

By: Senator(s) Bryan

To: Judiciary

## SENATE BILL NO. 2762

1 AN ACT TO AMEND SECTION 37-45-51, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT ANY SCHOOL BOARD OF A SCHOOL DISTRICT AGGRIEVED BY  
3 AN ORDER OF THE STATE EDUCATIONAL FINANCE COMMISSION MAY APPEAL TO  
4 THE COURT OF APPEALS; TO AMEND SECTION 41-51-29, MISSISSIPPI CODE  
5 OF 1972, TO PROVIDE THAT A PERSON AGGRIEVED BY A DECISION OF THE  
6 COMMISSIONER OF AGRICULTURE AND COMMERCE MAY APPEAL TO THE COURT  
7 OF APPEALS; TO AMEND SECTION 45-23-59, MISSISSIPPI CODE OF 1972,  
8 TO PROVIDE THAT A PERSON AGGRIEVED AT A DECISION OF THE STATE  
9 BOARD OF HEALTH CONCERNING BOILER AND PRESSURE VESSEL SAFETY MAY  
10 APPEAL TO THE COURT OF APPEALS; TO AMEND SECTIONS 69-3-29,  
11 69-25-59 AND 69-7-613, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
12 CERTAIN PERSONS AGGRIEVED AT DECISIONS OF THE COMMISSION OF  
13 AGRICULTURE AND COMMERCE MAY APPEAL TO THE COURT OF APPEALS; TO  
14 AMEND SECTION 43-17-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
15 ANY PERSON AGGRIEVED AT A DECISION CONCERNING ADULT WORK  
16 ASSIGNMENT UNDER THE TANF PROGRAM MAY APPEAL TO THE COURT OF  
17 APPEALS; TO AMEND SECTION 49-20-33, MISSISSIPPI CODE OF 1972, TO  
18 PROVIDE THAT ANY PERSON AGGRIEVED BY AN ACTION OF THE SECRETARY OF  
19 STATE IN APPROVING OR DISAPPROVING AN ACQUISITION UNDER THE RIVER  
20 TIMBERLANDS CONTROL ACT MAY APPEAL TO THE COURT OF APPEALS; TO  
21 AMEND SECTION 75-71-601, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
22 ANY PERSON AGGRIEVED BY A FINAL ORDER OF THE SECRETARY OF STATE  
23 MAY OBTAIN A REVIEW OF THE ORDER IN THE COURT OF APPEALS; TO AMEND  
24 SECTION 61-7-25, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY  
25 PERSON AGGRIEVED BY A DECISION OF A JOINT AIRPORT ZONING BOARD OF  
26 ADJUSTMENT MAY APPEAL TO THE COURT OF APPEALS; TO AMEND SECTION  
27 63-1-31, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY PERSON  
28 DENIED A DRIVER'S LICENSE OR PERMIT MAY APPEAL TO THE COURT OF  
29 APPEALS; TO AMEND SECTIONS 75-76-121, 75-76-127, 75-76-167 AND  
30 75-76-173, MISSISSIPPI CODE OF 1972, TO PROVIDE THE METHOD OF  
31 REVIEW OF DECISIONS OF THE GAMING COMMISSION; TO AMEND SECTION  
32 25-9-132, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY EMPLOYEE  
33 AGGRIEVED BY A FINAL DECISION OF THE EMPLOYEE APPEALS BOARD SHALL  
34 HAVE AN APPEAL TO THE COURT OF APPEALS; TO AMEND SECTIONS  
35 27-35-163, 63-21-61, 27-7-73 AND 27-13-45, MISSISSIPPI CODE OF  
36 1972, TO PROVIDE FOR APPEAL TO THE COURT OF APPEALS FOR CERTAIN  
37 DECISIONS OF THE STATE TAX COMMISSION; TO AMEND SECTION 37-15-21,  
38 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REVIEW IN THE COURT OF  
39 APPEALS OF CERTAIN DECISIONS OF THE SCHOOL BOARDS; TO AMEND  
40 SECTION 53-1-39, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REVIEW  
41 IN THE COURT OF APPEALS OF CERTAIN DECISIONS OF THE STATE OIL AND  
42 GAS BOARD; TO AMEND SECTION 65-2-15, MISSISSIPPI CODE OF 1972, TO  
43 PROVIDE FOR REVIEW IN THE COURT OF APPEALS OF CERTAIN DECISIONS OF  
44 THE STATE HIGHWAY ARBITRATION BOARD; TO AMEND SECTION 69-15-63,  
45 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REVIEW IN THE COURT OF  
46 APPEALS OF CERTAIN DECISIONS OF THE BOARD OF ANIMAL HEALTH; TO  
47 AMEND SECTIONS 77-3-413, 77-3-415, 77-7-295, 77-3-67 AND 77-3-71,  
48 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REVIEW IN THE COURT OF  
49 APPEALS OF CERTAIN DECISIONS OF THE PUBLIC SERVICE COMMISSION; TO  
50 AMEND SECTIONS 75-57-117, 83-53-37, 83-53-39, 83-6-41, 83-5-43,  
51 83-53-33, 83-17-83, 83-6-41, 83-41-339, 83-53-15 AND 83-54-27,  
52 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REVIEW IN THE COURT OF



53 APPEALS OF CERTAIN DECISIONS OF THE INSURANCE COMMISSION; TO AMEND  
54 SECTION 99-41-13, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REVIEW  
55 IN THE COURT OF APPEALS OF CERTAIN DECISIONS OF THE CRIME VICTIMS'  
56 COMPENSATION ACT; TO AMEND SECTION 71-3-51, MISSISSIPPI CODE OF  
57 1972, TO PROVIDE THAT DECISIONS MADE BY THE WORKERS' COMPENSATION  
58 COMMISSION MAY BE APPEALED DIRECTLY TO THE COURT OF APPEALS; TO  
59 AMEND SECTION 9-4-3, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR  
60 RELATED PURPOSES.

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

62 **SECTION 1.** Section 37-45-51, Mississippi Code of 1972, is  
63 amended as follows:

64 37-45-51. Any school board of a school district aggrieved by  
65 any final rule, regulation or order of the commission shall have  
66 the right of appeal to the Court of Appeals, which appeal shall be  
67 taken and perfected as hereinafter provided within thirty (30)  
68 days from the date of such final rule, regulation or order. The  
69 said Court of Appeals may modify or affirm such rule, regulation  
70 or order or reverse or remand the same for further proceedings as  
71 justice may require. All such appeals shall be taken and  
72 perfected, heard and determined \* \* \* on the record, including a  
73 transcript of any evidence, pleadings or testimony filed and heard  
74 before said commission. Such appeal shall be heard and disposed  
75 of promptly by the Court of Appeals as a preference cause. In  
76 perfecting any appeal provided by this chapter, the provisions of  
77 law respecting notice to the reporter and the allowance of bills  
78 of exception, now or hereafter in force respecting appeals \* \* \*  
79 to the Supreme Court shall be applicable. The reporter shall  
80 transcribe his notes and file the transcript of the record with  
81 the commission within thirty (30) days after approval of the  
82 appeal bond.

