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Introduction to the Proposed Constitution

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MISSISSIPPI COLLEGE LAW REVIEW

INTRODUCTION TO THE PROPOSED CONSTITUTION

Ever since the struggling 13 colonies obtained their freedom from King George, after a long war of much hardship and privation, our proud boast has been that we live under a government of laws and not men. It is true, of course, that the law depends upon faithful public servants who must see that it is both respected and observed.

For the first time in the history of mankind, as far as I know, the United States of America and its member states have sought to put the law above the imperfections of human affairs by the adoption of written constitutions which define the powers of government and also prescribe its limitations.

For nearly 100 years, Mississippi has done the best it could with a constitution written in a different day and time, for circumstances then prevailing, but most long since outdated.

It has been my position that while the authors of the Constitution of 1890 were good, dedicated men, with the public welfare uppermost in mind, for more than 50 years, strenuous effort has been made, by outstanding statesmen of the likes of Governor Mike Sennett Conner, to inject as much life and efficacy as reasonably can be obtained in our organic law.

We seem nearer to it now than at any time in the past half century.

Governor William A. Allain, a good lawyer and well versed in constitutional law, named a special commission to study the changes and improvements needed in our Constitution. This was a representative group of men and women, from all walks of life, of many professions, of wide experience, who served without pay and defrayed their expenses.

After many hours, many days, weeks, and months of study, deliberation, and conferences in numerous public meetings, a proposed revision was completed.

This, of course, is only a model, something of a guideline, which is intended to be useful to the elected delegates of the people and

to the people themselves on the subject of ratification, entertaining this highly desirable goal.

I am most grateful to the Mississippi College Law Review for printing the product of these labors in unified form, all in one piece and all in one place. I think this is an outstanding contribution to the general welfare of the State of Mississippi as a government and to its inhabitants as people. I am most grateful.

/s/ J.P. Coleman

J.P. Coleman

Ackerman, Mississippi

October 23, 1987

A DRAFT OF A NEW CONSTITUTION
FOR THE STATE OF
MISSISSIPPI

CONSTITUTIONAL STUDY COMMISSION
DECEMBER, 1986

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PREAMBLE

We the people of the state of Mississippi, recognizing the rights and duties of this state as a part of the federal system of government, reaffirm our adherence to the Constitution of the United States of America; and in order to assure the state government power to protect individual rights to life, liberty and property; to promote the health, safety, education and welfare of the people, to maintain a representative and orderly government, that does not discriminate against the people because of race, gender, national origin, religion or ancestry; and to ensure domestic tranquility to ourselves and our posterity do ordain and establish this Constitution.

ARTICLE I

BILL OF RIGHTS

SECTION 1. All political power is vested in, and derived from, the people; all government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole.

SECTION 2. The people of this state have the inherent right to regulate the internal government, and to alter their constitution and form of government whenever they deem it necessary.

SECTION 3. All citizens of the United States who reside in this state are citizens of Mississippi.

SECTION 4. Freedom of speech and of the press shall be held inviolate and shall not be abridged. The rights of the people peaceably to assemble and to petition the government on any subject shall not be impaired.

SECTION 5. No religious test as a qualification for office shall be required and no preference shall be given by law to any religious sect or mode of worship. No state funds shall be appropriated toward the support of any elementary or secondary sectarian school. The free enjoyment of all religious sentiments and different modes of worship shall not be abridged. The rights secured by this Section shall not be construed to justify acts of licentiousness injurious to morals or dangerous to the peace and safety of the State or to exclude the Holy Bible or other religious scriptures from any use permitted by the United States Constitution in any public school of this state.

SECTION 6. No person shall be elected or appointed to office in this state for life, or during good behavior, but the term of all officers shall be for some specified period.

SECTION 7. The military shall be in strict subordination to the civil power.

SECTION 8. Every citizen shall have the right to keep and bear arms in defense of home, person or property or in aid of the civil power when legally summoned. The Legislature may regulate or forbid carrying concealed weapons.

SECTION 9. No person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection

of the law, nor be denied the enjoyment of civil rights or be discriminated against in the exercise of those rights because of race, gender, national origin, religion or ancestry.

SECTION 10. All courts shall be open; and all persons for an injury done them in their land, goods, person or reputation shall have remedy by due course of law, and right and justice shall be administered without sale, denial or delay.

SECTION 11. No person shall be debarred from prosecuting or defending any civil cause in which such person is a party, before any tribunal in the state, personally, or by counsel, or both.

SECTION 12. The right to trial by jury shall remain inviolate, but the Legislature may, by enactment, provide that in all civil suits tried in district trial courts, nine or more jurors may agree on a verdict to return it as the verdict of the jury.

SECTION 13. There shall be no slavery in this state. There shall be no involuntary servitude in this state except as punishment of crime, after conviction.

SECTION 14. Private property shall not be taken or damaged for public use, except on due compensation being first made to the owners of the property, in a manner to be prescribed by law; and whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be public shall be a judicial question, and as such, determined without regard to legislative assertion that the use is public.

SECTION 15. Ex post facto laws, or laws impairing the obligation of contracts, shall not be passed.

SECTION 16. There shall be no imprisonment for debt.

SECTION 17. No person shall, for any indictable offense, be proceeded against criminally by information, except in cases arising in the military when in actual service, or by leave of the court for misdemeanor in office or where a defendant represented by counsel by sworn statement waives indictment; but the Legislature, in cases not punishable by death or by imprisonment in the penitentiary, may dispense with the inquest of the grand jury, and may authorize prosecutions before such inferior court or courts as may be established, and the proceedings in such cases shall be regulated by law.

SECTION 18. The people shall be secure in their persons, houses, and possessions, from unreasonable seizure or search; and no warrant shall be issued without probable cause, supported by oath

or affirmation, specially designating the place to be searched and the person or thing to be seized.

SECTION 19. Excessive bail shall not be required, and all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses when the proof is evident or presumption great.

SECTION 20. The privilege of the writ of habeas corpus shall not be suspended without the authority of the Legislature, and then only in the case of rebellion or invasion when the public safety may require it.

SECTION 21. In all criminal prosecutions the accused shall have a right to be heard personally or by counsel, or both, to demand the nature and cause of the accusation, to be confronted by the witnesses, to have compulsory process for obtaining witnesses, and, in all prosecutions by indictment or information, a speedy and public trial by an impartial jury of the county where the offense was committed; and no persons shall be compelled to witness against themselves.

SECTION 22. Cruel or unusual punishment shall not be inflicted, nor excessive fines imposed.

SECTION 23. No person's life or liberty shall be twice placed in jeopardy for the same offense.

SECTION 24. The enumeration of rights in this constitution shall not be construed to deny nor impair others retained by, and inherent in, the people.

ARTICLE II

POWERS OF THE STATE AND THEIR DISTRIBUTION

SECTION 1. The powers of the government of the State of Mississippi shall be divided into three distinct branches, those which are legislative to one, those which are judicial to another, and those which are executive to another.

SECTION 2. No person or collection of persons, being one or belonging to one of these branches, shall exercise any power properly belonging to either of the others. The acceptance of an office in either of the branches shall, of itself, and at once, vacate any and all offices held by the person so accepting in either of the other branches.

ARTICLE III

BOUNDARIES OF THE STATE

SECTION 1. The State of Mississippi shall consist of all territory included within the boundaries described in the Act of Congress of March 1, 1817, together with all territory ceded to the State of Mississippi by subsequent Acts of Congress or by compacts or agreements with other states.

SECTION 2. The State of Mississippi, acting through general laws, shall have the power to consent to the acquisition of additional territory by this state and to enter into compacts and agreements concerning state boundaries.

ARTICLE IV

ELECTIONS AND FRANCHISE

SECTION 1. Every citizen at least eighteen (18) years of age and a resident of the state for at least thirty (30) days shall have the right to vote in the election of all officers who may be elected by the people and upon all questions that may be submitted to the voters. However, no person who has been convicted of a felony in this or any other state or in any court of the United States may register, remain registered or vote except upon completion of the sentence. No person who has been judicially determined to be mentally incompetent may register, remain registered, or vote unless the disability has been removed.

SECTION 2. No person who has been convicted of a felony in this or any other state or in any court of the United States and who has not been pardoned shall be eligible to hold any elective office or appointment of honor, profit or trust in this state.

SECTION 3. Voters shall be privileged from arrest or summons during their attendance at election except for the following acts: (a) any felony or (b) interference with the fair and orderly conduct of the election. Voters arrested for interference with the fair and orderly conduct of the election shall be given an opportunity to cast their votes prior to removal from the polling place.

