MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Bennett To: Education

HOUSE BILL NO. 501

AN ACT TO AMEND SECTIONS 37-16-3, 37-16-5, 37-17-6, 37-17-11, 37-17-17, 37-177-1, 37-177-3, 37-177-9 AND 37-177-11, MISSISSIPPI CODE OF 1972, WHICH ARE PROVISIONS RELATED TO THE STATEWIDE TESTING PROGRAM, THE STATEWIDE ACCOUNTABILITY MODEL AND THE LITERACY-BASED PROMOTION ACT, TO WAIVE THE REQUIREMENT OF THEIR APPLICABILITY DURING THE 2020-2021 SCHOLASTIC YEAR; TO PROVIDE FOR THE REPEAL OF THOSE WAIVERS ON JULY 1, 2022; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 37-16-3, Mississippi Code of 1972, is amended as follows:

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

(a) Establish, with the approval of the State Board of Education, minimum performance standards related to the goals for education contained in the state's plan including, but not limited to, basic skills in reading, writing and mathematics. The minimum

performance standards shall be approved by April 1 in each year they are established.

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

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

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

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

(f) In case of an allegation of a testing irregularity that prompts a need for an investigation by the Department of

Education, the department may, in its discretion, take complete control of the statewide test administration in a school district or any part thereof, including, but not limited to, obtaining control of the test booklets and answer documents. In the case of any verified testing irregularity that jeopardized the security and integrity of the test(s), validity or the accuracy of the test results, the cost of the investigation and any other actual and necessary costs related to the investigation paid by the Department of Education shall be reimbursed by the local school district from funds other than federal funds, Mississippi Adequate Education Program funds, or any other state funds within six (6) months from the date of notice by the department to the school district to make reimbursement to the department.

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

(3) Within five (5) days of completing the administration of a statewide test, the principal of the school where the test was administered shall certify under oath to the State Department of Education that the statewide test was administered in strict accordance with the Requirements of the Mississippi Statewide Assessment System as adopted by the State Board of Education. The principal's sworn certification shall be set forth on a form developed and approved by the Department of Education. If, following the administration of a statewide test, the principal has reason to believe that the test was not administered in strict accordance with the Requirements of the Mississippi Statewide Assessment System as adopted by the State Board of Education, the principal shall submit a sworn certification to the Department of Education setting forth all information known or believed by the principal about all potential violations of the Requirements of the Mississippi Statewide Assessment System as adopted by the State Board of Education. The submission of false information or false certification to the Department of Education by any licensed educator may result in licensure disciplinary action pursuant to Section 37-3-2 and criminal prosecution pursuant to Section 37-16-4.

(4) The provisions of this section shall not be applicable during the 2020-2021 scholastic year. This subsection shall stand repealed on July 1, 2022.

SECTION 2. Section 37-16-5, Mississippi Code of 1972, is amended as follows:

37-16-5. (1) The school board of every district in this state shall periodically assess student performance and achievement in each school. Such assessment programs shall be based upon local goals and objectives which are compatible with the state's plan for education and which supplement the minimum performance standards approved by the State Board of Education. Data from district assessment programs shall be provided to the State Department of Education when such data is required in order to evaluate specific instructional programs or processes or when the data is needed for other research or evaluation projects. Each district may provide acceptable, compatible district assessment data to substitute for any assessment data needed at the state level when the State Department of Education certifies that such data is acceptable for the purposes of Section 37-16-3.

(2) The provisions of subsection (1), which permits school districts to provide acceptable, compatible district assessment data to substitute for any assessment data needed at the state level when the State Department of Education certifies that such data is acceptable for the purposes of Section 37-16-3, shall not be applicable during the 2020-2021 scholastic year. This subsection shall stand repealed on July 1, 2022.

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 noncharter public elementary and secondary schools shall be accredited under this system.

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

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

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

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

(c) The assignment of certified school librarians to the particular schools shall be at the discretion of the local school district. No individual shall be employed as a certified

school librarian without appropriate training and certification as a school librarian by the State Department of Education.