83 Upon the filing with the commission of a petition for appeal  
84 to the Court of Appeals, it shall be the duty of the commission,  
85 as promptly as possible and in any event within sixty (60) days  
86 after approval of the appeal bond, to file with the clerk of the  
87 Court of Appeals a copy of the petition for appeal and of the  
88 rule, regulation or order appealed from, and a transcript of the  
89 record of the pleadings and evidence before the commission. After



90 the filing of said petition, the appeal shall be perfected by the  
91 filing of bond in the sum of Five Hundred Dollars (\$500.00) with  
92 two (2) sufficient sureties or with a surety company qualified to  
93 do business in Mississippi as the surety, conditioned to pay the  
94 cost of such appeal. Said bond shall be approved by the clerk of  
95 the court. The perfection of an appeal shall not stay or suspend  
96 the operation of any rule, regulation or order of the commission,  
97 but the judge of the said Court of Appeals may award a writ of  
98 supersedeas to any rule, regulation or order of the commission  
99 after five (5) days' notice to the commission and after hearing.  
100 Any order or judgment staying the operation of any rule,  
101 regulation or order of the commission shall contain a specific  
102 finding, based upon evidence submitted to the Court of Appeals and  
103 identified by reference thereto, that great or irreparable damage  
104 would result to the appellant if he is denied relief, and the stay  
105 shall not become effective until a supersedeas bond shall have  
106 been executed and filed with and approved by the clerk of the  
107 court or the Court of Appeals, payable to the state. The bond  
108 shall be in an amount fixed by the Court of Appeals and  
109 conditioned as said Court of Appeals may direct in the order  
110 granting the supersedeas.

111 **SECTION 2.** Section 41-51-29, Mississippi Code of 1972, is  
112 amended as follows:

113 41-51-29. Any licensee or other person, aggrieved by any  
114 final decision or order of the commissioner made or entered in or  
115 on such decision or order may appeal to the Court of Appeals by  
116 filing with the commissioner a petition for review within thirty  
117 days from the date of such decision or order, specifying the  
118 grounds upon which he relies, and by filing with the clerk of said  
119 court a bond with such surety or sureties and in such penalty as  
120 shall be approved by the commissioner or the clerk or judge of  
121 said court, conditioned that such appellant will pay all costs of  
122 the appeal in event such appeal is unsuccessful. The state may



123 appeal from such decision or order in like time and manner without  
124 giving bond. Such appeal, and appeal bond, shall not operate as a  
125 supersedeas, but the commissioner, or the judge of said \* \* \*  
126 court (or any judge of the supreme court in event of appeals  
127 thereto) may grant a supersedeas upon such terms and conditions  
128 and upon such bond as may be deemed proper. All appeal and  
129 supersedeas bonds shall be payable to the state and may from time  
130 to time and upon cause shown be ordered increased or ordered  
131 replaced by other bonds with approved sureties, and may be  
132 enforced in the manner provided by law for the enforcement of  
133 other similar bonds. In perfecting such an appeal, the provisions  
134 of law respecting notice to the reporter and the allowance of  
135 bills of exception, now or hereafter in force respecting  
136 appeals \* \* \* to the supreme court, shall be applicable. The  
137 cause shall be triable as a preference cause \* \* \* at such time  
138 and place as may be fixed by the Court of Appeals. The appeal  
139 shall be upon the record, which shall contain the petition for  
140 review and the proceedings, evidence, and decision or order  
141 appealed from, and the same shall be signed by the commissioner or  
142 the person acting as his representative and by him transmitted  
143 forthwith to said \* \* \* court. Such court shall hear and  
144 determine the case presented by such record, and may affirm or set  
145 aside the decision or order from which the appeal was taken and  
146 shall thereupon certify its judgment to the commissioner. In case  
147 the decision or order of the commissioner be set aside by the  
148 Court of Appeals, such court shall enter and render such judgment,  
149 decision or order as the commissioner should have rendered, unless  
150 it be necessary, in consequence of its decision, that some  
151 decision or ruling entirely administrative or legislative in  
152 nature be made, or that some fact or question of fact not  
153 appearing in or not settled by the record be ascertained or  
154 determined, in which cases the matter shall be remanded to the  
155 commissioner for further proceedings and action or decision in



156 accord with the judgment and direction of such \* \* \* court from  
157 which further proceedings, action, or decision of the commissioner  
158 further appeals may be taken to the Court of Appeals in the manner  
159 provided in this section. Costs on an appeal shall be awarded as  
160 in other cases. Any party, including the state and the  
161 commissioner, aggrieved by a final decision of said Court of  
162 Appeals, may appeal to the supreme court in the manner provided by  
163 law.

164 **SECTION 3.** Section 45-23-59, Mississippi Code of 1972, is  
165 amended as follows:

166 45-23-59. Within thirty (30) days after any order or act of  
167 the board, any person aggrieved thereby may file a petition in the  
168 Court of Appeals \* \* \* for a review thereof. The court shall  
169 summarily hear the petition and may make any appropriate order.

170 **SECTION 4.** Section 69-3-29, Mississippi Code of 1972, is  
171 amended as follows:

172 69-3-29. (1) When a written complaint is made against a  
173 person for violation of this article, or any of the rules or  
174 regulations, the commissioner, or his designee, shall conduct a  
175 full evidentiary hearing. The complaint shall be in writing and  
176 shall be filed in the office of the department. The commissioner  
177 shall serve the accused with a copy of the complaint and a summons  
178 by any of the methods set forth in Rule 4 of the Mississippi Rules  
179 of Civil Procedure or by certified mail. Within thirty (30) days  
180 after receipt of the summons and a copy of the complaint, the  
181 accused shall file a written answer with the department. Upon  
182 receipt of the written answer of the accused, the matter shall be  
183 set for hearing before the commissioner within a reasonable time.  
184 If the accused fails to file an answer within the thirty (30)  
185 days, the commissioner may enter an order by default against the  
186 accused. The commissioner may issue subpoenas to require the  
187 attendance of witnesses and the production of documents.  
188 Compliance with the subpoenas may be enforced by any court of



189 general jurisdiction in this state. The testimony of witnesses  
190 shall be upon oath or affirmation, and they shall be subject to  
191 cross-examination. The proceedings shall be recorded. If the  
192 commissioner determines that the complaint lacks merit, he may  
193 dismiss same. If he finds that there is substantial evidence  
194 showing that a violation has occurred, he may impose any or all of  
195 the following penalties upon the accused: (a) levy a civil  
196 penalty in the amount of no more than Five Thousand Dollars  
197 (\$5,000.00) for each violation; (b) revoke or suspend any license  
198 or permit issued to the accused under the terms of this article;  
199 (c) issue a stop sale order; (d) require the accused to relabel a  
200 lot of seed that he is offering or exposing for sale which is not  
201 labeled in accordance with this article; or (e) seize any lot of  
202 seed that is not in compliance with this article and destroy, sell  
203 or otherwise dispose of the seed and apply the proceeds of the  
204 sale to the costs and civil penalties levied with the balance to  
205 be paid to the accused. The decision of the commissioner, or his  
206 designee, shall be in writing, and it shall be delivered to the  
207 accused by certified mail.

208 (2) Either the accused or the department may appeal the  
209 decision of the commissioner to the Court of Appeals \* \* \*. The  
210 appellant shall have the record transcribed and file it with the  
211 Court of Appeals. The appeal shall otherwise be governed by all  
212 applicable laws and rules affecting appeals \* \* \*. If no appeal  
213 is perfected within the required time, the decision of the  
214 commissioner shall then become final.