SECTION 4. The state shall be apportioned into Congressional districts in conformity with the Constitution and Laws of the United

States. The Legislature may at any time, and shall not later than two years after each decennial census, adopt a joint resolution to reapportion the State into Congressional districts.

SECTION 5. Legislative districts shall be apportioned in the following manner:

The State shall be divided into as many legislative districts as there are members of each chamber. The state Senate shall consist of not more than fifty-two (52) senators, and the State House of Representatives shall consist of not more than one hundred twenty-two (122) representatives, the number of members in each house to be determined by the Legislature. Each district shall consist of contiguous territory, and all districts shall be apportioned in accordance with the requirements of the United States Constitution and shall be so nearly equal in population as it requires. The Legislature may at any time, and shall not later than two years after each decennial census, adopt a joint resolution to reapportion the State into legislative districts.

SECTION 6. Should the Legislature adjourn without adopting joint resolutions of apportionment required under either Section 4 or Section 5 of this Article, a five member commission consisting of the Chief Justice of the Supreme Court as chairman, the Secretary of State, the Attorney General, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall immediately convene and within one hundred twenty (120) days of the adjournment of the regular session apportion the Legislature in accordance with these provisions and prepare and file its plan of apportionment with the Office of the Secretary of State. The reapportionment plan shall be final upon such filing.

SECTION 7. The Legislature shall provide by law a method for the registration of voters and shall define residence for voting purposes. No one shall be allowed to vote or be eligible for elective office who is not duly registered. Suitable remedies by appeal, or otherwise, shall be provided by law to ensure the right to register and to prohibit illegal or improper registration.

SECTION 8. Secrecy of voting in all elections shall be preserved.

SECTION 9. The Legislature shall provide for the nomination of candidates, absentee balloting, the administration of elections and the certification of election returns.

SECTION 10. In all cases not otherwise provided for in this Constitution, the Legislature may determine the mode of filling vacan-

cies in all offices. In cases of emergency, provisional appointment may be made by the Governor, to continue until the vacancy is regularly filled.

ARTICLE V

THE LEGISLATURE

SECTION 1. The legislative power of this state shall be vested in the Legislature, except as reserved to the people through the initiative as provided in this Constitution. The Legislature shall be composed of a Senate and House of Representatives. Members of the Legislature shall be elected in 1991 and every subsequent fourth year, at the same time as the Governor is elected, as provided by law. Elections for members of the Legislature shall be held in the several districts.

SECTION 2. The people reserve to themselves the power to propose laws and to enact or reject such laws at the polls. This reserved power is the initiative.

- (a) The sponsors of an initiative petition shall incorporate in the petition either the full text of the laws proposed or an accurate summary. The petition shall be signed by a number of qualified voters equal to at least ten percent (10%) of the total votes cast in the most recent general election for Governor. Initiative petitions shall be filed with the Secretary of State.
- (b) Each law proposed by the initiative shall be submitted to the qualified voters by a ballot title which shall be descriptive but not argumentative or prejudicial and which shall be prepared by the Attorney General of the state, subject to judicial review. Any initiative proposal submitted to the voters shall become law only when approved by a majority of the votes cast on it, and shall take effect thirty (30) days after the date of the vote on it, unless the proposal itself otherwise provides.
- (c) The initiative shall not be used to enact laws making or repealing appropriations of public funds, dedicating revenues, creating courts or defining their jurisdictions

or prescribing their rules, naming or designating any person to hold a public office, or to enact or abrogate special or local laws.

- (d) No law adopted by the initiative by the vote of qualified voters under this section shall be repealed or amended by the Legislature within a period of three (3) years of adoption except by a two-thirds (2/3) majority of the elected members of each house.
- (e) If conflicting provisions of law submitted to the voters at the same elections are approved, the provision receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

SECTION 3. The Legislature shall meet at the seat of government in the regular limited session on the Tuesday after the first Monday in January of the year A.D. 1992, and annually thereafter, unless sooner convened by the Governor; provided, however, that such session shall be limited to a period of one hundred twenty-five (125) calendar days for the regular 1991 session and every fourth subsequent year, but ninety (90) calendar days for every other regular session. Provided further, that either house, by resolution with the other house concurring, and by a two-thirds vote of those present and voting in each house, may extend such limited session for a period of not more than thirty (30) days with no limit on the number of extensions to each session.

SECTION 4. A member of the Legislature must be at least twenty-one (21) years of age, a resident citizen of the state for three (3) years, and a qualified elector of the district to be represented at the time of qualifying as a candidate. The seat of a member of the Legislature shall be vacated on the member's removal from the district from which he was elected. The Governor shall issue writs of election to fill such vacancies which occur in either house of the Legislature, and the persons chosen shall hold their seats for the unexpired terms.

SECTION 5. The members of the Legislature shall severally receive from the state for their services, such salary and such allowances as may be prescribed by law, but no alteration of such salary shall take effect during the legislative term in which the alteration is made.

SECTION 6. No senator or representative, during the term for which he was elected, shall be eligible to any office of profit which shall

have been created, or the emoluments of which have been increased, during the term such senator or representative was in office, except to such offices as may be filled by an election of the people.

SECTION 7. No member of the Legislature shall use influence as a legislator for any personal gain, or take any fee or reward, or be counsel in any measure pending before either house of the Legislature under penalty of forfeiting their seat, upon proof satisfactory of the house of which such person is a member.

SECTION 8. Members of the Legislature, before entering upon the discharge of their duties, shall take the following oath: "I, _____, do solemnly swear (or affirm) that I will faithfully support the Constitution of the United States of America and the Constitution of the State of Mississippi; that I am not disqualified from holding office by the Constitution of this State; and I will faithfully discharge my duties as a legislator; and I will, as soon as practicable hereafter, carefully read the Constitution of this State, and will endeavor to note, and as a legislator to execute, all the requirements thereof imposed on the Legislature."

SECTION 9. With the exception of the Lieutenant Governor, each House shall elect its own officers, and each House shall be the final judge of the election and qualification of its officers. In all elections by the Legislature, the members shall vote individually and the vote shall be entered on the journals.

SECTION 10. The members of the Senate shall elect from among their number a president pro tempore who shall act in the absence or disability of the presiding officer. Beginning in 1992, no person shall be elected to the office of president pro tempore for more than two full successive legislative terms.

SECTION 11. The members of the House of Representatives shall elect from among their number a Speaker who shall be the presiding officer of the House of Representatives. Beginning in 1992, no person shall be elected to the office of Speaker of the House of Representatives for more than two full successive legislative terms.

SECTION 12. Rules Committees for each House shall be established in the following manner:

- (a) There shall be a Rules Committee of the Senate, which

shall consist of one member elected by caucus by the senators residing in each congressional district and such officers as the Senate shall by its rules establish.

- (b) There shall be a Rules Committee of the House of Representatives. The Speaker shall be ex-officio a voting member and chairman of the Committee, and there shall also be two members from each congressional district elected by caucus by the representatives residing in such district.
- (c) No committee, other than the rules committee in the Senate or the House of Representatives, shall consider the adoption and/or amendment of rules of procedure for the full Senate or House of Representatives, respectively, except that such rule changes in either house may be considered in the committee of the whole.

SECTION 13. Each house of the Legislature shall establish such committees as it shall deem necessary. No bill shall become law until it shall have been referred to a committee of each house and returned therefrom with a recommendation in writing, except as hereinafter provided. Adequate public notice of all committee hearings, with a clear statement of all subjects to be considered at each hearing, shall be published in advance.

- (a) A majority of the members of any standing committee of the Senate or the House of Representatives may, upon one (1) legislative day's notice to the presiding officer of the committee, by written petition setting forth the time and place of such meeting, call a meeting of the committee. In the absence of the chairman and vice chairman, the committee by majority vote may select a member to preside over the meeting.
- (b) A Majority of the members of any standing committee of the Senate or the House of Representatives may by written petition require the chairman of the committee to call up for immediate consideration any bill or resolution referred to the committee. In the event of the chairman's failure to comply with such written petition, any member chosen by the committee may call the bill or resolution up for consideration.

- (c) Bills or resolutions which have been introduced in the Senate or the House of Representatives or which have been received by one house following passage by the other house, shall be referred to committee by the end of the third legislative day after receipt from the other house. When a committee in either house to which a bill or resolution has been referred has not reported on the bill or resolution within ten (10) days from the date of referral, a majority of the members elected to that house may by recorded vote withdraw said bill or resolution from the committee and may refer the bill or resolution to another standing committee or to the committee of the whole.