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

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

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

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

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

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

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

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

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

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

(g) A determination of which schools are failing to meet their standards and a determination of the appropriate role of the State Board of Education and the State Department of Education in providing assistance and initiating possible intervention. A failing district is a district that fails to meet both the absolute student achievement standards and the rate of annual growth expectation standards as set by the State Board of Education for two (2) consecutive years. The State Board of Education shall establish the level of benchmarks by which absolute student achievement and growth expectations shall be assessed. In setting the benchmarks for school districts, the State Board of Education may also take into account such factors as graduation rates, dropout rates, completion rates, the extent to which the school or district employs qualified teachers in every classroom, and any other factors deemed appropriate by the State Board of Education. The State Board of Education, acting through the State Department of Education, shall apply a simple

"A," "B," "C," "D" and "F" designation to the current school and school district statewide accountability performance classification labels beginning with the State Accountability Results for the 2011-2012 school year and following, and in the school, district and state report cards required under state and federal law. Under the new designations, a school or school district that has earned a "Star" rating shall be designated an "A" school or school district; a school or school district that has earned a "High-Performing" rating shall be designated a "B" school or school district; a school or school district that has earned a "Successful" rating shall be designated a "C" school or school district; a school or school district that has earned an "Academic Watch" rating shall be designated a "D" school or school district; a school or school district that has earned a "Low-Performing," "At-Risk of Failing" or "Failing" rating shall be designated an "F" school or school district. Effective with the implementation of any new curriculum and assessment standards, the State Board of Education, acting through the State Department of Education, is further authorized and directed to change the school and school district accreditation rating system to a simple "A," "B," "C," "D," and "F" designation based on a combination of student achievement scores and student growth as measured by the statewide testing programs developed by the State Board of Education pursuant to Chapter 16, Title 37, Mississippi Code of 1972. In any statute or regulation containing the former

accreditation designations, the new designations shall be applicable;

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

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

(5) (a) Effective with the 2013-2014 school year, the State Department of Education, acting through the Mississippi Commission on School Accreditation, shall revise and implement a single "A" through "F" school and school district accountability system complying with applicable federal and state requirements in order to reach the following educational goals:

(i) To mobilize resources and supplies to ensure that all students exit third grade reading on grade level by 2015;

(ii) To reduce the student dropout rate to thirteen percent (13%) by 2015; and

(iii) To have sixty percent (60%) of students scoring proficient and advanced on the assessments of the Common Core State Standards by 2016 with incremental increases of three percent (3%) each year thereafter.

(b) The State Department of Education shall combine the state school and school district accountability system with the federal system in order to have a single system.

(c) The State Department of Education shall establish five (5) performance categories ("A," "B," "C," "D" and "F") for the accountability system based on the following criteria:

(i) Student Achievement: the percent of students proficient and advanced on the current state assessments;

(ii) Individual student growth: the percent of students making one (1) year's progress in one (1) year's time on the state assessment, with an emphasis on the progress of the lowest twenty-five percent (25%) of students in the school or district;

(iii) Four-year graduation rate: the percent of students graduating with a standard high school diploma in four (4) years, as defined by federal regulations;

(iv) Categories shall identify schools as Reward ("A" schools), Focus ("D" schools) and Priority ("F" schools). If at least five percent (5%) of schools in the state are not graded as "F" schools, the lowest five percent (5%) of school grade point designees will be identified as Priority schools. If at least ten

percent (10%) of schools in the state are not graded as "D" schools, the lowest ten percent (10%) of school grade point designees will be identified as Focus schools;

(v) The State Department of Education shall discontinue the use of Star School, High-Performing, Successful, Academic Watch, Low-Performing, At-Risk of Failing and Failing school accountability designations;

(vi) The system shall include the federally compliant four-year graduation rate in school and school district accountability system calculations. Graduation rate will apply to high school and school district accountability ratings as a compensatory component. The system shall discontinue the use of the High School Completer Index (HSCI);

(vii) The school and school district accountability system shall incorporate a standards-based growth model, in order to support improvement of individual student learning;

(viii) The State Department of Education shall discontinue the use of the Quality Distribution Index (QDI);

(ix) The State Department of Education shall determine feeder patterns of schools that do not earn a school grade because the grades and subjects taught at the school do not have statewide standardized assessments needed to calculate a school grade. Upon determination of the feeder pattern, the department shall notify schools and school districts prior to the

release of the school grades beginning in 2013. Feeder schools will be assigned the accountability designation of the school to which they provide students;

(x) Standards for student, school and school district performance will be increased when student proficiency is at a seventy-five percent (75%) and/or when sixty-five percent (65%) of the schools and/or school districts are earning a grade of "B" or higher, in order to raise the standard on performance after targets are met.

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

(7) 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.

(8) 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.

(9) [Deleted]

(10) 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 (15) 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 (15) of this section have been invoked.

(11) 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.

