AN ACT CREATING THE MISSISSIPPI COMMISSION FOR THE BLIND, TO PROVIDE FOR ITS MEMBERSHIP, AND TO SPECIFY THE POWERS AND DUTIES OF THE COMMISSION; TO AMEND SECTIONS 37-33-53, 37-33-54 AND 37-33-55, MISSISSIPPI CODE OF 1972, TO TRANSFER THE FUNCTIONS OF THE VOCATIONAL REHABILITATION FOR THE BLIND TO THE COMMISSION; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) The purpose of this act is to establish and authorize a coordinated program of services, which will be available to individuals who are blind throughout the state. The program shall be designed to maximize employment opportunities for such individuals and to increase their independence and self-sufficiency and access to relevant reading material.

(2) It is the policy of the State of Mississippi that all programs, projects and activities of the Commission shall be carried out in a manner consistent with the following principles:

(a) Respect for individual dignity, personal responsibility, self determination and pursuit of meaningful career based on informed choice;

(b) Support for the involvement of an individual's representative if an individual requests, desires or needs such support;

(c) Respect for the individual's privacy and equal access to programs and information, including the use of accessible formats;

(d) Integration and full participation of individuals who are blind in society on equal terms with others;
(e) Utilize a balanced approach to consumers and consumer organizations to guarantee available and free exchange of ideas from which informed choices can be made; and

(f) The Commission shall, wherever possible, employ individuals who are blind or visually impaired throughout both its administration and program positions.

SECTION 2. (1) The Mississippi Commission for the Blind is hereby created. The Commission shall consist of five (5) members; three (3) appointed by the Governor and two (2) appointed by the Lieutenant Governor, with all five (5) to be confirmed by the Senate. All members shall be qualified to serve based on knowledge and experience in rehabilitation and related services for the blind. A majority of the members shall be blind and represent a balanced cross-section of the blindness organizations and community. Two (2) years prior to being appointed to the Commission, during the term of Commission membership, or two (2) years after completing the appointed Commission term membership, no member shall be employed by the Commission. No member of the Commission shall be the director of any state agency during the term of such membership. No member of the Commission shall serve more than two (2) consecutive full terms. Except as provided by this subsection, appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(2) The Governor shall consult with recognized consumer groups of people who are blind within the state to obtain recommendations of individuals to be appointed.

(3) The appointment of each Commissioner shall be for a three-year term, except that the Governor shall specify shorter terms in the initial appointment in order to establish a rotation.

Two (2) of the initial appointments (one (1) by the Governor and one (1) by the Lieutenant Governor) shall be for two-year terms and two (2) of the initial appointments (one (1) by the Governor
and one (1) by the Lieutenant Governor) shall be for one-year
terms. Thereafter, all Commissioners shall be appointed for
three-year terms.

(4) The Commission shall meet quarterly and at such other
times, as the Commissioners shall determine. The Chairman of the
Commission shall be elected by the members present and voting at
the first meeting of the Commission and annually thereafter.
Commissioners shall receive no salary, but shall be allowed the
usual mileage, subsistence and per diem as authorized by law. A
majority of the members of the Commission shall constitute a
quorum to transact business. Meetings will be conducted via
according to Roberts Rules of Order, Revised, until the Commission
develops specific policies and procedures which will govern the
manner in which it conducts business. All such policies and
procedures shall be filed with the Mississippi Secretary of State.
Meetings may be conducted via telephone or video conference
provided that at least one (1) fully accessible facility is made
available for public attendance of and participation in said
meetings, and that the public notice of such meetings clearly
identify the medium being used and the location for public access.
Said location shall contain the necessary equipment to clearly
amplify and broadcast the audio of the meeting throughout the
assembly room. Commissioners may be reimbursed for any telephone
expenses related to their participation in such meetings.

Any member of the Commission who is absent from two (2)
consecutive meetings, including those held by telephone or video
conference, without a documented excuse from the chairperson,
shall receive a written warning from the chairperson that a third
consecutive absence will result in the automatic termination of
the appointment. Anyone losing an appointment in this manner
shall not be eligible for a future appointment to the Commission
for the following three (3) years.
SECTION 3. (1) The Commission shall appoint an executive director with knowledge and experience in rehabilitation and related services for the blind and with relevant administrative experience. The executive director shall serve as secretary to the Commission and shall be the chief administrative officer of the agency. The executive director's appointment shall be for an indefinite period but may be terminated for cause as determined by a majority of the Commission. Preference shall be given to employing an individual who is blind and who meets the qualifications specified by the Commission for the position of executive director.