215 (3) The decision of the Court of Appeals may then be  
216 appealed by either party to the Mississippi Supreme Court in  
217 accordance with the existing law and rules affecting such appeals.

218 (4) When any violation of this article, or the rules and  
219 regulations occurs, or is about to occur, that presents a clear  
220 and present danger to the public health, safety or welfare  
221 requiring immediate action, any of the department's field



222 inspectors, and any other persons authorized by the commissioner,  
223 may issue an order to be effective immediately before notice and a  
224 hearing that imposes any or all of the following penalties against  
225 the accused: (a) issue a stop sale order; (b) require the accused  
226 to relabel a lot of seed that he is offering or exposing for sale  
227 and which is not labeled in accordance with this article; or (c)  
228 seize any lot of seed that is not in compliance with this article  
229 and destroy, sell or otherwise dispose of the seed and apply the  
230 proceeds of the sale to the cost and any civil penalties levied  
231 with the balance to be paid to the accused. The order shall be  
232 served upon the accused in the same manner that the summons and  
233 complaint may be served upon him. The accused shall then have  
234 thirty (30) days after service of the order upon him within which  
235 to request an informal administrative review before the Director  
236 of the Bureau of Plant Industry in the department, or his  
237 designee, who shall act as reviewing officer. If the accused  
238 makes a timely request, the reviewing officer shall conduct an  
239 informal administrative review within ten (10) days after the  
240 request is made. If the accused does not request an informal  
241 administrative review within the thirty (30) days, then he will be  
242 deemed to have waived his right to the review. At the informal  
243 administrative review, subpoena power shall not be available,  
244 witnesses shall not be sworn nor be subject to cross-examination  
245 and there shall be no court reporter or record made of the  
246 proceedings. Each party may present its case in the form of  
247 documents, oral statements or any other method. The rules of  
248 evidence shall not apply. The reviewing officer's decision shall  
249 be in writing, and it shall be delivered to the parties by  
250 certified mail. If either party is aggrieved by the order of the  
251 reviewing officer, he may appeal to the commissioner for a full  
252 evidentiary hearing in accordance with the procedures in  
253 subsection (1) of this section, except that there shall be no  
254 requirement for a written complaint or answer to be filed by the



255 parties. The appeal shall be perfected by filing a notice of  
256 appeal with the commissioner within thirty (30) days after the  
257 order of the reviewing officer is served on the appealing party.  
258 The hearing before the commissioner, or his designee, shall be  
259 held within a reasonable time after the appeal has been perfected.  
260 Failure to perfect an appeal within the allotted time shall be  
261 deemed a waiver of such right.

262 (5) The procedures described herein shall not apply to seed  
263 arbitration claims which are described in Section 69-3-19, as such  
264 claims shall be governed by the procedures set forth in that  
265 statute.

266 **SECTION 5.** Section 69-25-59, Mississippi Code of 1972, is  
267 amended as follows:

268 69-25-59. (1) Any individual aggrieved by a final decision  
269 of the Commissioner of Agriculture and Commerce shall be entitled  
270 to judicial review.

271 (2) An appeal from the commissioner's decision shall be  
272 filed in the Court of Appeals \* \* \* on the record made, including  
273 a verbatim transcript of the testimony at the hearing held before  
274 the designated hearing committee. The appeal shall be filed  
275 within thirty (30) days after notification of the action of the  
276 commissioner is mailed or served and the proceedings \* \* \* shall  
277 be conducted as other matters coming before the court.

278 (3) The scope of review of the Court of Appeals in such  
279 cases shall be limited to a review of the record made before the  
280 hearing committee to determine if the action of the commissioner  
281 is unlawful for the reason that it was:

282 (a) Not supported by any substantial evidence;  
283 (b) Arbitrary or capricious; or  
284 (c) In violation of some statutory or constitutional  
285 right of the individual.

286 (4) No relief shall be granted based upon the court's  
287 finding of harmless error by the commissioner in complying with





288 the procedural requirements of Sections 69-25-51 through 69-25-65.  
289 In the event that there is a finding of prejudicial error in the  
290 proceedings, the cause may be remanded for a rehearing consistent  
291 with the findings of the court.

292 (5) Any party aggrieved by action of the Court of Appeals  
293 may appeal to the State Supreme Court in the manner provided by  
294 law.

295 **SECTION 6.** Section 69-7-613, Mississippi Code of 1972, is  
296 amended as follows:

297 69-7-613. (1) Any person who violates any provision of this  
298 article for which no other civil penalty is provided by this  
299 article shall upon conviction be subject to a fine of not more  
300 than five hundred dollars (\$500.00); provided, no person shall be  
301 subject to penalties under this section for receiving for  
302 transportation any article in violation of this article if such  
303 receipt was made in good faith, unless such person refuses to  
304 furnish, on request of a representative of the commissioner, the  
305 name and address of the person from whom he received such article,  
306 and copies of all documents, if any there be, pertaining to the  
307 delivery of the article to him.

308 (2) Nothing in this article shall be construed as requiring  
309 the commissioner to report for prosecution or for the institution  
310 of libel or injunction proceedings minor violations of this  
311 article whenever he believes that the public interest will be  
312 adequately served by a suitable written notice of warning.

313 (3) It shall be the duty of each prosecuting attorney to  
314 whom any violation is reported to cause appropriate proceedings to  
315 be instituted and prosecuted in a court of competent jurisdiction  
316 without delay. Before the commissioner reports a violation for  
317 such prosecution, an opportunity shall be given the distributor or  
318 other affected person to present his view to the commissioner.

319 (4) The commissioner is hereby authorized to apply for and  
320 the court to grant a temporary or permanent injunction restraining



321 any person from violating or continuing to violate any of the  
322 provisions of this article or any rule or regulation promulgated  
323 under this article, notwithstanding the existence of other  
324 remedies at law. Said injunction shall be issued without bond.

325 (5) Any person adversely affected by an act, order or ruling  
326 made by the commissioner pursuant to the provisions of this  
327 article may, within forty-five (45) days thereafter, bring action  
328 in the Court of Appeals for judicial review of such actions. The  
329 form of the proceeding shall be any which may be provided by  
330 statutes of this state to review decisions of administrative  
331 agencies or in the absence or inadequacy thereof, any applicable  
332 form of legal action, including actions for declaratory judgments  
333 or writs of prohibitory or mandatory injunctions.

334 **SECTION 7.** Section 43-17-5, Mississippi Code of 1972, is  
335 amended as follows:

336 43-17-5. (1) The amount of Temporary Assistance for Needy  
337 Families (TANF) benefits which may be granted for any dependent  
338 child and a needy caretaker relative shall be determined by the  
339 county department with due regard to the resources and necessary  
340 expenditures of the family and the conditions existing in each  
341 case, and in accordance with the rules and regulations made by the  
342 Department of Human Services which shall not be less than the  
343 Standard of Need in effect for 1988, and shall be sufficient when  
344 added to all other income (except that any income specified in the  
345 federal Social Security Act, as amended, may be disregarded) and  
346 support available to the child to provide such child with a  
347 reasonable subsistence compatible with decency and health. The  
348 first family member in the dependent child's budget may receive an  
349 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;  
350 the second family member in the dependent child's budget may  
351 receive an amount not to exceed Thirty-six Dollars (\$36.00) per  
352 month; and each additional family member in the dependent child's  
353 budget an amount not to exceed Twenty-four Dollars (\$24.00) per



354 month. The maximum for any individual family member in the  
355 dependent child's budget may be exceeded for foster or medical  
356 care or in cases of mentally retarded or physically handicapped  
357 children. TANF benefits granted shall be specifically limited  
358 only (a) to children existing or conceived at the time the  
359 caretaker relative initially applies and qualifies for such  
360 assistance, unless this limitation is specifically waived by the  
361 department, or (b) to a child born following a twelve (12)  
362 consecutive month period of discontinued benefits by the caretaker  
363 relative.