(12) (a) If the recommendations for corrective action are not taken by the local school district or if the deficiencies are not removed by the end of the probationary period, the Commission on School Accreditation shall conduct a hearing to allow the affected school district to present evidence or other reasons why its accreditation should not be withdrawn. Additionally, if the local school district violates accreditation standards that have been determined by the policies and procedures of the State Board of Education to be a basis for withdrawal of school district's accreditation without a probationary period, the Commission on School Accreditation shall conduct a hearing to allow the affected school district to present evidence or other reasons why its

accreditation should not be withdrawn. After its consideration of the results of the hearing, the Commission on School Accreditation shall be authorized, with the approval of the State Board of Education, to withdraw the accreditation of a public school district, and issue a request to the Governor that a state of emergency be declared in that district.

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

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

(i) Declare a state of emergency, under which some or all of state funds can be escrowed except as otherwise provided in Section 206, Constitution of 1890, until the board determines corrective actions are being taken or the deficiencies have been removed, or that the needs of students warrant the release of funds. The funds may be released from escrow for any program which the board determines to have been restored to standard even though the state of emergency may not as yet be terminated for the district as a whole;

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

(iii) Assign an interim superintendent, 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 (15) of this section;

(iv) Grant transfers to students who attend this school district so that they may attend other accredited schools

or districts in a manner that is not in violation of state or federal law;

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

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

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

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

(e) The parent or legal guardian of a school-age child who is enrolled in a school district whose accreditation has been withdrawn by the Commission on School Accreditation and without approval of that school district may file a petition in writing to a school district accredited by the Commission on School Accreditation for a legal transfer. The school district accredited by the Commission on School Accreditation may grant the transfer according to the procedures of Section 37-15-31(1)(b). In the event the accreditation of the student's home district is restored after a transfer has been approved, the student may continue to attend the transferee school district. The per-pupil amount of the adequate education program allotment, including the collective "add-on program" costs for the student's home school district shall be transferred monthly to the school district accredited by the Commission on School Accreditation that has granted the transfer of the school-age child.

(f) Upon the declaration of a state of emergency for any school district in which the Governor has previously declared a state of emergency, the State Board of Education may either:

(i) Place the school district into district transformation, in which the school district shall remain until it has fulfilled all conditions related to district transformation. If the district was assigned an accreditation rating of "D" or "F" when placed into district transformation, the district shall be eligible to return to local control when the school district has attained a "C" rating or higher for five (5) consecutive years, unless the State Board of Education determines that the district is eligible to return to local control in less than the five-year period;

(ii) Abolish the school district and administratively consolidate the school district with one or more existing school districts;

(iii) Reduce the size of the district and administratively consolidate parts of the district, as determined by the State Board of Education. However, no school district which is not in district transformation shall be required to accept additional territory over the objection of the district; or

(iv) Require the school district to develop and implement a district improvement plan with prescriptive guidance and support from the State Department of Education, with the goal of helping the district improve student achievement. Failure of the school board, superintendent and school district staff to implement the plan with fidelity and participate in the activities

provided as support by the department shall result in the school district retaining its eligibility for district transformation.

(g) There is established a Mississippi Recovery School District within the State Department of Education under the supervision of a deputy superintendent appointed by the State Superintendent of Public Education, who is subject to the approval by the State Board of Education. The Mississippi Recovery School District shall provide leadership and oversight of all school districts that are subject to district transformation status, as defined in Chapters 17 and 18, Title 37, Mississippi Code of 1972, and shall have all the authority granted under these two (2) chapters. The Mississippi Department of Education, with the approval of the State Board of Education, shall develop policies for the operation and management of the Mississippi Recovery School District. The deputy state superintendent is responsible for the Mississippi Recovery School District and shall be authorized to oversee the administration of the Mississippi Recovery School District, oversee the interim superintendent assigned by the State Board of Education to a local school district, hear appeals that would normally be filed by students, parents or employees and heard by a local school board, which hearings on appeal shall be conducted in a prompt and timely manner in the school district from which the appeal originated in order to ensure the ability of appellants, other parties and witnesses to appeal without undue burden of travel costs or loss

of time from work, and perform other related duties as assigned by the State Superintendent of Public Education. The deputy state superintendent is responsible for the Mississippi Recovery School District and shall determine, based on rigorous professional qualifications set by the State Board of Education, the appropriate individuals to be engaged to be interim superintendents and financial advisors, if applicable, of all school districts subject to district transformation status. After State Board of Education approval, these individuals shall be deemed independent contractors.

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

Department of Education acting through its appointed interim superintendent (name of interim superintendent)."

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 district transformation status and corrective actions recommended and being taken. Public notices issued under this section shall be subject to Section 13-3-31 and not contrary to other laws regarding newspaper publication.

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

(14) 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 interim superintendent the

authority to levy taxes except in accordance with presently existing statutory provisions.