SECTION 14. The Governor and all other civil officers of this state shall be liable to impeachment for bribery or any high crime or misdemeanor in office. The House of Representatives shall have the sole power of impeachment. Two-thirds of all members present must concur before an officer is impeached. All impeachments shall be tried by the Senate, and when sitting for that purpose, the senators shall be sworn to do justice according to law and the evidence. No person shall be convicted without the concurrence of two-thirds of all Senators present. Judgment in such cases shall extend not further than removal from office and disqualification to hold any office of honor, trust or profit in the state. The person convicted shall nevertheless be subject to indictment, trial judgment and punishment according to law.

When the Governor shall be tried, the Chief Justice of the Supreme Court shall preside, and when the Chief Justice is disabled, disqualified or refuses to act, the justices of the Supreme Court next oldest in commission shall preside.

SECTION 15. For any speech or debate in the Legislature, the members shall not be questioned in any other place.

SECTION 16. A majority of the members of each House shall constitute a quorum to do business; but a lesser number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each shall provide.

SECTION 17. Each house may determine rules of its own proceedings, except as otherwise provided in this Constitution. Each house may punish its members for disorderly behavior, and, with the concurrence of two-thirds of the members present, which two-thirds shall consist of not less than a majority of the members elected to that house, expel a member.

SECTION 18. Each house shall, from time to time, publish journals of its proceedings; and the yeas and nays on any question shall be entered on the journal, at the request of one-tenth of the members present; and the yeas and nays shall be entered on the journals on the final passage of every bill.

SECTION 19. Neither house shall adjourn or physically absent itself for more than three (3) days without the consent of the other house.

SECTION 20. Every bill introduced into the Legislature shall have a title, and the title shall indicate clearly the subject matter or matters of the proposed legislation. Each committee to which a bill may be referred shall express, in writing, its judgment of the sufficiency of the title of the bill, and whether the recommendation be that the bill does or does not pass. Bills may originate in either house, and be amended or rejected in the other. No bill reported by a committee in either house, or returned from the other house after being amended there, and no report of a committee or conference committee, shall be considered for final passage in either house until it has been printed and made available to all the members in final form for at least one whole legislative day, unless this requirement is suspended by unanimous consent of the members present and voting; and every bill, having passed both houses, shall be signed by the President of the Senate and the Speaker of the House of Representatives. Conference Reports shall not include subject matter not included in the bills under consideration as passed in either house.

SECTION 21. No law shall be revived or amended by reference to its title only, but the section or sections, as amended or revived, shall be inserted at length.

SECTION 22. No bill shall be so amended in its passage through either house as to change its original purpose, and no law shall be passed by the Legislature, except by bill, orders, votes, and resolutions of both houses, affecting the prerogatives and duties, or relating to adjournment, to amendments to this Constitution, to the investigation of public officers, and the like, shall not require the signature of the Governor; and such resolutions, orders and votes may empower legislative committees to administer oaths, to send for persons and papers, and generally to make legislative investigations effective.

SECTION 23. No amendment to bills by one house shall be concurred in by the other except by a vote of the majority of the mem-

bers thereof present and voting, taken by yeas and nays, and the names of those voting for and against recorded upon the journals and reports of committees of conference shall in like manner be adopted in each house.

SECTION 24. All votes on the final passage of any measure shall be subject to reconsideration for at least one whole legislative day, and no motion to reconsider such vote shall be disposed of adversely on the day on which the original vote was taken, except on the last day of the session.

SECTION 25. Except as provided by Article X, Section 8 of this Constitution, no law granting a donation or gratuity in favor of any person or object shall be enacted except by the concurrence of two-thirds of the elected members of each house of the Legislature, nor by any vote for a sectarian purpose or use.

SECTION 26. Every bill which shall pass both houses shall be presented to the Governor. The Governor shall indicate approval by signing the bill, but if the Governor does not approve the bill, it shall be returned, with stated objections, to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it. If after such reconsideration, two-thirds ($2/3$) of that house present and voting shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered; and if approved by two-thirds ($2/3$) of that house present and voting, it shall be determined by yeas and nays, and the names of the members voting for and against the bill entered on the journal of each house respectively. If the Governor approves the general purpose of any bill but disapproves any part or parts of it, the bill may be returned, with recommendations for its amendment, to the house in which it originated. In this case the same proceedings shall be had in both houses upon the bill and recommendations as provided above provided that, after such reconsideration by both houses, the bill, if as approved shall be again sent to the Governor, who may act upon it as if it were submitted for the first time. If any bill shall not be returned by the Governor within ten (10) days (Sunday excepted) after it has been presented, it shall become law in like manner as if it had been signed, unless the Legislature by adjournment, prevented its return, in which case such bill shall become law unless the Governor shall veto it within twenty (20) days (Sunday excepted) after it is presented to the Governor. Any such bill shall be returned to the Legislature, with the Governor's objections, within five (5) days after the beginning of the next session of the Legislature.

SECTION 27. The Governor may veto parts of any appropriation bill, but the portions approved shall be law.

SECTION 28. The Legislature shall pass no special or local act when a general act is or can be made applicable. Whether a general act is or can be made applicable shall be a matter for judicial determination.

SECTION 29. Lands belonging to, or under the control of the state, shall never be donated directly or indirectly, to private corporations, companies, associations or individuals. Such lands shall not be sold, leased or rented to such persons for a price less than its fair market value, except in furtherance of and consistent with Article X, Section 8 of this Constitution.

ARTICLE VI

THE EXECUTIVE

SECTION 1. The executive power of the state shall be vested in a Governor.

SECTION 2. The Governor shall be responsible for the faithful execution of the laws. The Governor may, by appropriate action or proceeding brought in the name of the state, enforce compliance with any constitutional or legislative mandate, or restrain violation of any constitutional or legislative power, duty or right by an officer, department or agency in the executive branch of state government or any of the state's political subdivisions.

SECTION 3. The Governor shall, at the beginning of each session, and may, at other times, give to the Legislature information as to the affairs of the state and recommend measures considered necessary or desirable.

SECTION 4. The Governor may at any time require information, in writing or otherwise, from the officers of any executive department, office or agency upon any subject relating thereto.

SECTION 5. The Governor shall have the power and the duty to suspend an alleged defaulting state treasurer, and alleged defaulting local government officials, pending the investigation of their respective accounts, and to make temporary appointments for the duration of the investigation. The legislature shall provide for the enforcement of this provision by general law. The legislature may

further empower the governor to otherwise appoint and remove any local government officers under such regulations as may be prescribed by law.

SECTION 6. The Governor shall have power to convene the Legislature in extraordinary session whenever, in the Governor's judgment, the public interest requires it. An extraordinary session shall be called by a public proclamation of the Governor, in which stating the subjects and matters to be considered by the Legislature, and the Legislature, when so convened, shall have no power to consider or act upon subjects or matters other than those designated in the proclamation, except impeachments and examinations into the accounts of state officers. The Legislature may consider such other matters as the Governor may in writing submit to it while in session. In case of a disagreement between the two houses with respect to time of adjournment, the Governor may adjourn the Legislature to a stated date, not beyond the day of its next regular meeting.

SECTION 7. The Governor shall have power to grant reprieves, commutations and pardons after conviction for all offenses and may delegate such powers, subject to such procedures as may be prescribed by law.

SECTION 8. The Governor shall be Commander-in-Chief of the armed forces of the state, except when they shall be called into the services of the United States, and may call them out to execute the laws, to preserve order, to suppress insurrection or to repel invasion.

SECTION 9. All executive offices, agencies, boards, commissions and other instrumentalities of the state government, including those established by this Constitution, and their respective functions, powers and duties, shall be allocated among and within not more than fifteen (15) principal departments so as to group them as far as practicable according to major functions of the state government.

- (a) Heads of the principal departments, with the exception of those departments headed by elected officials, or headed by boards or commissions established in this Constitution, shall be appointed by the Governor with the advice and consent of the senate and shall serve at the will and pleasure of the Governor. All other administrative officers of the executive branch shall be appointed and may be removed as prescribed by law.

- (b) The Legislature shall by law prescribe the functions, powers and duties of the principal departments and may from time to time allocate offices, agencies, boards, commissions and other instrumentalities among the principal departments; may increase, modify, diminish or change their functions, powers and duties, and may assign new functions, powers and duties to them; but the Governor may make such changes in the allocation of offices, agencies, boards, commissions and other instrumentalities among the principal departments, and in the allocation of such functions, powers and duties, as the Governor considers necessary for efficient administration.
- (c) If such changes affect existing laws, they shall be set forth in executive orders, which shall be submitted to the Legislature while it is in session but not later than sixty (60) calendar days prior to scheduled adjournment, and such order shall become effective and shall have the force of law, sixty (60) days after submission, or at the close of the session, whichever is sooner, unless specifically modified or disapproved by a resolution concurred in by a majority of all the members of each house.