364 (2) TANF cash benefits in Mississippi shall be provided by  
365 monthly checks mailed to the recipient family until such time as  
366 an on-line electronic benefits transfer system for TANF benefit  
367 payments is implemented pursuant to Section 43-1-28.

368 (3) The Department of Human Services shall deny TANF  
369 benefits to the following categories of individuals, except for  
370 individuals and families specifically exempt or excluded for good  
371 cause as allowed by federal statute or regulation:

372 (a) Families without a minor child residing with the  
373 custodial parent or other adult caretaker relative of the child;

374 (b) Families which include an adult who has received  
375 TANF assistance for sixty (60) months after the commencement of  
376 the Mississippi TANF program, whether or not such period of time  
377 is consecutive;

378 (c) Families not assigning to the state any rights a  
379 family member may have, on behalf of the family member or of any  
380 other person for whom the family member has applied for or is  
381 receiving such assistance, to support from any other person, as  
382 required by law;

383 (d) Families who fail to cooperate in establishing  
384 paternity or obtaining child support, as required by law;

385 (e) Any individual who has not attained eighteen (18)  
386 years of age, is not married to the head of household, has a minor



387 child at least twelve (12) weeks of age in his or her care, and  
388 has not successfully completed a high school education or its  
389 equivalent, if such individual does not participate in educational  
390 activities directed toward the attainment of a high school diploma  
391 or its equivalent, or an alternative educational or training  
392 program approved by the department;

393 (f) Any individual who has not attained eighteen (18)  
394 years of age, is not married, has a minor child in his or her  
395 care, and does not reside in a place or residence maintained by a  
396 parent, legal guardian or other adult relative or the individual  
397 as such parent's, guardian's or adult relative's own home;

398 (g) Any minor child who has been, or is expected by a  
399 parent or other caretaker relative of the child to be, absent from  
400 the home for a period of more than thirty (30) days;

401 (h) Any individual who is a parent or other caretaker  
402 relative of a minor child who fails to notify the department of  
403 the absence of the minor child from the home for the thirty-day  
404 period specified in paragraph (g), by the end of the five-day  
405 period that begins with the date that it becomes clear to the  
406 individual that the minor child will be absent for the thirty-day  
407 period;

408 (i) Any individual who fails to comply with the  
409 provisions of the Employability Development Plan signed by the  
410 individual which prescribe those activities designed to help the  
411 individual become and remain employed, or to participate  
412 satisfactorily in the assigned work activity, as authorized under  
413 subsections (6) (c) and (d);

414 (j) A parent or caretaker relative who has not engaged  
415 in an allowable work activity once the department determines the  
416 parent or caretaker relative is ready to engage in work, or once  
417 the parent or caretaker relative has received TANF assistance  
418 under the program for twenty-four (24) months, whether or not  
419 consecutive, whichever is earlier;



420 (k) Any individual who is fleeing to avoid prosecution,  
421 or custody or confinement after conviction, under the laws of the  
422 jurisdiction from which the individual flees, for a crime, or an  
423 attempt to commit a crime, which is a felony under the laws of the  
424 place from which the individual flees, or who is violating a  
425 condition of probation or parole imposed under federal or state  
426 law;

427 (l) Aliens who are not qualified under federal law;

428 (m) For a period of ten (10) years following  
429 conviction, individuals convicted in federal or state court of  
430 having made a fraudulent statement or representation with respect  
431 to the individual's place of residence in order to receive TANF,  
432 food stamps or Supplemental Security Income (SSI) assistance under  
433 Title XVI or Title XIX simultaneously from two (2) or more states;  
434 and

435 (n) Individuals who are recipients of federal  
436 Supplemental Security Income (SSI) assistance.

437 (4) (a) Any person who is otherwise eligible for TANF  
438 benefits, including custodial and noncustodial parents, shall be  
439 required to attend school and meet the monthly attendance  
440 requirement as provided in this subsection if all of the following  
441 apply:

442 (i) The person is under age twenty (20);

443 (ii) The person has not graduated from a public or  
444 private high school or obtained a GED equivalent;

445 (iii) The person is physically able to attend  
446 school and is not excused from attending school; and

447 (iv) If the person is a parent or caretaker  
448 relative with whom a dependent child is living, child care is  
449 available for the child.

450 The monthly attendance requirement under this subsection  
451 shall be attendance at the school in which the person is enrolled  
452 for each day during a month that the school conducts classes in



453 which the person is enrolled, with not more than two (2) absences  
454 during the month for reasons other than the reasons listed in  
455 paragraph (e)(iv) of this subsection. Persons who fail to meet  
456 participation requirements in this subsection shall be subject to  
457 sanctions as provided in paragraph (f) of this subsection.

458 (b) As used in this subsection, "school" means any one  
459 (1) of the following:

460 (i) A school as defined in Section 37-13-91(2);

461 (ii) A vocational, technical and adult education  
462 program; or

463 (iii) A course of study meeting the standards  
464 established by the State Department of Education for the granting  
465 of a declaration of equivalency of high school graduation.

466 (c) If any compulsory-school-age child, as defined in  
467 Section 37-13-91(2), to which TANF eligibility requirements apply  
468 is not in compliance with the compulsory school attendance  
469 requirements of Section 37-13-91(6), the superintendent of schools  
470 of the school district in which the child is enrolled or eligible  
471 to attend shall notify the county department of human services of  
472 the child's noncompliance. The Department of Human Services shall  
473 review school attendance information as provided under this  
474 paragraph at all initial eligibility determinations and upon  
475 subsequent report of unsatisfactory attendance.

476 (d) The signature of a person on an application for  
477 TANF benefits constitutes permission for the release of school  
478 attendance records for that person or for any child residing with  
479 that person. The department shall request information from the  
480 child's school district about the child's attendance in the school  
481 district's most recently completed semester of attendance. If  
482 information about the child's previous school attendance is not  
483 available or cannot be verified, the department shall require the  
484 child to meet the monthly attendance requirement for one (1)  
485 semester or until the information is obtained. The department



486 shall use the attendance information provided by a school district  
487 to verify attendance for a child. The department shall review  
488 with the parent or caretaker relative a child's claim that he or  
489 she has a good cause for not attending school.

490 A school district shall provide information to the department  
491 about the attendance of a child who is enrolled in a public school  
492 in the district within five (5) working days of the receipt of a  
493 written request for such information from the department. The  
494 school district shall define how many hours of attendance count as  
495 a full day and shall provide that information, upon request, to  
496 the department. In reporting attendance, the school district may  
497 add partial days' absence together to constitute a full day's  
498 absence.