(15) (a) Whenever the Governor declares a state of emergency in a school district in response to a request made under subsection (12) of this section, the State Board of Education, in its discretion, may assign an interim superintendent 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 superintendent 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 interim superintendent, will best suit the needs of the district;

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

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

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

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

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

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

The cost of the salary of the interim superintendent and any other actual and necessary costs related to district transformation status paid by the State Department of Education

shall be reimbursed by the local school district from funds other than adequate education program funds. The department shall submit an itemized statement to the superintendent of the local school district for reimbursement purposes, and any unpaid balance may be withheld from the district's adequate education program funds.

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

(b) In order to provide loans to school districts under a state of emergency or in district transformation status that have impairments related to a lack of financial resources, the School District Emergency Assistance Fund is created as a special fund in the State Treasury into which monies may be transferred or appropriated by the Legislature from any available public education funds. Funds in the School District Emergency Assistance Fund up to a maximum balance of Three Million Dollars ($3,000,000.00) annually shall not lapse but shall be available for expenditure in subsequent years subject to approval of the State Board of Education. Any amount in the fund in excess of Three Million Dollars ($3,000,000.00) at the end of the fiscal year shall lapse into the State General Fund or the Education Enhancement Fund, depending on the source of the fund.

The State Board of Education may loan monies from the School District Emergency Assistance Fund to a school district that is under a state of emergency or in district transformation status, in those amounts, as determined by the board, that are necessary to correct the district's impairments related to a lack of financial resources. The loans shall be evidenced by an agreement between the school district and the State Board of Education and shall be repayable in principal, without necessity of interest, to the School District Emergency Assistance Fund by the school district from any allowable funds that are available. The total amount loaned to the district shall be due and payable within five (5) years after the impairments related to a lack of financial resources are corrected. If a school district fails to make payments on the loan in accordance with the terms of the agreement between the district and the State Board of Education, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may withhold that district's adequate education program funds in an amount and manner that will effectuate repayment consistent with the terms of the agreement; the funds withheld by the department shall be deposited into the School District Emergency Assistance Fund.

The State Board of Education shall develop a protocol that will outline the performance standards and requisite timeline deemed necessary for extreme emergency measures. If the State Board of Education determines that an extreme emergency exists,

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

(16) If a majority of the membership of the school board of any school district resigns from office, the State Board of Education shall be authorized to assign an interim superintendent, who shall be responsible for the administration, management and operation of the school district until the time as new board members are selected or the Governor declares a state of emergency in that school district under subsection (12), whichever occurs first. In that case, the State Board of Education, acting through the interim superintendent, shall have all powers which were held by the previously existing school board, and may take any action as prescribed in Section 37-17-13 and/or one or more of the actions authorized in this section.

(17) (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 (12) or (15) of this section, including the appointment of an interim superintendent. The State Board of Education shall also have the authority to issue a written request with documentation to the Governor asking that the office of the superintendent of the school district be subject to recall. If the Governor declares that the office of the superintendent of the school district is subject to recall, the local school board or the county election commission, as the case may be, shall take the following action:

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

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

If a majority of those voting on the question votes against retaining the superintendent in office, a vacancy shall exist which shall be filled in the manner provided by law; otherwise,

the superintendent shall remain in office for the term of that office, and at the expiration of the term shall be eligible for qualification and election to another term or terms.

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

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

(i) If the members of the local school board are elected to office, in those years in which the specific member's office is not up for election, the name of the school board member shall be submitted by the State Board of Education to the county election commission, and the county election commission at a special election shall submit the question to the voters eligible

to vote for the particular member's office within the county or school district, as the case may be, and the special election shall be held within sixty (60) days from notification by the State Board of Education. The ballot shall read substantially as follows:

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

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

The board of supervisors shall make those appointments in the manner provided by law for filling vacancies on the school board, and the appointed members shall serve until the office is filled at the next regular special election or general election.

(ii) If the local school board is an appointed school board, the name of all school board members shall be submitted as a collective board by the president of the municipal or county governing authority, as the case may be, at the next regular meeting of the governing authority for retention in office or dismissal from office. If a majority of the governing authority voting on the question vote against retaining the board in office, a vacancy shall exist in each school board member's office, which shall be filled as provided by law; otherwise, the members of the appointed school board shall remain in office for the duration of their term of appointment, and those members may be reappointed.

(iii) If the local school board is comprised of both elected and appointed members, the elected members shall be subject to recall in the manner provided in subparagraph (i) of this paragraph (b), and the appointed members shall be subject to recall in the manner provided in subparagraph (ii).

(18) 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.

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

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

(20) 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.