SECTION 10. The Lieutenant Governor shall, by virtue of the office, be President of the Senate. In committee of the whole the Lieutenant Governor may debate all questions, and where there is an equal division in the Senate, or on a joint vote of both houses, the Lieutenant Governor shall cast the deciding vote. The Lieutenant Governor shall have such other powers and duties as may be provided by the rules of the Senate.

SECTION 11. The Secretary of State, Attorney General, Auditor of Public Accounts and Treasurer shall each head a major department of the executive branch as provided by law.

SECTION 12. The Governor, Lieutenant Governor, Secretary of State, Attorney General, Auditor of Public Accounts and Treasurer shall be elected for a term of four (4) years by the qualified electors of the state at the time and place of voting for members of the Legislature.

SECTION 13. The Governor and the Lieutenant Governor shall be limited to serving two (2) consecutive full terms. The Secretary of State, the Attorney General, the Auditor of Public Accounts and the Treasurer shall be limited to serving three (3) consecutive full terms.

SECTION 14. The compensation of an elected public official shall be a salary fixed by law and shall not be reduced during the term for which the official was elected.

SECTION 15. The Governor, Lieutenant Governor, Secretary of State, Attorney General, State Auditor and State Treasurer shall be at least twenty-five (25) years of age, shall be citizens of the United States and shall have resided in this state five (5) years next preceding the day of the official's election. The Attorney General must also have been admitted to practice law before the Supreme Court of this State.

SECTION 16.

- (a) If the Governor dies or is removed from office, the Lieutenant Governor becomes Governor. When the Governor is unable to discharge the duties of office by reason of impeachment or other disability, or when the duties of the office are not being discharged by reason of the Governor's continuous absence, the Lieutenant Governor shall serve as Governor until the Governor's disability or absence ends. If, from disability or otherwise, the Lieutenant Governor shall be incapable of performing the duties of the office of Governor, succession to the performance of those duties shall proceed to the Secretary of State, to the Attorney General, to the State Auditor and to the Treasurer in that order.
- (b) Should doubt arise as to whether a vacancy exists in the office of Governor or as to whether any one of the disabilities mentioned in this section exists or shall have ended, then the Governor or acting Governor whose disability is in question, the Secretary of State or the Legislature by resolution shall submit the question in doubt to the Supreme Court, which shall investigate and determine said question and shall furnish to the Secretary of State or the Legislature an opinion in writing determining the question submitted to it, which opinion shall be conclusive.
- (c) The officer discharging the duties of Governor shall receive compensation as such.

SECTION 17. The Attorney General shall have the powers of the attorney general at common law; shall represent the State of Mississippi in all legal matters generally; shall furnish advice and opinions, on legal matters to the Governor and heads of executive departments and agencies of the State; and shall appear in person, or by a duly authorized representative, to represent the State

in the Supreme Court of the United States, the Supreme Court of the State, and in any other court deemed appropriate, including a grand jury.

SECTION 18. There shall be a District Attorney for each district trial court selected in a manner and for the term prescribed by law who, subject to the general supervision and direction of the Attorney General, shall perform such duties as provided by law. The District Attorney must be admitted to practice law before the Supreme Court of this state. The District Attorney shall be a qualified elector of the district to be represented.

SECTION 19. A Public Defender for each court district shall be selected in the manner and for the term provided by law. The Public Defender's primary duty shall be to represent the indigent criminal cases within the district and all other duties of the Public Defender shall be prescribed by law. The Public Defender must be admitted to practice before the Supreme Court of this State.

SECTION 20. All officers elected or appointed to any office in this state, except judges and members of the Legislature, shall, before taking office, take and subscribe the following oath: "I _____ do solemnly affirm and swear to God that I will faithfully support the Constitution of the United States and the Constitution of the State of Mississippi, and obey the laws thereof; that I am not disqualified from holding the office of _____, that I will faithfully execute the duties of the office upon which I am about to enter."

ARTICLE VII

THE JUDICIARY

SECTION 1. The judicial power of the State of Mississippi shall be vested in a judicial system which shall consist of the Supreme Court, an intermediate court of appeals system, district trial courts of general jurisdiction with divisions of law and equity, and such other divisions and inferior courts as the Legislature may from time to time establish.

SECTION 2. The Supreme Court shall consist of nine judges who shall be selected from the state at large. Any five judges shall constitute a quorum. The Court may also sit in divisions of three judges for the hearing and deciding of cases, in which event two judges shall be sufficient for a quorum.

SECTION 3. The Chief Justice of the Supreme Court shall be the administrative head of the judicial system. The Chief Justice shall appoint an administrative director of courts and other needed personnel to assist with administrative tasks. The Chief Justice may assign appellate justices and judges and retired trial or appellate judges for temporary services in any court. The Legislature shall make adequate and reasonable appropriation for the entire unified judicial system, exclusive of any inferior courts established by the Legislature that have provisions for other funding. The Legislature shall receive recommendations for appropriations for the trial courts from the administrative director of courts and for the appellate courts from each such court.

SECTION 4. The Supreme Court shall have power, under such rules and regulations as it may adopt, to promulgate rules for the practice and procedure for all courts, including rules of evidence to be followed in the courts.

SECTION 5. Intermediate appellate courts and district trial courts shall be established in the following manner:

- (a) The Supreme Court shall establish criteria for determining the number of courts and judges and any geographical boundaries appropriate for the intermediate appellate court system and for the district trial courts. If the Supreme Court finds that a need exists for increasing or decreasing the number of trial court judges or changing the boundaries of judicial districts, it shall submit its findings and recommendations to the Legislature.
- (b) If a bill is introduced at any session of the Legislature to increase or decrease the number of district trial judges, or to change the boundaries of any judicial district, the Supreme Court shall, within three (3) weeks, report to the Legislature its recommendations on the proposed change.
- (c) An act decreasing the number of district trial judges shall not affect the right of any judge to hold office for the full term to which that judge was selected.

SECTION 6. The Supreme Court shall have such jurisdiction as properly belongs to an appellate court and such other jurisdiction as provided for by this Constitution or by general law. The Supreme Court shall have original jurisdiction:

- (a) To issue such remedial writs or orders as may be neces-

sary to give it general supervision and control of courts of inferior jurisdiction;

- (b) To answer in its discretion questions of state law certified to it, by the Supreme Court of the United States or any circuit courts of appeal of the United States; and
- (c) On matters of admission to practice law and discipline of attorneys.

SECTION 7. Cases in the intermediate appellate court system may be reviewed by the Supreme Court by writ of certiorari granted upon the petition of any party to the case. The Legislature may provide for the right of appeal to the Supreme Court from any court in specific classes of cases.

SECTION 8. No person shall be eligible for a judicial office unless first admitted to practice law before the Supreme Court. However, any individual holding a judicial office at the time of the adoption of this Constitution, if that office is continued under this Constitution or laws adopted pursuant to it, shall be exempt from this provision so long as that judge continues in that office.

SECTION 9. An Appellate Court Nominating Commission shall be created as part of the unified judicial system. It shall consist of nine members who shall serve six year terms each. Three attorney members, one from each Supreme Court district as those districts existed on January 1, 1986, shall be appointed by the Chief Justice of the Supreme Court; three lay persons who have never held judicial office or been admitted to practice law before the Supreme Court, one from each of said Supreme Court districts, shall be appointed by the Governor; one attorney member shall be appointed by the Mississippi State Bar from the state at large; the Governor and the Chief Justice of the Supreme Court shall each appoint one person, attorney or non-attorney, from the state at large. Vacancies shall be filled for an unexpired term by the original appointing authority for the seat becoming vacant. No member of the Appellate Court Nominating Commission may hold any other office under the United States, the State, or any governmental entity for which monetary compensation is received. No member shall be eligible for appointment to a state judicial office during service as a commission member and for one subsequent year, nor serve for more than two full terms as a member of the Appellate Court Nominating Commission.

SECTION 10. The Governor shall fill any vacancy in an office for Supreme Court Justice or court of appeals judge by appointing

one person nominated by the Appellate Court Nominating Commission. The Commission shall nominate no more than five and no fewer than three qualified persons for any vacancy. If the Governor fails to fill a vacancy within thirty (30) days from the date the names are submitted, the Chief Justice of the Supreme Court shall appoint one of the nominated persons. Each appointment shall be confirmed or denied by the state senate.