(2) The executive director shall employ such personnel as needed to fulfill the mission of the agency, and shall fix their compensation in a manner consistent with state law. The Commission shall, wherever possible, employ individuals who are blind or visually impaired throughout both its administration and program positions.

(3) Upon its establishment, the Mississippi Commission for the Blind shall receive one hundred eight (108) PINS related to the Office of Rehabilitation for the Blind from Mississippi Department of Rehabilitation Services, and nine (9) PINS currently employed by the Mississippi Library Commission, Blind and Physically Handicapped Library Services.

(4) In order to more effectively recruit qualified personnel, and to encourage the personal growth and advancement potential of all employees, the positions of program or department director and of immediate assistant directors within the agency shall be permanent positions, and shall not be filled on a "will and pleasure" basis.

SECTION 4. (1) The Commission shall:

(a) Develop and carry out a state plan for vocational rehabilitation services for individuals who are blind pursuant to Section 101 of the Rehabilitation Act of 1973, as amended.
(b) Provide independent living and social services for blind and visually impaired individuals, including, but not limited to, services for older blind individuals pursuant to Title VII of the Rehabilitation Act of 1973, as amended.

(c) Establish, equip and maintain a personnel adjustment center or centers to provide pre-vocational and other training (such as, but not limited to, Braille, use of the white cane for independent travel, and computer and adaptive technology training) to prepare blind and visually impaired persons for eventual vocational training, job placement and maximum independence in the community.

(d) Establish and carry out a small business enterprise program for individuals who are blind, and serve as the state licensing agency for blind individuals pursuant to the Randolph Sheppard Act.

(e) Purchase specialized equipment and technology for the blind and visually impaired directly from specialty vendors. Such purchases shall be exempt from state centralized purchasing procedures.

(f) Establish and operate the Blind and Physically Handicapped Library Services, which is currently operated by the Mississippi Library Commission. This library shall establish and maintain a full and current collection of reading material in braille, large print, audio and video recordings, audio tape players, and other related forms of media that will enable the Commission, the Blind and Physically Handicapped Library Services, and associated volunteer organizations involved in the production of braille or recorded materials for use by this library, the Library of Congress, and related types of organizations to work together more closely and effectively. This library shall establish and maintain a facility which shall be used by trained volunteers for the repair of special media and other reading and writing equipment required by individuals who are unable to use
ordinary print, and for the production of materials in special media by volunteer organizations.

(g) Provide technical assistance in cooperation with other appropriate agencies to assist the state education agency and local education agencies in the provision of auxiliary aids and services to blind students and their parents in complying with the Americans with Disabilities Act and the Individuals with Disabilities Education Act, as amended.

(h) Provide technical assistance to agencies within the state in order to assure that information technology purchased or used by such agencies (including agency websites) is accessible to and useable by individuals who are blind at the time the technology is purchased or used.

(i) Participate, through the designation of the executive director or an appropriate staff member of the commission, on boards, commissions, or bodies, which may exist or be established within the state for the purpose of coordination and planning of services for the blind.

(j) Conduct a review of consumer satisfaction with programs of the commission and perform other functions of the statewide Rehabilitation Council specified in Section 105(C) of the Rehabilitation Act of 1973, as amended.

(k) Promulgate rules to carry out programs of the commission.

(l) Apply for and receive money from any state or federal agency to support the programs of the commission and receive on behalf of the state any gifts, donations or bequests from any source, to be used in carrying out the commission's duties as described herein.

(m) Develop and administer any other program which will further the provision of services to the blind and is determined by the commission to fall within its scope of responsibility.
(n) Assist individuals who are blind in obtaining aids and appliances (including low vision aids) which are used to improve the individual's ability to function without normal sight.

(o) Provide all agency clients with current information (including membership forms) for all recognized consumer groups of people who are blind within the state. This information shall be in the accessible format requested by the client. The executive director shall maintain open lines of communications with these organizations in order to assure that this information is always current.

(2) The commission may carry out any of the powers and duties enumerated in this section by contract or cooperative agreement or by the direct administration of any program.

SECTION 5. The commission shall publish an annual report including a list of accomplishments, findings and recommendations for improvement based on the agency's performance during the year. The report shall contain information needed to evaluate the progress of the commission in meeting the needs of blind individuals in the state. All public documents of the commission shall be simultaneously published in Braille, large print, audio cassette tape, and in files which are accessible via adaptive computer technologies.

SECTION 6. (1) Any applicant for or recipient of services from the commission who is dissatisfied with any action taken or decision made regarding such services may file a complaint setting forth the basis for the dissatisfaction and the remedy sought. Upon receipt of the complaint, the executive director shall inform the individual of the voluntary process available for mediation of the dispute. If the individual chooses mediation, a qualified and impartial mediator will conduct mediation, and the commission shall pay the cost.