(21) If a local school district is determined as failing and placed into district transformation status for reasons authorized

by the provisions of this section, the interim superintendent 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 district transformation status to the deputy superintendent. A copy of the interim superintendent's corrective action plan shall also be filed with the State Board of Education.

(22) The provisions of this section shall not be applicable during the 2020-2021 scholastic year. This subsection shall stand repealed on July 1, 2022.

SECTION 4. Section 37-17-11, Mississippi Code of 1972, is amended as follows:

37-17-11. (1) The State Board of Education, in its discretion, may exempt any school district meeting the highest levels of state accreditation standards, as defined by the State Board of Education, from any compulsory standard of accreditation. However, if the standard of accreditation is an educational policy required by statute, any such exemption shall only be made if specifically authorized by law.

(2) The provisions of this section shall not be applicable during the 2020-2021 scholastic year. This subsection shall stand repealed on July 1, 2022.

SECTION 5. Section 37-17-17, Mississippi Code of 1972, is amended as follows:

37-17-17. (1) There is created the Mississippi Achievement School District for the purpose of transforming persistently failing public schools and districts throughout the state into quality educational institutions. The Mississippi Achievement School District shall be a statewide school district, separate and distinct from all other school districts but not confined to any specified geographic boundaries, and may be comprised of any public schools or school districts in the state which, during two (2) consecutive school years, are designated an "F" school or district by the State Board of Education under the accountability rating system or which have been persistently failing and chronically underperforming.

(2) The Mississippi Achievement School District shall be governed by the State Board of Education.

(3) The State Board of Education shall obtain suitable office space to serve as the administrative office of the school district.

(4) The State Board of Education shall select an individual to serve as superintendent of the Mississippi Achievement School District. The superintendent must be deemed by the board to be highly qualified with a demonstrable track record for producing results in a context relevant to that of Mississippi Achievement School District schools. The superintendent of the Mississippi Achievement School District shall exercise powers and duties that

would afford significant autonomy but are bound by the governance of the State Board of Education.

(5) (a) Each public school or district in the state which, during each of two (2) consecutive school years or during two (2) of three (3) consecutive school years, receives an "F" designation by the State Board of Education under the accountability rating system or has been persistently failing as defined by the State Board of Education may be absorbed into and become a part of the Mississippi Achievement School District. All eligible public schools and districts shall be prioritized by the Mississippi Achievement School District according to criteria set by the Mississippi Achievement School District and publicized prior to the annual release of accountability rating data. The Mississippi Achievement School District shall takeover only the number of schools and districts for which it has the capacity to serve. The transfer of the school's/district's governance from the local school district to the Mississippi Achievement School District shall take effect upon the approval of the State Board of Education unless, in the sole determination of the Mississippi Achievement School District, the transition may be more smoothly accomplished through a gradual transfer of control. If the Mississippi Achievement School District elects not to assume complete control of a school or district immediately after that school receives an "F" designation during each of two (2) consecutive school years or during two (2) of the three (3)

consecutive school years, the State Board of Education shall prescribe the process and timetable by which the school or district shall be absorbed; however, in no event may the transfer of the school or district to the Mississippi Achievement School District be completed later than the beginning of the school year next succeeding the year during which the school or district receives the "F" designation. School districts that are eligible to be absorbed by the Achievement School District, but are not absorbed due to the capacity of the Achievement School District, shall develop and implement a district improvement plan with prescriptive guidance and support from the Mississippi Department of Education, with the goal of helping the district improve student achievement. Failure of the school board, superintendent and school district staff to implement the plan with fidelity and participate in the activities provided as support by the department shall result in the school district retaining its eligibility for the Mississippi Achievement School District.

(b) The State Board of Education shall adopt rules and regulations governing the operation of the Mississippi Achievement School District.

(c) Designations assigned to schools or districts under the accountability rating system by the State Board of Education before the 2015-2016 school year may not be considered in determining whether a particular school or district is subject to being absorbed by the Mississippi Achievement School District.

During the 2017-2018 school year, any school or district receiving an "F" designation after also being designated an "F" school or district in the 2015-2016 and 2016-2017 school years may be absorbed immediately by the Mississippi Achievement School District, upon approval of the State Board of Education.

(d) The school district from which an "F" school or district is being absorbed must cooperate fully with the Mississippi Achievement School District and the State Board of Education in order to provide as smooth a transition as possible in the school's/district's governance and operations for the students enrolled in the school or district. Upon completion of the transfer of a school or district to the Mississippi Achievement School District, the school or district shall be governed by the rules, regulations, policies and procedures established by the State Board of Education specifically for the Mississippi Achievement School District, and the school or district shall no longer be under the purview of the school board of the local school district. In the event of the transfer of governance and operations of a school district, the State Board of Education shall abolish the district as prescribed in Section 37-17-13.