SECTION 11. At the first general election for members of Congress following the third anniversary of an appellate judge's taking the initial oath of office, a nonpartisan retention election for that judge will be held. An appellate judge shall not continue in office unless that judge receives the affirmative vote of the majority of those voting on the question of retaining the judge. The office of any judge who fails to receive such a majority shall be declared vacant thirty (30) days after the retention election, unless the judge earlier resigns. The retention election for Supreme Court Justice shall be statewide. The retention election for court of appeals judges shall also be statewide, unless separate court of appeals districts are created. In the latter event, the retention election for court of appeals judges shall be held solely within the appropriate district. Subsequent retention elections shall be in like manner held for a judge every eight years thereafter.

SECTION 12. The Legislature shall divide the state into convenient trial court districts. The judges of the district trial courts shall be elected by the people in a manner and at a time to be provided by the Legislature. The judges shall hold their office for a term of four years.

SECTION 13. There shall be a Commission on Judicial Performance of the State of Mississippi established in the following manner:

- (a) The Commission on Judicial Performance shall be composed of seven members; three of whom shall be judges of district trial courts; one member shall be an inferior court judge; two shall be lay persons who reside in the state and who have never held judicial office or been admitted to practice before the Supreme Court; and one shall be a practicing attorney who has practiced law in the state for at least ten years. All judicial members are to be appointed by the judiciary of the State of Mississippi as provided by law. Other members shall be appointed by the governor. Restrictions on the members of the Commission may be imposed by statute. Members of the Com-

mission on Judicial Performance not subject to impeachment shall be subject to removal from the Commission by two-thirds vote of the Supreme Court sitting en banc.

- (b) On recommendation of the Commission on Judicial Performance, the Supreme Court may remove from office, suspend, fine, publicly censure or reprimand or take such other action as the court deems appropriate, against any justice or judge of this state for: (1) actual conviction of a felony; (2) willful misconduct in office; (3) willful and persistent failure to perform the duties of the office; (4) habitual intemperance in the use of alcohol or other drugs; or (5) conduct prejudicial to the administration of justice which brings the judicial office into disrepute; and may retire involuntarily any justice or judges for physical or mental disability seriously interfering with the performance of official duties, which disability is or is likely to become of a permanent character.
- (c) A recommendation of the commission on Judicial Performance regarding a Justice of the Supreme Court shall be determined by a tribunal of seven judges selected by lot from a list consisting of all the district trial judges at a public drawing by the Secretary of State. The vote of the tribunal to discipline or retire a Justice of the Supreme Court shall be by secret ballot and only upon two-thirds vote of the tribunal. Except as otherwise provided, all procedures and powers set forth below for proceedings before the Supreme Court shall apply to proceedings before the tribunal.
- (d) All proceedings before the Commission shall be confidential, except upon unanimous vote of the Commission. After a recommendation is filed with the Clerk of the Supreme Court, the charges and recommendations of the Commission shall be made public. The Commission may, with two-thirds of the members concurring, recommend to the Supreme Court the temporary suspension of any Justice or judge against whom formal charges are pending. All proceedings before the Supreme Court under this section and any final decisions made by the Supreme Court shall be made public as in other cases at law.

SECTION 17. No judgment or decree in any district trial court rendered in a civil cause shall be reversed or annulled on the ground

that the subject matter division in which the cause was heard was incorrect; but if the appellate court shall find error in the proceedings other than as to such jurisdiction, and it shall be necessary to remand the case, the appellate court may remand it to that division which, in its opinion, can best determine the controversy.

SECTION 18. The Clerk of the Supreme Court shall be appointed by the justices of the court, to serve at the pleasure of the court and shall have such duties as described by that court.

SECTION 19. The personnel of the district trial courts shall be as follows:

- (a) Each county shall have an office of clerk of courts, the clerk to be appointed to and subject to removal from office by the district trial judge longest in continuous service, regardless of division. The clerk shall serve as clerk to all of the courts of the county, and shall have such duties as shall be prescribed by uniform rules therefor promulgated by the Supreme Court.
- (b) The court bailiffs shall be a part of the personnel of the clerk's office, and shall be appointed to and subject to removal from office by the district court judge longest in continuous service, regardless of division. The bailiffs shall have authority to bear arms, shall be in charge of security for the court, and shall be empowered to execute all lawful orders of the court.

SECTION 20. All trial and court records shall be open to the public except Youth Court and adoption proceedings and except as may be provided by general rules as adopted pursuant to Section 4 of this Article.

SECTION 21. The justices and judges of the courts of this state shall take the following oath or affirmation before proceeding to execute the duties of their respective offices: "I, _____, solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____ according to the best of my ability and understanding agreeably to the Constitution of the United States and the Constitution and laws of the State of Mississippi, so help me God."

ARTICLE VIII

LOCAL GOVERNMENT

SECTION 1. The Legislature shall provide, by general laws, for the government of counties and municipalities and for methods and procedures for incorporating, classifying and dissolving such counties and municipalities and for altering their boundaries.

SECTION 2. The Legislature shall provide, by general laws, for the establishment of county governments in the following manner:

- (a) The entire State shall be divided into counties, the boundaries of which, except as provided by Section 7 of this Article, shall be fixed by the Legislature.
- (b) Each county shall be divided, in a manner prescribed by general law, into not less than three (3) nor more than five (5) districts. The Board of Supervisors of the county shall consist of one resident of each such district elected for a term of four (4) years. The Board of Supervisors shall be the legislative body of the county and shall exercise only such authority as properly belongs to the legislative branch of government, except that in those counties in which there is no elected county administrator, the Board of Supervisors shall exercise such appointing power as may be prescribed by general law. All policies, programs, purchases and other actions established or approved by the Board of Supervisors shall be made for the county as a unit.
- (c) In each county, there shall be a county administrator who shall exercise such authority as properly belongs to the executive branch of government. The county administrator and other county executive officials shall be elected or appointed in a manner prescribed by general law.

SECTION 3. The Legislature shall provide, by general laws, for the establishment of municipal governments in the following manner:

- (a) General laws shall provide for (i) optional plans of municipal organization and government to enable a municipality to adopt or abandon an authorized optional charter by a majority vote of the qualified electors voting; and (ii) for the adoption, amendment or abandon-

ment of any other form of municipal organization by any municipality in accordance with the provisions of Section 5 of this Article concerning home rule, provided such adoption, amendment or abandonment shall not be effective unless approved by a majority of the qualified electors voting;

- (b) Nothing in this Article shall be construed as invalidating the provisions of any municipal charter in existence at the time of the adoption of this Constitution, nor as limiting the power of any municipality to adopt, amend or repeal a home rule charter.

SECTION 4. All judicial authority at the county or municipal levels shall be vested in such courts of general or special jurisdiction as may be established under Article VII of this Constitution. In each county, there shall be one clerk for all courts of county-wide jurisdiction. The Legislature may provide by general laws for municipal clerks of court.

SECTION 5. A county or municipality may exercise all powers or functions which are not denied to it by its charter, or not denied to counties or municipalities generally, or to counties and municipalities of its class, and are within such limitations as the Legislature may establish by general law.

SECTION 6. Agreements, including those for cooperative or joint administration of or for the transfer of any functions or powers, except for a transfer that would abolish an elected position, may be made by any county or municipality with any other county or municipality, with the State, or with the United States. Any such agreement for cooperative or joint administration or transfer may similarly be revoked by any county or municipality.

SECTION 7. The Legislature shall provide, by general laws, for methods and procedures for consolidations or merger of counties and for the consolidation or merger of counties, or parts of counties, and municipalities, and municipalities with municipalities, subject to such consolidation or mergers becoming effective only upon the approval of the majority of the qualified electors voting at a referendum held by each of the governmental units or parts to be consolidated or merged.

SECTION 8. In addition to counties and municipalities, the Legislature may create special purpose districts with such functions and powers as may be provided by law. No such special purpose districts shall be established, however, if, consistent with the pur-

poses of this Article, the services expected to be rendered by such district can be provided by an existing unit of government.