(2) If mediation or other informal means cannot resolve the dispute, the executive director shall, upon request of the
individual, convene an arbitration panel, which shall give notice, conduct a hearing and render a decision. The arbitration panel shall be composed of three (3) members appointed as follows: one (1) individual designated by the executive director; one (1) individual designated by the individual filing the complaint; and one (1) individual chosen by the other designees who is an impartial hearing officer as defined in Section 102 of the Rehabilitation Act of 1973, as amended, who shall serve as chair of the arbitration panel and issue the decision. The commission shall promulgate rules sufficient to regulate the conduct of all proceedings required in this section and to assure the rights of all parties participating therein.

**SECTION 7.** (1) All appropriations, real and personal property, equipment, supplies, personnel, positions and money which, prior to the effective date of the Mississippi Commission for the Blind Act, were owner or controlled by the Mississippi Department of Rehabilitation Services, or Mississippi Library Commission, Blind and Physically Handicapped Library Services, in providing services to the blind are hereby transferred to the Mississippi Commission for the Blind.

(2) All existing contracts and agreements in effect concerning the services for the blind shall be binding upon the Commission for the Blind to the same extent that such contracts or agreements were binding upon the agency from which they were transferred to the Commission for the Blind.

(3) All reimbursements from the Social Security Administration for the successful rehabilitation of blind Supplemental Security Income or Social Security Disability Insurance recipients which are either received or claimed after the date of enactment of this legislation shall be assigned to the Commission for the Blind.

(4) The division of federal matching funds for rehabilitation shall be twenty-five percent (25%) for the
commission for the Blind and seventy-five percent (75%) for the Mississippi Department of Rehabilitation Services.

SECTION 8. The Central Office of the Mississippi Commission for the Blind shall be located along easily accessible Public Transportation Routes within the City of Jackson. All commission offices and properties shall be fully accessible to people with disabilities at all times, and shall be fully compliant with the Americans with Disabilities Act.

SECTION 9. Section 37-33-53, Mississippi Code of 1972, is amended as follows:

37-33-53. As used in the Vocational Rehabilitation for the Blind Law:

(a) "Commission" shall mean the Mississippi Commission for the Blind created in Senate Bill No. 2707, 2002 Regular Session;

(b) "Director" shall mean the Director of the Mississippi Commission for the Blind;

(c) "Employment handicap" shall mean blindness as defined in the Vocational Rehabilitation for the Blind Law;

(d) "Blind individual" shall mean any person with insufficient vision to perform tasks for which sight is essential;

(e) "Vocational rehabilitation" and "vocational rehabilitation services" shall mean any services, including supported employment and rehabilitation engineering services, provided directly or through public or private instrumentalities, found by the director to be necessary to enable a blind individual to overcome his employment handicap, and to enable him to engage in an occupation, including, but not limited to, medical and vocational diagnosis; vocational guidance, counseling and placement; rehabilitation training; physical restoration; transportation; occupational licenses; placement equipment,
supplies and tools; maintenance; and training equipment, books and
materials;

(f) "Rehabilitation training" shall mean all necessary
training provided to a blind individual to enable him to overcome
his employment handicap, including but not limited to manual,
preconditioning, prevocational, vocational, and supplementary
training and training provided for the purpose of developing
occupational skills and capacities;

(g) "Physical restoration" shall mean any medical,
surgical or therapeutic treatment necessary to correct or
substantially reduce a blind individual's employment handicap
within a reasonable length of time, including but not limited to
medical or nursing services, hospital care, convalescent home
care, drugs, medical and surgical supplies, and prosthetic
appliances; however, curative treatment for acute or transitory
conditions is excluded;

(h) "Prosthetic appliance" shall mean any artificial
device necessary to support, to take the place of, a part of the
body, or to increase the acuity of a sense organ;

(i) "Occupational licenses" shall mean any license,
permit or other written authority required by any government unit
to be obtained in order to engage in an occupation;

(j) "Maintenance" shall mean money payments not
exceeding the estimated cost of subsistence during vocational
rehabilitation;

(k) "Regulations" shall mean regulations made by the
director with the approval of the state board, including
regulations pertaining to independent living services;

(l) "Supported employment" services shall mean any
services designed to secure competitive work in an integrated work
setting with ongoing support services for individuals who are
blind or visually impaired for whom competitive employment has not
traditionally occurred or has been interrupted or intermittent as a result of severe handicaps;

(m) "Rehabilitation engineering" services shall mean any service which includes the systematic application of technologies, engineering methodologies or scientific principles to meet needs of and address the barriers confronted by individuals with handicaps in areas which include education, rehabilitation, employment, transportation, independent living and recreation;

(n) "Independent living" services shall mean any vocational rehabilitation service needed by a blind or visually impaired individual to function more independently in his home or community.