(e) Upon the transfer of the school or school district to the Mississippi Achievement School District, the individual appointed by the State Board of Education to serve as superintendent for the Mississippi Achievement School District

shall be responsible for the administration, management and operation of the school or school district, including the following activities: (i) approving or denying all financial obligations of the school or school district; (ii) approving or denying the employment, termination, nonrenewal and reassignment of all licensed and nonlicensed personnel; (iii) approving or denying contractual agreements and purchase orders; (iv) approving or denying all claim dockets and the issuance of checks; (v) supervising the day-to-day activities of the school or school district's staff in a manner which in the determination of the Mississippi Achievement School District will best suit the needs of the school or school district; (vi) approving or denying all athletic, band and other extracurricular activities and any matters related to those activities; (vii) honoring any reasonable financial commitment of the district being absorbed; and (viii) reporting periodically to the State Board of Education on the progress or lack of progress being made in the school or school district to improve the school or school district's impairments.

(f) Upon attaining and maintaining a school or district accountability rating of "C" or better under the State Department of Education's accountability rating system for five (5) consecutive years, the State Board of Education may decide to revert the absorbed school or district back to local governance, provided the school or school(s) in question are not conversion charter schools. "Local governance" may include a traditional

school board model of governance or other new form of governance such as mayoral control, or other type of governance. The State Board of Education shall determine the best form of local governance and school board composition after soliciting the input of local citizens and shall outline a process for establishing the type of governance selected. The manner and timeline for reverting a school or district back to local control shall be at the discretion of the State School Board, but in no case shall it exceed five (5) years.

(g) The provisions of this subsection shall not be applicable during the 2020-2021 scholastic year. This paragraph (g) shall stand repealed on July 1, 2022.

(6) The Superintendent of the Mississippi Achievement School District shall hire those persons to be employed as principals, teachers and noninstructional personnel in schools or districts absorbed into the Mississippi Achievement School District. Only highly qualified individuals having a demonstrable record of success may be selected by the superintendent for such positions in the Mississippi Achievement School District. The superintendent may choose to continue the employment of any person employed in an "F" rated school when the school or district is absorbed into the Mississippi Achievement School District; alternatively, the superintendent may elect not to offer continued employment to a person formerly employed at a school or district that is absorbed into the Mississippi Achievement School District.

Any persons employed by the Mississippi Achievement School District shall not be subject to Sections 37-9-101 through 37-9-113.

(7) (a) The Mississippi Achievement School District may use a school building and all facilities and property that is a part of a school and recognized as part of the facilities or assets of the school before it is absorbed into the Mississippi Achievement School District. In addition, the Mississippi Achievement School District shall have access to those additional facilities that typically were available to that school or district, its students, faculty and staff before its absorption by the Mississippi Achievement School District. Use of facilities by a school or district in the Mississippi Achievement School District must be unrestricted and free of charge. However, the Mississippi Achievement School District shall be responsible for providing routine maintenance and repairs necessary to maintain the facilities in as good a condition as when the right of use was acquired by the Mississippi Achievement School District. The Mississippi Achievement School District shall be responsible for paying all utilities at the facilities used for the absorbed school. Any fixtures, improvements and tangible assets added to a school building or facility by the Mississippi Achievement School District must remain at the school or district building or facility if the school or district is returned to local governance.

(b) The State Board of Education shall include in the rules and regulations adopted pursuant to subsection (5) of this section specific provisions addressing the rights and responsibilities of the Mississippi Achievement School District relating to the real and personal property of a school or district that is absorbed into the Mississippi Achievement School District.

(8) (a) The Mississippi Achievement School District shall certify annually to the State Board of Education in which a Mississippi Achievement School District school or district is located the number of students residing in the school district which are enrolled in that school or district.

(b) Whenever an increase in funding is requested by the school board for the support of schools within a particular school district absorbed into the Mississippi Achievement School District, the State Board of Education and the superintendent for the Mississippi Achievement School District shall hold a public meeting in the local municipality having jurisdiction of the absorbed school district to allow input of local residents on the matter, and subsequent to the conclusion of such meeting, the board of the Mississippi Achievement School District shall submit its request for ad valorem increase in dollars to the local governing authority having jurisdiction over the absorbed school district for approval of the request for increase in ad valorem tax effort. In a district in which a school or schools but not the entire district is absorbed into the Mississippi Achievement

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

(c) If an entire school district is absorbed into the Mississippi Achievement School District, the tax collector shall pay the amounts as described in paragraph (b) of this subsection,

with the exception that all funds should transfer, including taxes levied for the retirement of the local school district's bonded indebtedness or short-term notes and any taxes levied for the support of vocational-technical education programs. The Mississippi Achievement School District shall pay funds raised to retire the district's debts to the appropriate creditors on behalf of the former district.

