
State Board of Education. Upon receiving the notice, the State
Superintendent of Public Education shall direct the school
district to immediately cease all expenditures until a financial
advisor is appointed by the state superintendent. However, if the
disclaimer is a result of conditions caused by Hurricane Katrina
2005 and applies to fiscal years 2005 and/or 2006, then the
Superintendent of Education may appoint a financial advisor, and
may direct the school district to immediately cease all
expenditures until a financial advisor is appointed. The
financial advisor shall be an agent of the State Board of
Education and shall be a certified public accountant or a
qualified business officer. The financial advisor shall, with the
approval of the State Board of Education:
(a) Approve or disapprove all expenditures and all
financial obligations of the district;
(b) Ensure compliance with any statutes and State Board
of Education rules or regulations concerning expenditures by
school districts;
(c) Review salaries and the number of all district
personnel and make recommendations to the local school board of
any needed adjustments. Should such recommendations necessitate
the reduction in local salary supplement, such recommended
reductions shall be only to the extent which will result in the
salaries being comparable to districts similarly situated, as
determined by the State Board of Education. The local school
board, in considering either a reduction in personnel or a
reduction in local supplements, shall not be required to comply
with the time limitations prescribed in Sections 37-9-15 and
37-9-105 and, further, shall not be required to comply with
Sections 37-19-11 and 37-19-7(1) in regard to reducing local
supplements and the number of personnel;
(d) Work with the school district's business office to
correct all inappropriate accounting procedures and/or uses of
school district funds and to prepare the school district's budget
for the next fiscal year;
(e) Report frequently to the State Board of Education
on the corrective actions being taken and the progress being made
in the school district. The financial advisor shall serve until
such time as corrective action and progress is being made in such
school district as determined by the State Board of Education with
the concurrence of the State Auditor, or until such time as an
interim conservator is assigned to such district by the State
Board of Education under Section 37-17-6. The school district
shall be responsible for all expenses associated with the use of
the financial advisor. If the audit report reflects a failure by
the school district to meet accreditation standards, the State
Board of Education shall proceed under Section 37-17-6; and
(f) If a financial advisor is appointed to a school
district in accordance with this subsection and it is determined
by the financial advisor and/or any other official of the school
district that an audit by a certified public accountant for that
district was deficient in any manner, the financial advisor and/or
any other official of the school district shall, within thirty
(30) days, refer the matter to the State Board of Public
Accountancy for follow-up and possible disciplinary action. Any
disciplinary action by the State Board of Public Accountancy with
regard to the certified public accountant shall, within thirty
(30) days after notifying such certified public accountant, be
reported to the Office of State Auditor.

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

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

(4) In the event the State Auditor does not perform the
audit examination, then the audit report of the school district
shall be reviewed by the State Auditor for compliance with
applicable state laws before final payment is made on the audit by
the school board. All financial records, books, vouchers,
cancelled checks and other financial records required by law to be
kept and maintained in the case of municipalities shall be
faithfully kept and maintained in the office of the superintendent of schools under the same provisions and penalties provided by law in the case of municipal officials.

SECTION 8. 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) 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.

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

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

37-18-5. (1) Based on the findings of the evaluation report and the results of the public meeting, the State Department of Education and the evaluation team leader shall assist the school
principal and other local school officials in the development of a school improvement plan to improve its deficiencies. A local parents/citizens advisory council shall be established by the evaluation team at the school in order to provide input and guidance into the development of the school improvement plan and its evaluation during the implementation period. Local parent-teacher associations and other community-based organizations shall have input in the selection of the parents/citizens advisory council. Where no active local parent-teacher group exists, the State Department of Education may request assistance from the Mississippi Parent-Teacher Association and other community-based organizations in the selection of the local parents/citizens advisory council. The local parents/citizens advisory council shall consist of representatives from each of the following local groups: (a) five (5) representatives of the local PTA, PTSA or other parent organization, (b) two (2) local elected officials or community activist, (c) two (2) students, (d) two (2) local business leaders. Persons who are employed by the local school district are not eligible for membership on the parents/citizens advisory council.

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

(3) The State Department of Education shall provide technical assistance and shall assist in identifying funding to the School At-Risk in the implementation of the school improvement plan, including the implementation of any recommended professional development plan, and the department may contract with the
institutions of higher learning to provide such technical assistance. The assistance team shall collaborate with school and school district employees in the implementation and monitoring of the school improvement plan and the State Department of Education shall ensure that a report is issued monthly to the local school board and the local parents/citizens advisory council.

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

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

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