SECTION 9. A levee system shall be maintained in the Delta counties for protection against flood waters of the Mississippi River and its tributaries. The Mississippi Delta shall be divided into two levee districts, namely the Yazoo-Mississippi Delta Levee District and the Mississippi Levee District, as more specifically provided by law. The Legislature may add to the either of these districts any other alluvial land in the state, or create additional levee districts where flood protection is deemed essential and whose Board of Commissioners shall have the same powers and authority as the Commissioners of the aforementioned districts. There shall be a Board of Levee Commissioners for each levee district, elected as provided by law. Boards of Levee Commissioners shall supervise the construction, repair, maintenance and protection of the levees along the Mississippi River in their respective districts, and shall have the power of eminent domain to appropriate private property for such purposes. In addition, Boards of Levee Commissioners may have other duties and powers with respect to flood waters and drainage on the tributaries of the Mississippi and Yazoo Rivers as may be provided by law. Boards of Levee Commissioners shall have the power to levy and appropriate taxes on property within their respective districts for levee, flood control and drainage purposes within such limits as may be prescribed by law.

ARTICLE IX

EDUCATION

SECTION 1. The Legislature shall provide by taxation and otherwise for the maintenance and support of a general and uniform system of free public schools, in which equal educational opportunities shall be provided for all eligible students.

SECTION 2. There shall be a State Board of Education which shall manage and invest school funds according to law, formulate policies according to law for implementation by the State Department of Education, and perform such other duties as prescribed by law. The Board shall consist of seven (7) members appointed by the

Governor with the advice and consent of the Senate. No member shall be an elected official. No member shall be actively engaged in the educational profession except as stated below. There shall be one board member from each of the congressional districts as constituted at the time of adoption of this Constitution, and two (2) board members selected from the state-at-large. One (1) of the seven members shall be employed on an active and full-time basis as a school teacher. One (1) of the seven members shall be employed on an active and full-time basis as a school administrator. The Legislature shall provide for the appointment of board members to staggered seven (7) year terms, and shall make the necessary initial appointments of shorter terms to accomplish this. An appointment to fill a vacancy which arises for reasons other than by expiration of a term shall be made for the unexpired term only. The Legislature shall prescribe the compensation for Board members.

SECTION 3. The State Board of Education shall have authority to create or consolidate local public school districts.

SECTION 4. There shall be a State Superintendent of Education who shall be appointed by the State Board of Education, with the advise and consent of the Senate, and serve at the Board's will and pleasure. The Superintendent shall possess such qualifications as may be prescribed by law; and shall be the chief administrative officer of the State Department of Education and shall administer the department in accordance with the policies established by the State Board of Education. The Superintendent shall perform such other duties and receive such compensation as shall be prescribed by law.

SECTION 5. There shall be a local Board of Education for each local public school district which shall be constituted as prescribed by law.

SECTION 6. There shall be a Superintendent of Public Education for each local public school district who shall be appointed by the local public school district Board of Education and who shall serve at the Board's will and pleasure. Each local public school superintendent shall possess such qualifications and perform such duties as may be prescribed by law or may be established by the State Board of Education.

SECTION 7. State Funds shall be provided so that all local public school districts have the ability, from combined State and local financial resources, to provide a minimum basic educational pro-

gram to all eligible students regardless of the resources available in the local public school district. Local public schools shall provide a minimum level of funding and may support an education program greater than the minimum level through additional taxes levied in accordance with general law.

SECTION 8.

- (a) All sixteenth section land in the State or lands granted in lieu of such land and now held are to be held in trust for the school children of this state and shall not be sold, and it shall be the affirmative duty of every officer or body of officers in state or local government responsible for the management of these lands to ensure that these lands are managed in a manner that will result in the maximum possible financial return to the local public schools.
- (b) The Legislature shall enact such laws as may be necessary to ascertain the true condition of the title to the sixteenth section lands in this state, or lands granted in lieu thereof, in the Choctaw Purchase, and shall provide that the sixteenth section lands reserved for the support of township schools, except as hereinafter provided, shall not be leased for a longer term than ten (10) years for lands situated outside municipalities and for lands situated within municipalities for a longer term than ninety-nine (99) years, for a gross sum; provided further, that existing leases of the sixteenth section lands situated in the municipalities of the state may, for a gross sum, be extended for a term of years not exceeding ninety-nine (99) years from the date of such extension, but the Legislature may provide for the lease of sixteenth section lands for a term of years not exceeding twenty-five (25) years for forest and agricultural lands and not exceeding forty (40) years for all other classifications of such lands for a ground rental, payable annually, and in the case of uncleared lands may lease them for such short terms as may be deemed proper in consideration of the improvement thereof, with right thereafter to lease for a term or to hold on payment of ground rent; provided however, that land granted in lieu of sixteenth section lands in this state and situated outside of the county holding or owning same may be sold and the proceeds from such sale may be invested in a manner to be prescribed by the Legislature; but provided further, however, that the Legislature, for

industrial development thereon, may authorize the sale, in whole or in part for a gross sum or otherwise, of sixteenth section lands, or lands granted in lieu thereof situated within the county; and the Legislature shall either provide for the purchase of other lands within the county to be held for the benefit of the township schools in lieu of the lands sold or shall provide for the investment of the proceeds of such sale for the benefit of the township schools; and the Legislature, for industrial development thereon, may authorize the granting of leases on sixteenth section lands, or lands granted in lieu thereof, in whole or in part, for a gross sum or otherwise, for terms not to exceed ninety-nine (99) years, and the Legislature shall provide for the investment of the proceeds of such leases for the benefit of the township schools. The Legislature may authorize the lease of not more than three (3) acres of sixteenth section lands or lands granted in lieu thereof for a term not exceeding ninety-nine (99) years for a ground rental, payable annually, to any church, having its principal place of worship situated on such lands, which has been in continuous operation at that location for not less than twenty-five (25) years at the time of the lease.

SECTION 9. There is hereby created and established in the state treasury a trust fund which may be used, as hereinafter provided, for the improvement of education within the State of Mississippi. There shall be deposited in such trust fund:

- (a) The state's share of all oil severance taxes and gas severance taxes derived from oil and gas resources under state-owned lands or from severed state-owned minerals;
- (b) Any and all monies received by the state from the development, production and utilization of oil and gas resources under state-owned lands or from severed state-owned minerals, except for the following portions of such monies:
 - (i) All mineral leasing revenues specifically reserved by general law in effect at the time of the ratification of this amendment for the following purposes:
 - (A) management of a state leasing program;
 - (B) clean-up, remedial or abatement actions involving pollution as a result of oil or gas exploration or production;

- (C) management or protection of state waters, land and wildlife; or
- (D) acquisition of additional waters and land; and
- (ii) Monies derived from sixteenth section lands and lands held in lieu thereof or from minerals severed from sixteenth section lands and lands held in lieu thereof; and
- (iii) Monies derived from lands or minerals administered in trust for any state institution of higher learning or administered therefore by the head of any such institution;
- (c) Any gift, donation, bequest, trust, grant, endowment or transfer of money or securities designated for said trust fund; and
- (d) All such monies from any other source whatsoever as the Legislature shall, in its discretion, so appropriate or shall, by general law, so direct.

The principal of the trust fund shall remain inviolate and shall be invested as provided by general law. Interest and income derived from investment of the principal of the trust fund may be appropriated by the Legislature by a majority vote of the elected membership of each house of the Legislature and expended exclusively for the education of the elementary and secondary school students and/or vocational and technical training in this state.

SECTION 10. The Legislature shall appropriate to the State Department of Education an amount of funds annually into the Chickasaw School Fund for equitable compensation for each acre of sixteenth section land lost through sale by the state. The amount appropriated shall be no less than the amount per student received through the Choctaw County sixteenth section funds. The rate of interest on this fund known as the "Chickasaw School Fund" and other trust funds for educational purposes for which the State is responsible, shall be fixed and remain as long as the funds are held by the State, at the same rate as judgments and decrees as set by the Legislature. The distribution of interest shall be made semi-annually.

SECTION 11. All state supported institutions of higher learning, including universities, colleges and junior colleges now existing or hereafter created, shall be under the management, control and governance of a University and College Board of Trustees consisting of twelve (12) persons appointed by the Governor with

the advice and consent of the Senate, who shall serve for terms of nine (9) years. One member shall be appointed from each of the congressional districts as constituted at the time of the adoption of this Constitution. One member shall be appointed from each of the three (3) districts for the elections of Justices of the Mississippi Supreme Court as they exist at the time of adoption of this Article and the remainder shall be appointed from the state-at-large. All of the Board members shall be adult resident electors of the district from which they are appointed. No more than four (4) Board members shall have baccalaureate degrees from any one of the state institutions of higher learning. In case of a vacancy on the Board, the unexpired term shall be filled by a qualified appointee of the Governor, which appointment shall be submitted to the Senate at the next regular session of the Legislature for its advice and consent.