499 (e) A child who is required to attend school to meet  
500 the requirements under this subsection shall comply except when  
501 there is good cause, which shall be demonstrated by any of the  
502 following circumstances:

503 (i) The minor parent is the caretaker of a child  
504 less than twelve (12) weeks old; or

505 (ii) The department determines that child care  
506 services are necessary for the minor parent to attend school and  
507 there is no child care available; or

508 (iii) The child is prohibited by the school  
509 district from attending school and an expulsion is pending. This  
510 exemption no longer applies once the teenager has been expelled;  
511 however, a teenager who has been expelled and is making  
512 satisfactory progress towards obtaining a GED equivalent shall be  
513 eligible for TANF benefits; or

514 (iv) The child failed to attend school for one or  
515 more of the following reasons:

516 1. Illness, injury or incapacity of the child  
517 or the minor parent's child;



- 518                   2. Court-required appearances or temporary  
519 incarceration;
- 520                   3. Medical or dental appointments for the  
521 child or minor parent's child;
- 522                   4. Death of a close relative;
- 523                   5. Observance of a religious holiday;
- 524                   6. Family emergency;
- 525                   7. Breakdown in transportation;
- 526                   8. Suspension; or
- 527                   9. Any other circumstance beyond the control  
528 of the child, as defined in regulations of the department.

529           (f) Upon determination that a child has failed without  
530 good cause to attend school as required, the department shall  
531 provide written notice to the parent or caretaker relative  
532 (whoever is the primary recipient of the TANF benefits) that  
533 specifies:

534                   (i) That the family will be sanctioned in the next  
535 possible payment month because the child who is required to attend  
536 school has failed to meet the attendance requirement of this  
537 subsection;

538                   (ii) The beginning date of the sanction, and the  
539 child to whom the sanction applies;

540                   (iii) The right of the child's parents or  
541 caretaker relative (whoever is the primary recipient of the TANF  
542 benefits) to request a fair hearing under this subsection.

543           The child's parent or caretaker relative (whoever is the  
544 primary recipient of the TANF benefits) may request a fair hearing  
545 on the department's determination that the child has not been  
546 attending school. If the child's parents or caretaker relative  
547 does not request a fair hearing under this subsection, or if,  
548 after a fair hearing has been held, the hearing officer finds that  
549 the child without good cause has failed to meet the monthly  
550 attendance requirement, the department shall discontinue or deny





551 TANF benefits to the child thirteen (13) years old, or older, in  
552 the next possible payment month. The department shall discontinue  
553 or deny twenty-five percent (25%) of the family grant when a child  
554 six (6) through twelve (12) years of age without good cause has  
555 failed to meet the monthly attendance requirement. Both the child  
556 and family sanction may apply when children in both age groups  
557 fail to meet the attendance requirement without good cause. A  
558 sanction applied under this subsection shall be effective for one  
559 (1) month for each month that the child failed to meet the monthly  
560 attendance requirement. In the case of a dropout, the sanction  
561 shall remain in force until the parent or caretaker relative  
562 provides written proof from the school district that the child has  
563 reenrolled and met the monthly attendance requirement for one (1)  
564 calendar month. Any month in which school is in session for at  
565 least ten (10) days during the month may be used to meet the  
566 attendance requirement under this subsection. This includes  
567 attendance at summer school. The sanction shall be removed the  
568 next possible payment month.

569 (5) All parents or caretaker relatives shall have their  
570 dependent children receive vaccinations and booster vaccinations  
571 against those diseases specified by the State Health Officer  
572 pursuant to Section 41-23-37 in accordance with the vaccination  
573 and booster vaccination schedule prescribed by the State Health  
574 Officer for children of that age, in order for the parents or  
575 caretaker relatives to be eligible or remain eligible to receive  
576 TANF benefits. Proof of having received such vaccinations and  
577 booster vaccinations shall be given by presenting the certificates  
578 of vaccination issued by any health care provider licensed to  
579 administer vaccinations, and submitted on forms specified by the  
580 State Board of Health. If the parents without good cause do not  
581 have their dependent children receive the vaccinations and booster  
582 vaccinations as required by this subsection and they fail to  
583 comply after thirty (30) days' notice, the department shall



584 sanction the family's TANF benefits by twenty-five percent (25%)  
585 for the next payment month and each subsequent payment month until  
586 the requirements of this subsection are met.

587       (6) (a) If the parent or caretaker relative applying for  
588 TANF assistance is an employable person, as determined by the  
589 Department of Human Services, the person shall be required to  
590 engage in an allowable work activity once the department  
591 determines the parent or caretaker relative is ready to engage in  
592 work, or once the parent or caretaker relative has received TANF  
593 assistance under the program for twenty-four (24) months, whether  
594 or not consecutive, whichever is earlier. No TANF benefits shall  
595 be given to any person to whom this section applies who fails  
596 without good cause to comply with the Employability Development  
597 Plan prepared by the department for the person, or who has refused  
598 to accept a referral or offer of employment, training or education  
599 in which he or she is able to engage, subject to the penalties  
600 prescribed in subsection (6) (e). A person shall be deemed to have  
601 refused to accept a referral or offer of employment, training or  
602 education if he or she:

603               (i) Willfully fails to report for an interview  
604 with respect to employment when requested to do so by the  
605 department; or

606               (ii) Willfully fails to report to the department  
607 the result of a referral to employment; or

608               (iii) Willfully fails to report for allowable work  
609 activities as prescribed in subsections (6) (c) and (d).

610       (b) The Department of Human Services shall operate a  
611 statewide work program for TANF recipients to provide work  
612 activities and supportive services to enable families to become  
613 self-sufficient and improve their competitive position in the work  
614 force in accordance with the requirements of the federal Personal  
615 Responsibility and Work Opportunity Reconciliation Act of 1996  
616 (Public Law 104-193), as amended, and the regulations promulgated



617 thereunder. All adults who are not specifically exempt shall be  
618 referred by the department for allowable work activities. An  
619 adult may be exempt from the mandatory work activity requirement  
620 for the following reasons:

621 (i) Incapacity;

622 (ii) Temporary illness or injury, verified by  
623 physician's certificate;

624 (iii) Is in the third trimester of pregnancy,  
625 verified by physician's certificate;

626 (iv) Caretaker of a child under twelve (12)  
627 months, for not more than twelve (12) months of the sixty-month  
628 maximum benefit period;

629 (v) Caretaker of an ill or incapacitated person,  
630 as verified by physician's certificate;

631 (vi) Age, if over sixty (60) or under eighteen  
632 (18) years of age;

633 (vii) Receiving treatment for substance abuse, if  
634 the person is in compliance with the substance abuse treatment  
635 plan;

636 (viii) In a two-parent family, the caretaker of a  
637 severely disabled child, as verified by a physician's certificate;  
638 or

639 (ix) History of having been a victim of domestic  
640 violence, which has been reported as required by state law and is  
641 substantiated by police reports or court records, and being at  
642 risk of further domestic violence, shall be exempt for a period as  
643 deemed necessary by the department but not to exceed a total of  
644 twelve (12) months, which need not be consecutive, in the  
645 sixty-month maximum benefit period. For the purposes of this  
646 paragraph (ix), "domestic violence" means that an individual has  
647 been subjected to:

648 1. Physical acts that resulted in, or  
649 threatened to result in, physical injury to the individual;



650                           2. Sexual abuse;

651                           3. Sexual activity involving a dependent

652 child;

653                           4. Being forced as the caretaker relative of

654 a dependent child to engage in nonconsensual sexual acts or

655 activities;

656                           5. Threats of, or attempts at, physical or

657 sexual abuse;

658                           6. Mental abuse; or

659                           7. Neglect or deprivation of medical care.