SECTION 10. Section 37-33-54, Mississippi Code of 1972, is amended as follows:

37-33-54. The Mississippi Commission for the Blind shall administer the Vocational Rehabilitation for the Blind Law as prescribed in Sections 37-33-53 through 37-33-75, Sections 43-3-3 through 43-3-15 and Section 43-3-93. The executive director of the department shall assign to the office such powers and duties deemed appropriate to carry out the lawful functions of this law and any federal law or regulation.

SECTION 11. Section 37-33-55, Mississippi Code of 1972, is amended as follows:

37-33-55. Vocational rehabilitation for the blind shall be administered by the director under supervision of the Mississippi Commission for the Blind, in conformity with federal policies adopted by the commission. The director shall be selected by the commission in accordance with established personnel standards and on the basis of his education, training, experience and administrative ability. The director shall devote his full time to the administration of vocational rehabilitation. In carrying
out his duties under the Vocational Rehabilitation for the Blind Law, the director:

(a) Shall, with the approval of the commission, make regulations in conformity with the Federal Vocational Rehabilitation Act governing the protection of records and confidential information, the manner and form of filing applications, eligibility and investigations and determinations thereof for vocational rehabilitation services, procedures for fair hearings, and such other regulations as are found necessary to carry out the purposes of that law;

(b) Shall, with the approval of the commission, establish appropriate subordinate administrative units within the office for providing vocational rehabilitation, independent living, supported employment, rehabilitation engineering and other services to children, adolescents and adults pursuant to federal and state regulatory guidelines;

(c) Shall, with the approval of the commission, recommend for appointment of such personnel as may be necessary for the efficient performance of the functions of the office;

(d) Shall prepare and submit to the commission annual reports of activities and expenditures and, before each regular session of the Legislature, shall submit estimates of sums required for carrying out the Vocational Rehabilitation for the Blind Law and estimates of the amounts to be made available for this purpose from all sources;

(e) Shall, if the commission so authorizes, make certifications on behalf of the executive director for the disbursement of funds available for vocational rehabilitation for the blind;

(f) Shall, with the approval of the commission, take such other action as he deems necessary or appropriate to carry out the purposes of the Vocational Rehabilitation for the Blind Law;
(g) May, with the approval of the commission, delegate to any officer or employee of the office such of his powers and duties, except the making of regulations and the making of recommendations for appointment of personnel, as he finds necessary to carry out the purposes of the Vocational Rehabilitation for the Blind Law;

(h) Shall, with the approval of the commission, appoint committees to serve as the governing authority for independent living centers or other entities as required by federal law;

(i) Shall be authorized, in his discretion and with the approval of the commission, to obtain and pay for liability insurance covering each, all or any of the motor vehicles of the office so as to cover the following damages for injury to persons or property, or both, caused by negligence of any duly authorized officer, agent, servant, attorney or employee of the office while operating such motor vehicle in the performance of his official duties, such policy to be written by the licensed resident agent or agents of an insurance company or companies qualified to do and authorized to do business in the State of Mississippi. On each vehicle the insurance policy shall be limited to Ten Thousand Dollars ($10,000.00) for personal injury to any one (1) person in any one (1) accident or Twenty Thousand Dollars ($20,000.00) for personal injury to two (2) or more persons in any one (1) accident and Five Thousand Dollars ($5,000.00) property damages. The policy of insurance shall contain a provision to the effect that the insurance company shall make no plea of the sovereign immunity doctrine.

All policies shall be subject to the approval of the director, and premiums thereon shall be paid from funds available to the office.

The department may be sued by anyone affected by the operation of the motor vehicles of the office which are covered by such liability insurance, to the extent of such insurance carried
on the vehicle involved. However, immunity from suit is only
waived to the extent of such liability insurance carried, and a
judgment creditor shall have recourse only to the proceeds or
right to proceeds of such liability insurance. No attempt shall
be made in the trial of any case to suggest the existence of any
insurance which covers in whole or in part any judgment or award
rendered in favor of a claimant, but if the verdict rendered by
the jury exceeds the limit of applicable insurance, the court on
motion shall reduce the amount of the judgment, as against the
department only and not as to joint tort-feasors, if any, to a sum
equal to the applicable limit stated in the insurance policy.

This paragraph (i) shall stand repealed on the date that the
sovereign immunity of the state is waived as provided in Section
11-46-5.

SECTION 12. This act shall take effect and be in force from
and after July 1, 2002.