SECTION 12. The Legislature by law shall provide for the method of appointment by the Governor of persons to membership on the University and College Board of Trustees as the terms for which the present members of the Board are appointed shall expire.

SECTION 13. The University and College Board of Trustees may abolish or consolidate any of the state institutions of higher learning now existing or subsequently created, but only upon a vote of the majority of the entire membership of the Board and with the consent of the Legislature. The Board shall have the authority without the consent of the Legislature to grant or rescind university status and to abolish or consolidate programs and schools within the various institutions of higher learning.

ARTICLE X

TAXATION, BUDGET AND FINANCE

SECTION 1. No debt shall be contracted by or in behalf of this state unless such debt shall be authorized by law for projects distinctly specified.

SECTION 2. No money shall be withdrawn from the treasury except in accordance with appropriations made by law, nor shall any obligation for the payment of money be incurred except as authorized by law. The appropriation for each department, office

or agency of the state for which appropriation is made, shall be for a specific sum of money and no appropriation shall allocate to any object the proceeds of any particular tax or fund or a part or percentage, except when required by the government of the United States for participation in federal programs or when such proceeds or monies are pledged to payment of principal or interest on bonds or other evidence of debt issued by the state.

SECTION 3. All state and local expenditures, including salaries paid by the legislative, executive and judicial branches of government, shall be matters of public record.

SECTION 4. The power of taxation and exemption from taxation, shall be vested in the state. No political subdivision of the state shall assess any property or collect any tax, or exempt from assessment or collection any property or person except as provided by law.

SECTION 5. All taxes on real and personal property shall be based upon the fair value of such property using valuation techniques fairly and uniformly applied on a statewide basis by classes as defined by the statute, provided that all taxable property shall be divided into not more than five (5) general classes and that the assessment ratio between the assessed value and the true value of property in any one class shall not be more than three times the assessment ratio of any other class. The Legislature, by appropriate laws, shall carry out this provision and provide for a system of review for taxpayers who feel aggrieved by a particular valuation.

SECTION 6. No bill levying, increasing or decreasing taxes, deferring debt or issuing bonds shall pass the House of Representatives or the Senate except upon a three-fifths or greater vote of the members present and voting in each house.

SECTION 7. The Legislature shall provide by law for the sale of all delinquent tax lands. The courts shall apply the same liberal principles in favor of titles based on tax sales as in sales by execution. The rights of redemption from all sales of real estate for the nonpayment of taxes or special assessments, shall exist, on conditions to be prescribed by law, in favor of owners and persons interested in such real estate, for a period of not less than two years.

SECTION 8. The state government and any political subdivision of the state may lend credit or contribute capital to business enterprises to promote the public's interest in economic develop-

ment. The Legislature shall enact laws necessary and proper to carry out the purposes of the Section.

SECTION 9. The Governor shall prepare prior to each legislative session an estimate of revenue anticipated to be available for the next fiscal year. The budget submitted by the Governor and appropriations made by the Legislature shall not exceed the estimate of available revenue.

SECTION 10. All agencies and departments of state government shall furnish the Governor such estimates, information and budget requests in such form and at such time as the Governor may require. Copies of agency and department budget requests shall be submitted to the Legislature upon its request.

SECTION 11. The Governor shall have the sole responsibility for budget preparation.

- (a) The Governor shall prepare and submit to the Legislature at least thirty (30) days prior to its convening in regular session each year a balanced budget accompanied by a draft of a general appropriations bill, which shall be the General Appropriations Act, in such form and manner as may be prescribed by law, which shall provide for the appropriation of all funds necessary to operate all the various departments and agencies and to meet the current expenses of the state for the next fiscal year. This deadline shall not apply to a non-incumbent governor-elect, who shall submit a balanced budget and general appropriations bill within five (5) days after inauguration.
- (b) The General Appropriations Act as submitted shall be introduced immediately in each house by the member chairing the committee that considers appropriations.
- (c) If estimated revenue and available surplus are less than proposed expenditures, the Governor shall recommend specific additional sources of revenue sufficient to pay the deficiency and shall state the estimated revenue to be derived from each source.
- (d) The Governor may at any time amend, supplement or revise the revenue estimate and budget.

SECTION 12. Appropriations bills shall be considered by the Legislature in the following manner:

- (a) No appropriation bill shall be passed by the Legislature which

does not fix definitely the maximum sum thereby authorized to be drawn from the treasury. No bill passed to make appropriations of money out of the state treasury shall continue in force more than two (2) months after the expiration of the fiscal year ending after the meeting of the Legislature at its next regular session; nor shall such bill be passed except by the votes of a majority of all members elected to each house of the Legislature. Legislation shall not be engrafted on appropriation bills, but the same may prescribe the conditions on which the money may be drawn, and for what purpose paid. Conference reports on appropriations bills shall not include appropriations which exceed for any item the higher figure of either bill, as passed by the respective houses, nor fall below for any item the lower figure of either bill as passed by the respective houses; provided, however, that the total appropriation of a conference report shall not exceed the higher nor fall below the lower total figure of either bill as passed by the respective houses.

- (b) Appropriation and revenue bills shall, at regular sessions of the Legislature, have precedence in both houses over all other business, and no such bills shall be passed during the last five (5) days of the session.

SECTION 13. The General Appropriation Act shall contain only the appropriations to defray the ordinary expenses of the Executive, Legislative and Judicial branches of the government, to pay bond debt service, and to support public institutions and education. All supplemental appropriations shall be made by separate bills, each embracing but one subject.

SECTION 14. In addition to the appropriations made by the General Appropriation Act and amendments thereto, the Legislature may enact additional appropriations which shall each be limited to one subject, provided no such supplemental appropriation shall be available unless there is an unappropriated surplus in the state treasury or that the revenue estimate suggests the availability of the funds, or the revenue necessary to pay such appropriation has been provided by a revenue bill. Neither house of the Legislature shall pass a supplemental appropriation bill until the General Appropriation Act shall have been finally adopted by both houses and approved by the Governor, except emergency bills recommended by the Governor or appropriations for salaries and expenses of the Legislature.

SECTION 15. The Governor, in the manner prescribed by law, shall possess the authority to reduce any appropriations during a fiscal year should the Governor determine the revenue to be insufficient to support the appropriations made for that fiscal year.

SECTION 16. All state funds in the state treasury shall constitute a bond security and redemption fund except funds received as the result of grants or donations or other forms of assistance when terms and conditions of grants and donations otherwise require. The Legislature shall provide by law a method to guarantee payment of obligations secured by the full faith and credit of the state.

SECTION 17. Neither the state nor any of its direct agencies, excluding political subdivisions, shall incur a bonded indebtedness in excess of one and one half (1 1/2) times the highest sum of all the revenue collected by it for all purposes during any one of the preceding four fiscal years.

SECTION 18. The fiscal year of the State of Mississippi shall be prescribed by the Legislature. The Legislature shall provide for the publication of a comprehensive financial statement of state government using generally accepted accounting principles and such other financial reports it deems appropriate indicating the true fiscal condition of the state in each fiscal year.

ARTICLE XI

MISCELLANEOUS PROVISIONS

SECTION 1.

- (a) No public official or public employee shall have an interest in any contract during the term for which that person shall have been chosen or employed, or within one (1) year after the expiration of such term, with the governmental entity of which the officer or employee is a member, or with any other entity of the State or political subdivision which shall cause a substantial conflict of interest while in public office or employment.
- (b) Public officials and public employees shall not use their official position to obtain any pecuniary benefit for themselves or for any person or business with which they are associated.

- (c) The Legislature shall provide by law for the further regulation of conduct by public officials and employees not inconsistent with the purpose of this Section and shall create a commission composed of members appointed by each branch of government to accomplish the intent of this Section.

SECTION 2. It is hereby declared to be the public policy of this state that the right of a person or persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. Any agreement or combination between any employer and any labor union or labor organization to the effect that any person not a member of such union or organization shall be denied the right to work for an employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be an illegal combination of conspiracy and against public policy. No person shall be required by an employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment. No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees or other charges of any kind to any labor union or labor organization. Any person who may be denied employment or be deprived of continuation of employment in violation of this Section shall be entitled to recover such actual damages as may have been sustained by reason of such denial or deprivation of employment. The damages may be recovered from such employer and from any other person, firm, corporation or association acting in concert with the employer by appropriate action in the courts of this state. The provisions of this Section shall not apply to any employer or employee under the jurisdiction of the Federal Railway Labor Act.

SECTION 3. The meetings and records of all officers and governmental bodies shall be open to the public, subject only to exceptions in those situations where direct public access to such meetings or records would be inimical to the general welfare. The Legislature shall enact general laws to insure public access to the meetings and records of public officers and governmental bodies consistent with this Article.