660           (c) For all families, all adults who are not

661 specifically exempt shall be required to participate in work

662 activities for at least the minimum average number of hours per

663 week specified by federal law or regulation, not fewer than twenty

664 (20) hours per week (thirty-five (35) hours per week for

665 two-parent families) of which are attributable to the following

666 allowable work activities:

667                           (i) Unsubsidized employment;

668                           (ii) Subsidized private employment;

669                           (iii) Subsidized public employment;

670                           (iv) Work experience (including work associated

671 with the refurbishing of publicly assisted housing), if sufficient

672 private employment is not available;

673                           (v) On-the-job training;

674                           (vi) Job search and job readiness assistance

675 consistent with federal TANF regulations;

676                           (vii) Community service programs;

677                           (viii) Vocational educational training (not to

678 exceed twelve (12) months with respect to any individual);

679                           (ix) The provision of child care services to an

680 individual who is participating in a community service program;

681                           (x) Satisfactory attendance at high school or in a

682 course of study leading to a high school equivalency certificate,



683 for heads of household under age twenty (20) who have not  
684 completed high school or received such certificate;

685 (xi) Education directly related to employment, for  
686 heads of household under age twenty (20) who have not completed  
687 high school or received such equivalency certificate.

688 (d) The following are allowable work activities which  
689 may be attributable to hours in excess of the minimum specified in  
690 paragraph (6) (c):

691 (i) Job skills training directly related to  
692 employment;

693 (ii) Education directly related to employment for  
694 individuals who have not completed high school or received a high  
695 school equivalency certificate;

696 (iii) Satisfactory attendance at high school or in  
697 a course of study leading to a high school equivalency, for  
698 individuals who have not completed high school or received such  
699 equivalency certificate;

700 (iv) Job search and job readiness assistance  
701 consistent with federal TANF regulations.

702 (e) If any adult or caretaker relative refuses to  
703 participate in allowable work activity as required under this  
704 subsection (6), the following full family TANF benefit penalty  
705 will apply, subject to due process to include notification,  
706 conciliation and a hearing if requested by the recipient:

707 (i) For the first violation, the department shall  
708 terminate the TANF assistance otherwise payable to the family for  
709 a two-month period or until the person has complied with the  
710 required work activity, whichever is longer;

711 (ii) For the second violation, the department  
712 shall terminate the TANF assistance otherwise payable to the  
713 family for a six-month period or until the person has complied  
714 with the required work activity, whichever is longer;



715 (iii) For the third violation, the department  
716 shall terminate the TANF assistance otherwise payable to the  
717 family for a twelve-month period or until the person has complied  
718 with the required work activity, whichever is longer;

719 (iv) For the fourth violation, the person shall be  
720 permanently disqualified.

721 For a two-parent family, unless prohibited by state or  
722 federal law, Medicaid assistance shall be terminated only for the  
723 person whose failure to participate in allowable work activity  
724 caused the family's TANF assistance to be sanctioned under this  
725 subsection (6) (e), unless an individual is pregnant, but shall not  
726 be terminated for any other person in the family who is meeting  
727 that person's applicable work requirement or who is not required  
728 to work. Minor children shall continue to be eligible for  
729 Medicaid benefits regardless of the disqualification of their  
730 parent or caretaker relative for TANF assistance under this  
731 subsection (6), unless prohibited by state or federal law.

732 (f) Any person enrolled in a two-year or four-year  
733 college program who meets the eligibility requirements to receive  
734 TANF benefits, and who is meeting the applicable work requirements  
735 and all other applicable requirements of the TANF program, shall  
736 continue to be eligible for TANF benefits while enrolled in the  
737 college program for as long as the person meets the requirements  
738 of the TANF program, unless prohibited by federal law.

739 (g) No adult in a work activity required under this  
740 subsection (6) shall be employed or assigned (i) when any other  
741 individual is on layoff from the same or any substantially  
742 equivalent job within six (6) months before the date of the TANF  
743 recipient's employment or assignment; or (ii) if the employer has  
744 terminated the employment of any regular employee or otherwise  
745 caused an involuntary reduction of its work force in order to fill  
746 the vacancy so created with an adult receiving TANF assistance.  
747 The Mississippi Employment Security Commission, established under



748 Section 71-5-101, shall appoint one or more impartial hearing  
749 officers to hear and decide claims by employees of violations of  
750 this paragraph (f). The hearing officer shall hear all the  
751 evidence with respect to any claim made hereunder and such  
752 additional evidence as he may require and shall make a  
753 determination and the reason therefor. The claimant shall be  
754 promptly notified of the decision of the hearing officer and the  
755 reason therefor. Within ten (10) days after the decision of the  
756 hearing officer has become final, any party aggrieved thereby may  
757 secure judicial review thereof by commencing an action in the  
758 Court of Appeals against the commission for the review of such  
759 decision, in which action any other party to the proceeding before  
760 the hearing officer shall be made a defendant. Any such appeal  
761 shall be on the record which shall be certified to the court by  
762 the commission in the manner provided in Section 71-5-531, and the  
763 jurisdiction of the court shall be confined to questions of law  
764 which shall render its decision as provided in that section.

765 (7) The Department of Human Services may provide child care  
766 for eligible participants who require such care so that they may  
767 accept employment or remain employed. The department may also  
768 provide child care for those participating in the TANF program  
769 when it is determined that they are satisfactorily involved in  
770 education, training or other allowable work activities. The  
771 department may contract with Head Start agencies to provide child  
772 care services to TANF recipients. The department may also arrange  
773 for child care by use of contract or vouchers, provide vouchers in  
774 advance to a caretaker relative, reimburse a child care provider,  
775 or use any other arrangement deemed appropriate by the department,  
776 and may establish different reimbursement rates for child care  
777 services depending on the category of the facility or home. Any  
778 center-based or group home child care facility under this  
779 paragraph shall be licensed by the State Department of Health  
780 pursuant to law. When child care is being provided in the child's



781 own home, in the home of a relative of the child, or in any other  
782 unlicensed setting, the provision of such child care may be  
783 monitored on a random basis by the Department of Human Services or  
784 the State Department of Health. Transitional child care  
785 assistance may be continued if it is necessary for parents to  
786 maintain employment once support has ended, unless prohibited  
787 under state or federal law. Transitional child care assistance  
788 may be provided for up to twenty-four (24) months after the last  
789 month during which the family was eligible for TANF assistance, if  
790 federal funds are available for such child care assistance.

791 (8) The Department of Human Services may provide  
792 transportation or provide reasonable reimbursement for  
793 transportation expenses that are necessary for individuals to be  
794 able to participate in allowable work activity under the TANF  
795 program.