(9) (a) The State Department of Education shall make payments to the Mississippi Achievement School District for each student in average daily membership at a Mississippi Achievement School District school equal to the state share of the education funding program payments for each student in average daily attendance at the local school district or former local school district in which that school is located. In calculating the local contribution for purposes of determining the state share of the education funding program payments, the department shall deduct the pro rata local contribution of the school district or former school district in which the student resides, to be determined as provided in Section 37-151-7(2)(a).

(b) Payments made pursuant to this subsection by the State Department of Education must be made at the same time and in the same manner as education funding program payments are made to all other school districts under Sections 37-151-101 and 37-151-103. Amounts payable to the Mississippi Achievement School District must be determined by the State Department of Education

in the same manner that such amounts are calculated for all other school districts under the education funding program.

(10) The Mississippi Achievement School District shall be considered a local educational agency for the same purposes and to the same extent that all other school districts in the state are deemed local educational agencies under applicable federal laws.

(11) The Mississippi Achievement School District may receive donations or grants from any public or private source, including any federal funding that may be available to the school district or individual schools within the Mississippi Achievement School District.

(12) The Legislature may appropriate sufficient funding to the State Department of Education for the 2017 fiscal year for the specific purpose of funding the start-up, operational and any other required costs of the Mississippi Achievement School District during the 2017-2018 school year.

SECTION 6. Section 37-177-1, Mississippi Code of 1972, is amended as follows:

37-177-1. (1) There is established an act prohibiting social promotion to be known as the "Literacy-Based Promotion Act," the purpose of which is to improve the reading skills of kindergarten and first- through third-grade students enrolled in the public schools so that every student completing the third grade is able to read at or above grade level. It is the intent of the Legislature, in establishing this act, to ensure that:

each kindergarten and first- through third-grade student's progression is determined, in part, upon the student's proficiency in reading; the policies of local school boards facilitate this proficiency; and each student and the student's parent or legal guardian is informed of the student's academic progress.

(2) Each public school student who exhibits a substantial deficiency in reading at any time, as demonstrated through performance on a reading screener approved or developed by the State Department of Education or through locally determined assessments and teacher observations conducted in kindergarten and grades 1 through 3 or through statewide end-of-year assessments or approved alternate yearly assessments in Grade 3, must be given intensive reading instruction and intervention immediately following the identification of the reading deficiency. The intensive reading instruction and intervention must be documented for each student in an individual reading plan, which includes, at a minimum, the following:

(a) The student's specific, diagnosed reading skill deficiencies as determined (or identified) by diagnostic assessment data;

(b) The goals and benchmarks for growth;

(c) How progress will be monitored and evaluated;

(d) The type of additional instructional services and interventions the student will receive;

(e) The research-based reading instructional programming the teacher will use to provide reading instruction, addressing the areas of phonemic awareness, phonics, fluency, vocabulary and comprehension;

(f) The strategies the student's parent is encouraged to use in assisting the student to achieve reading competency; *** * ***

(g) Any additional services the teacher deems available and appropriate to accelerate the student's reading skill development *** * ***; and

(h) The assessment required under the provisions of this subsection (2) shall not be required to be administered during the 2020-2021 scholastic year. This paragraph shall stand repealed on July 1, 2022.

(3) The universal reading screener or locally determined reading assessment may be given in the first thirty (30) days of the school year and repeated if indicated at midyear and at the end of the school year to determine student progression in reading in kindergarten through third grade. If it is determined that the student continues to have a reading deficiency, the student must be provided with continued intensive reading instruction and intervention by the school district until the reading deficiency is remedied. A student exhibiting continued reading deficiency with continued intensive interventions should be considered for exceptional criteria evaluation.

(4) A kindergarten or first-, second- or third-grade student identified with a deficiency in reading must be provided intensive interventions in reading to ameliorate the student's specific reading deficiency, as identified by a valid and reliable diagnostic assessment. The intensive intervention must include effective instructional strategies, and appropriate teaching methodologies necessary to assist the student in becoming a successful reader, able to read at or above grade level, and ready for promotion to the next grade. A kindergarten, first-, second- or third-grade student identified with a reading deficiency or not promoted may be placed in a transition class.