SECTION 4. The Legislature shall pass general laws under which corporations may be created or organized and articles of incorporation altered, revoked or forfeited.

SECTION 5. The exercise of the right of eminent domain shall never be abridged, or so construed as to prevent the Legislature from taking the property and franchises of incorporated companies or individuals, and subjecting them to public use; and the exercise of the police powers of the state shall never be abridged, or so construed as to permit corporations or individuals to conduct their business in such manner as to infringe upon the rights of individuals or general well-being of the state.

SECTION 6.

- (a) All of the assets, proceeds or income of the Public Employees' Retirement System of Mississippi and the Mississippi Highway Safety Patrol Retirement System or any successor systems, and all contributions and payments made to the systems to provide for retirement and related benefits shall be held, invested as authorized by law, or disbursed as in trust for the exclusive purpose of providing for such benefits, refunds and administrative expenses under the management of the board of trustees of the systems, and shall not be encumbered for or diverted to any other purposes.
- (b) Legislation shall not be enacted increasing benefits under the Public Employees' Retirement System of Mississippi and the Mississippi Highway Safety Patrol Retirement System in any manner unless funds are available therefor, or unless concurrent provisions are made for funding any such increase in accordance with a prior certification of the cost by the board of trustees of the systems based on accepted actuarial standards.

ARTICLE XII

CONSTITUTIONAL REVISION

SECTION 1. Amendments to this Constitution shall be proposed in the following manner:

- (a) Amendments to this Constitution may be proposed by the Legislature or by the initiative.
- (b) An amendment proposed by the Legislature shall be agreed to by record vote of two-thirds (2/3) of the members of each house which shall be entered on the journals.

- (c) An amendment proposed by the initiative shall be incorporated by its sponsors in an initiative petition which shall contain the full text of the amendment proposed and which shall be signed by qualified electors equal in number to at least ten percent (10%) of the total votes cast for Governor in the last preceding gubernatorial election. Initiative petitions shall be filed with the Secretary of State.
- (d) An amendment proposed by the initiative shall be presented to the Legislature if it is in session and, if it is not in session, when it convenes or reconvenes. If the proposal is agreed to by a majority vote of the members of each house, such vote shall be entered on the journal and the proposed amendment shall be submitted for adoption in the same manner as amendments proposed by the Legislature.
- (e) The Legislature may provide by law for a procedure for the withdrawal by its sponsors of an initiative petition at any time prior to its submission to the voters.

SECTION 2. Proposed amendments to this Constitution shall be adopted in the following manner:

- (a) The question of the adoption of a constitutional amendment shall be submitted to the qualified electors at the first regular or special statewide election held no less than two months after it has been agreed to by the vote of the Legislature and, in the case of amendments proposed by the initiative which have failed to receive such legislative approval, not less than two months after the end of the legislative session.
- (b) Each proposed constitutional amendment shall be submitted to the qualified electors by a ballot title which shall be descriptive but not argumentative or prejudicial, and which shall be prepared by the office of the Attorney General, subject to judicial review. Any amendment submitted to the qualified electors shall become a part of the Constitution only when approved by a majority of the votes cast. Each amendment so approved shall take effect thirty (30) days after the date of the vote, unless the amendment itself otherwise provides.

SECTION 3. The procedure for constitutional conventions shall be as follows:

- (a) The Legislature, by an affirmative record vote of a majority of the members of each house, may at any time submit the question "Shall there be a convention to amend or revise the Constitution?" to the qualified electors of the state. If the question of holding a convention is not otherwise submitted to the people at some time during any period of twenty (20) years, it shall be submitted at the general election in the 20th year following the last submission.
- (b) The Legislature, prior to a popular vote on the holding of a convention, shall provide for a preparatory commission to assemble information on constitutional questions to assist the qualified electors and, if a convention is authorized, the commission shall be continued for the assistance of the delegates. If a majority of the qualified electors voting on the question of holding a convention approves it, delegates shall be chosen at the next regular election not less than three (3) months thereafter unless the Legislature shall by law have provided for election of the delegates at the same time that question is voted on or at a special election.
- (c) Any qualified elector of the state shall be eligible to membership in the convention and one delegate shall be elected from each existing House of Representatives district. The convention shall convene not later than one month after the date of the election and may recess from time to time.
- (d) No proposal shall be submitted by the convention to the qualified electors unless it has been printed and made available to the delegates in final form at least three (3) days on which the convention was in session prior to final passage, and has received the assent of a majority of all the delegates. The yeas and nays on any question shall, upon request of one-tenth (1/10) of the delegates present, be entered in the journal. Proposals of the convention shall be submitted to the qualified electors at the first regular or special statewide election not less than two months after final action on it by the convention, either as a whole or in such parts and with such alternatives as the convention may determine. Any constitutional revision submitted to the qualified electors in accordance with this section shall require the approval of a majority of the qualified electors voting on it, and shall take effect thirty

(30) days after the date of the vote, unless the revision itself otherwise provides.

SECTION 4. If conflicting constitutional amendments or revisions submitted to the qualified electors at the same election are approved, the amendment or revision receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

ARTICLE XIII

SCHEDULE

SECTION 1. This Constitution shall be in force from January 1, 19____, except as herein otherwise provided.

SECTION 2. Existing Laws, Rights and Proceedings. All laws not inconsistent with this Constitution shall continue in force until they expire by their own limitation or are amended or repealed, and all existing writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights shall continue unaffected except as modified in accordance with the provisions of this Constitution.

SECTION 3. All officers filling any office by election or appointment shall continue to exercise the duties thereof, according to their respective commissions or appointments, until their offices shall have been abolished or their successors selected and qualified in accordance with this Constitution by the laws enacted pursuant of it.

SECTION 4. The first election for governor and members of the Legislature under this Constitution shall be in 19____.

SECTION 5. Except as specifically modified by the provisions of this Constitution, all geographical districts for the election of public officials existing at the time of the adoption of this Constitution shall continue in force, until altered in accordance with the provisions of this Constitution or the laws enacted pursuant thereto.

SECTION 6. The initial allocation of the functions, powers and duties of all departments, offices, agencies and instrumentalities of the executive branch, except those functions, powers and duties allocated by this Constitution, shall be in the following manner:

- (a) Within sixty (60) days of the ratification of this article, a special Commission on Executive Branch Reorganization shall be established. The Governor shall appoint the chairman and four (4) additional members. The President Pro Tempore of the Senate and Speaker of the House of Representatives shall each appoint two (2) members. The chairman shall then convene the Commission within thirty (30) days and proceed to prepare recommendations to implement provisions of this section. No member of the Legislature or officer of the state shall be a member of this Commission.
- (b) By December 31st of the year next following ratification of this article, the Commission shall submit its recommendations to the Legislature and the Governor. At the following regular session of the Legislature, it shall enact into law measures necessary to implement the recommendations of the Commission, subject to changes, if any, that the Legislature deems appropriate.
- (c) The authority for the operation of the Commission shall cease on December 31st of the year next following ratification of this article. During its operation, the Commission shall have the authority to employ staff, to reimburse its members for travel expenses and to pay for such other expenses associated with its work. The Legislature shall make an adequate appropriation for the operation of the Commission.

SECTION 7.

- (a) The judicial system established under this Constitution shall commence on January 1, 19____. Prior to that date the justices, judges, clerks and other officials of the judicial system shall be designated or selected and any other act needed to prepare for the operation of the system shall be done in accordance with this Constitution.
- (b) The judicial power previously vested in any court in the state shall be transferred to the judicial system established in this Constitution, and the justices of the Supreme Court, the judges of the Circuit and Chancery Courts shall become judges of the judicial system and shall continue to serve as such for the remainder of their respective terms and until their successors shall have qualified. The justices of the Supreme Court in office at the time of

the adoption of this Constitution shall become justices of the Supreme Court here established. The judges of the Circuit Courts and the Chancery Courts at the time of the adoption of this Constitution shall become district trial judges in the divisions of law and equity respectively. Should any other subject matter divisions be created prior to January 1, 19____, then the assignment of judges to those divisions shall be established by law.

- (c) The initial members of the Appellate Court Nominating Commission shall serve for terms as follows: The three attorney members appointed by the Supreme Court shall serve for three, five and six years, respectively; the three lay members selected by the Governor shall serve for two, four and six years, respectively; the attorney member selected by the Mississippi State Bar shall serve for two years; the two at-large members selected by the Governor and the Chief Justice shall serve for one year.