796 (9) Medicaid assistance shall be provided to a family of  
797 TANF program participants for up to twenty-four (24) consecutive  
798 calendar months following the month in which the participating  
799 family would be ineligible for TANF benefits because of increased  
800 income, expiration of earned income disregards, or increased hours  
801 of employment of the caretaker relative; however, Medicaid  
802 assistance for more than twelve (12) months may be provided only  
803 if a federal waiver is obtained to provide such assistance for  
804 more than twelve (12) months and federal and state funds are  
805 available to provide such assistance.

806 (10) The department shall require applicants for and  
807 recipients of public assistance from the department to sign a  
808 personal responsibility contract that will require the applicant  
809 or recipient to acknowledge his or her responsibilities to the  
810 state.

811 (11) The department shall enter into an agreement with the  
812 State Personnel Board and other state agencies that will allow  
813 those TANF participants who qualify for vacant jobs within state





814 agencies to be placed in state jobs. State agencies participating  
815 in the TANF work program shall receive any and all benefits  
816 received by employers in the private sector for hiring TANF  
817 recipients. This subsection (11) shall be effective only if the  
818 state obtains any necessary federal waiver or approval and if  
819 federal funds are available therefor.

820 (12) No new TANF program requirement or restriction  
821 affecting a person's eligibility for TANF assistance, or allowable  
822 work activity, which is not mandated by federal law or regulation  
823 may be implemented by the Department of Human Services after the  
824 effective date of this act, unless such is specifically authorized  
825 by an amendment to this section by the Legislature.

826 **SECTION 8.** Section 49-20-33, Mississippi Code of 1972, is  
827 amended as follows:

828 49-20-33. Any person filing a statement required by this  
829 chapter, the river timberlands company, or any other party in  
830 interest, which is adversely affected or aggrieved by an action of  
831 the Secretary of State under this chapter in approving or  
832 disapproving an acquisition subject to the provisions of this  
833 chapter, may obtain judicial review of the Secretary of State's  
834 action by filing, within thirty (30) days after service of notice  
835 of the Secretary of State's action, a civil action in the Court of  
836 Appeals seeking judicial review of such action. Upon the filing  
837 of such action, the court may, upon application of the complaining  
838 party, stay the effectiveness of the Secretary of State's order  
839 pending proceedings in the court. Upon review by the court, the  
840 findings of the Secretary of State, if supported by competent,  
841 material and substantial evidence and not contrary to law, shall  
842 be conclusive.

843 **SECTION 9.** Section 75-71-601, Mississippi Code of 1972, is  
844 amended as follows:

845 75-71-601. Any person aggrieved by a final order of the  
846 secretary of state may obtain a review of the order in the Court



847 of Appeals by filing in court, within sixty (60) days after the  
848 entry of the order, a written petition praying that the order be  
849 modified or set aside in whole or in part. A copy of the petition  
850 shall be forthwith served upon the secretary of state and  
851 thereupon the secretary of state shall certify and file in court a  
852 copy of the filing and evidence upon which the order was entered.  
853 When these have been filed, the court has exclusive jurisdiction  
854 to affirm, modify, enforce or set aside the order, in whole or in  
855 part. The findings of the secretary of state as to the facts, if  
856 supported by competent material and substantial evidence, are  
857 conclusive.

858 **SECTION 10.** Section 61-7-25, Mississippi Code of 1972, is  
859 amended as follows:

860 61-7-25. Any person aggrieved, or taxpayer affected, by any  
861 decision of a board of adjustment, or any governing body of a  
862 political subdivision or any joint airport zoning board which is  
863 of the opinion that a decision of a board of adjustment is  
864 illegal, may present to the Court of Appeals \* \* \* a verified  
865 petition setting forth that the decision is illegal, in whole or  
866 in part, and specifying the grounds of illegality. Such petition  
867 shall be presented to the court within 30 days after the decision  
868 is filed in the office of the board.

869 Upon presentation of such petition the court may allow a writ  
870 of certiorari directed to the board of adjustment to review such  
871 decision of the board. The allowance of the writ shall not stay  
872 proceedings upon the decision appealed from, but the court may, on  
873 application, on notice to the board and on due cause shown, grant  
874 a restraining order.

875 The board of adjustment shall not be required to return the  
876 original papers acted upon by it, but it shall be sufficient to  
877 return certified or sworn copies thereof or of such portions  
878 thereof as may be called for by the writ. The return shall  
879 concisely set forth such other facts as may be pertinent and



880 material to show the grounds of the decision appealed from and  
881 shall be verified.

882 The court shall have exclusive jurisdiction to affirm,  
883 modify, or set aside the decision brought up for review, in whole  
884 or in part, and if need be, to order further proceedings by the  
885 board of adjustment. The findings of fact of the board, if  
886 supported by substantial evidence, shall be accepted by the court  
887 as conclusive. No objection to a decision of the board shall be  
888 considered by the court unless such objection shall have been  
889 urged before the board, or, if it was not so urged, unless there  
890 were reasonable grounds for failure to do so.

891 Cost shall not be allowed against the board of adjustment  
892 unless it appears to the court that it acted with gross  
893 negligence, in bad faith, or with malice, in making the decision  
894 appealed from.

895 In any case in which airport zoning regulations adopted under  
896 this chapter, although generally reasonable, are held by the court  
897 to interfere with the use or enjoyment of a particular structure  
898 or parcel of land to such an extent, or to be so onerous in their  
899 application to such a structure or parcel of land, as to  
900 constitute a taking or deprivation of that property in violation  
901 of the constitution of this state or the Constitution of the  
902 United States, such holding shall not affect the application of  
903 such regulations to other structures and parcels of land.

904 **SECTION 11.** Section 63-1-31, Mississippi Code of 1972, is  
905 amended as follows:

906 63-1-31. When a person is denied a license or any temporary  
907 driving permit after filing the proper application, he shall have  
908 the right within sixty (60) days thereafter to file a petition, in  
909 the Court of Appeals \* \* \* praying for a hearing in the matter  
910 before \* \* \* the court \* \* \*. Such judge \* \* \* is hereby vested  
911 with jurisdiction to hear such matters forthwith \* \* \* upon five  
912 (5) days' written notice to the officer who refused to issue such



913 license or any temporary driving permit. Said hearing shall be  
914 conducted at such place as may suit the convenience of the court.  
915 On the hearing of the petition, testimony may be taken, and the  
916 court shall render such judgment in the matter as it deems right  
917 and proper under the law and evidence.

918 **SECTION 12.** Section 75-76-121, Mississippi Code of 1972, is  
919 amended as follows:

920 75-76-121. (1) Any person aggrieved by a final decision or  
921 order of the commission may obtain a judicial review thereof in  
922 the Court of Appeals \* \* \*.

923 (2) The judicial review must be instituted by filing a  
924 petition within twenty (20) days after the effective date of the  
925 final decision or order. A petition may not be filed while a  
926 petition for rehearing or a rehearing is pending before the  
927 commission. The petition must set forth the order or decision  
928 appealed from and the grounds or reasons why petitioner contends a  
929 reversal or modification should be ordered.

930 (3) Copies of the petition must be served upon the executive  
931 director and all other parties of record, or their counsel of  
932 record, either personally or by certified mail.

933 (4) The court, upon a proper showing, may permit other  
934 interested persons to intervene as parties to the appeal or as  
935 friends of the court.

936 (5) The filing of the petition does not stay enforcement of  
937 the decision or order of the commission, but the commission itself  
938 may grant a stay upon such terms and conditions as it deems  
939 proper.