SECTION 7. Section 37-177-3, Mississippi Code of 1972, is amended as follows:

37-177-3. Immediately upon the determination of a reading deficiency, and subsequently with each quarterly progress report until the deficiency is remediated, the parent or legal guardian of a kindergarten or first-, second- or third-grade student who exhibits a substantial deficiency in reading must be notified in writing by the student's teacher of the following:

(a) That the student has been identified as having a substantial deficiency in reading;

(b) A description of the services that the school district currently is providing to the student;

(c) A description of the proposed supplemental instructional services and supports that are designed to remediate

the identified area of reading deficiency which the school district plans to provide the student, as outlined in the student's individual reading plan;

(d) (i) That if the student's reading deficiency is not remediated before the end of the student's third-grade year, the student will not be promoted to fourth grade unless a good cause exemption specified under Section 37-177-11 is met;

(ii) The provisions of subparagraph (i) of this paragraph (d) shall not be applicable during the 2020-2021 scholastic year. This subparagraph (ii) shall stand repealed on July 1, 2022;

(e) Strategies for parents and guardians to use in helping the student to succeed in reading proficiency; and

(f) That while the state annual accountability assessment for reading in third grade is the initial determinant, it is not the sole determiner of promotion and that approved alternative standardized assessments are available to assist the school district in knowing when a child is reading at or above grade level and ready for promotion to the next grade.

SECTION 8. Section 37-177-9, Mississippi Code of 1972, is amended as follows:

37-177-9. (1) A public school student may not be assigned a grade level based solely on the student's age or any other factors that constitute social promotion.

(2) Beginning in the 2014-2015 school year, if a student's reading deficiency is not remedied by the end of the student's third-grade year, as demonstrated by the student scoring at the lowest achievement level in reading on the state annual accountability assessment or on an approved alternative standardized assessment for third grade, the student shall not be promoted to fourth grade.

(3) Beginning in the 2018-2019 school year, if a student's reading deficiency is not remedied by the end of the student's third-grade year, as demonstrated by the student scoring above the lowest two (2) achievement levels in reading on the state annual accountability assessment or on an approved alternative standardized assessment for third grade, the student shall not be promoted to fourth grade.

(4) The provisions of this section shall not be applicable during the 2020-2021 scholastic year. This subsection shall stand repealed on July 1, 2022.

SECTION 9. Section 37-177-11, Mississippi Code of 1972, is amended as follows:

37-177-11. (1) A third-grade student who does not meet the academic requirements for promotion to the fourth grade may be promoted by the school district only for good cause. Good cause exemptions for promotion are limited to the following students:

(a) Limited English proficient students who have had less than two (2) years of instruction in an English Language Learner program;

(b) Students with disabilities whose individual education plan (IEP) indicates that participation in the statewide accountability assessment program is not appropriate, as authorized under state law;

(c) Students with a disability who participate in the state annual accountability assessment and who have an IEP or a Section 504 plan that reflects that the individual student has received intensive remediation in reading for more than two (2) years but still demonstrates a deficiency in reading or previously was retained in kindergarten or first, second or third grade;

(d) Students who demonstrate an acceptable level of reading proficiency on an alternative standardized assessment approved by the State Board of Education; and

(e) Students who have received intensive intervention in reading for two (2) or more years but still demonstrate a deficiency in reading and who previously were retained in kindergarten or first, second or third grade for a total of two (2) years and have not met exceptional education criteria. A student who is promoted to fourth grade with a good cause exemption shall be provided an individual reading plan as described in Section 37-177-1(2), which outlines intensive reading instruction and intervention informed by specialized diagnostic

information and delivered through specific reading strategies to meet the needs of each student so promoted. The school district shall assist schools and teachers in implementing reading strategies that research has shown to be successful in improving reading among students with persistent reading difficulties.

(2) A request for good cause exemptions for a third-grade student from the academic requirements established for promotion to fourth grade must be made consistent with the following:

(a) Documentation must be submitted from the student's teacher to the school principal which indicates that the promotion of the student is appropriate and is based upon the student's record. The documentation must consist of the good cause exemption being requested and must clearly prove that the student is covered by one (1) of the good cause exemptions listed in subsection (1)(a) through (e) of this section.

(b) The principal shall review and discuss the recommendations with the teacher and parents and make a determination as to whether or not the student should be promoted based on requirements set forth in this chapter. If the principal determines that the student should be promoted, based on the documentation provided, the principal must make the recommendation in writing to the school district superintendent, who, in writing, may accept or reject the principal's recommendation. The parents of any student promoted may choose that the student be retained

for one (1) year, even if the principal and district superintendent determines otherwise.

(3) The provisions of this section shall not be applicable during the 2020-2021 scholastic year. This subsection (3) shall stand repealed on July 1, 2022.

SECTION 10. This act shall take effect and be in force from and after its passage.