940 **SECTION 13.** Section 75-76-127, Mississippi Code of 1972, is  
941 amended as follows:

942 75-76-127. (1) Any party aggrieved by the final decision in  
943 the Court of Appeals after a review of the decision and order of  
944 the commission may appeal to the Supreme Court in the manner and  
945 within the time provided by law for appeals in civil cases. The



946 Supreme Court shall follow the same procedure thereafter as in  
947 appeals in civil actions and may affirm, reverse or modify the  
948 decision as the record and law warrant.

949 (2) The judicial review by the Court of Appeals and Supreme  
950 Court afforded in this chapter is the exclusive method of review  
951 of the commission's actions, decisions and orders in disciplinary  
952 hearings. Judicial review is not available for actions, decisions  
953 and orders of the commission relating to the denial of a license  
954 or to limited or conditional licenses. Extraordinary common law  
955 writs or equitable proceedings are available except where  
956 statutory judicial review is made exclusive or is precluded or  
957 where the use of those writs or proceedings is precluded by  
958 specific statute.

959 **SECTION 14.** Section 75-76-167, Mississippi Code of 1972, is  
960 amended as follows:

961 75-76-167. (1) Any person aggrieved by a final decision or  
962 order of the commission made after hearing by the commission  
963 pursuant to Sections 75-76-159 through 75-76-165, inclusive, may  
964 obtain a judicial review thereof in the Court of Appeals \* \* \*.

965 (2) The judicial review must be instituted by filing a  
966 petition within twenty (20) days after the effective date of the  
967 final decision or order. The petition must set forth the order or  
968 decision appealed from and the grounds or reasons why petitioner  
969 contends a reversal or modification should be ordered.

970 (3) Copies of the petition must be served upon the executive  
971 director and all other parties of record, or their counsel of  
972 record, either personally or by certified mail.

973 (4) The court, upon a proper showing, may permit other  
974 interested persons to intervene as parties to the appeal or as  
975 friends of the court.

976 (5) The filing of the petition does not stay enforcement of  
977 the decision or order of the commission, but the commission itself



978 may grant a stay upon such terms and conditions as it deems  
979 proper.

980         **SECTION 15.** Section 75-76-173, Mississippi Code of 1972, is  
981 amended as follows:

982         75-76-173. (1) Any party aggrieved by the final decision in  
983 the Court of Appeals after a review of the decision and order of  
984 the commission may appeal to the Supreme Court in the manner and  
985 within the time provided by law for appeals in civil cases. The  
986 Supreme Court shall follow the same procedure thereafter as in  
987 appeals in civil actions and may affirm, reverse or modify the  
988 decision as the record and law warrant.

989         (2) The judicial review by the Court of Appeals and Supreme  
990 Court afforded in this chapter is the exclusive method of review  
991 of the commission's actions, decisions and orders in hearings held  
992 pursuant to Sections 75-76-159 through 75-76-165, inclusive.

993         (3) The party requesting judicial review shall bear all of  
994 the costs of transcribing and of transmitting the record on  
995 review.

996         **SECTION 16.** Section 25-9-132, Mississippi Code of 1972, is  
997 amended as follows:

998         25-9-132. Any employee aggrieved by a final decision of the  
999 Employee Appeals Board shall be entitled to judicial review  
1000 thereof in the manner provided in this section.

1001         (1) An appeal may be taken by such employee to the Court of  
1002 Appeals by filing a petition with the clerk of such court and  
1003 executing and filing bond payable to the State of Mississippi with  
1004 sufficient sureties to be approved by the clerk of the court, in  
1005 the penalty of Five Hundred Dollars (\$500.00), conditioned upon  
1006 the payment of all costs of appeal, including the cost of  
1007 preparing the transcript of the hearing before the Employee  
1008 Appeals Board. The petition and bond shall be filed within thirty  
1009 (30) days of the receipt of the final decision of the Employee  
1010 Appeals Board. Upon approval of the bond, the clerk of the court



1011 shall notify the Employee Appeals Board, which shall prepare its  
1012 record in the matter and transmit it to the Court of Appeals.

1013 (2) The scope of review of the Court of Appeals in such  
1014 cases shall be limited to a review of the record made before the  
1015 Employee Appeals Board or hearing officer to determine if the  
1016 action of the Employee Appeals Board is unlawful for the reason  
1017 that it was:

- 1018 (a) Not supported by any substantial evidence;
- 1019 (b) Arbitrary or capricious; or
- 1020 (c) In violation of some statutory or constitutional  
1021 right of the employee.

1022 (3) No relief shall be granted based upon the court's  
1023 finding of harmless error by the board in complying with the  
1024 procedural requirements of Sections 25-9-127 through 25-9-129;  
1025 provided, however, in the event that there is a finding of  
1026 prejudicial error in the proceedings, the cause may be remanded  
1027 for a rehearing consistent with the findings of the court.

1028 (4) Any party aggrieved by action of the Court of Appeals  
1029 may appeal to the Supreme Court in the manner provided by law.

1030 (5) In each controversy in which the Employee Appeals Board  
1031 assumes jurisdiction, the State Personnel Board shall assess the  
1032 respondent state agency a reasonable fee to defray the cost of  
1033 recording the hearing. The State Personnel Board is hereby  
1034 authorized to contract with certified court reporters to record  
1035 hearings before the Employee Appeals Board.

1036 **SECTION 17.** Section 27-35-163, Mississippi Code of 1972, is  
1037 amended as follows:

1038 27-35-163. (1) Except as otherwise provided in subsection  
1039 (2) of this section, any person, firm or corporation aggrieved by  
1040 an order of the State Tax Commission assessing property for the  
1041 purpose of ad valorem taxation may, within twenty (20) days after  
1042 the adjournment of the meeting at which such assessment is made  
1043 final, appeal with supersedeas as to the amount of taxes in



1044 controversy to the Court of Appeals \* \* \* upon giving bond with  
1045 sufficient sureties, to be approved by the clerk of such court, in  
1046 a sum equal to the amount of taxes due on the contested value of  
1047 such property as assessed by the State Tax Commission, but never  
1048 less than One Hundred Dollars (\$100.00), payable to the state and  
1049 conditioned to perform the judgment of the Court of Appeals. The  
1050 ad valorem taxes due on the uncontested portion of the value as  
1051 set by the State Tax Commission shall be due and payable at the  
1052 same time as all other ad valorem taxes are for real and personal  
1053 property. The person, firm or corporation who appeals shall file  
1054 with the clerk of the Court of Appeals a petition for appeal and  
1055 review, together with said bond herein provided for, and the clerk  
1056 shall thereupon give notice to the State Tax Commission. The  
1057 State Tax Commission shall file with the clerk of the Court of  
1058 Appeals a copy of its order, or orders, making the assessment  
1059 within twenty (20) days after the receipt of such notice, and the  
1060 matter of assessing such property shall be heard de novo by the  
1061 Court of Appeals \* \* \*, and such proceeding shall be given  
1062 preference over other pending matters in said court. After  
1063 hearing the evidence, the Court of Appeals \* \* \* shall make an  
1064 order setting aside, modifying or affirming the order of the State  
1065 Tax Commission. A copy of such order shall be certified by the  
1066 clerk of said court to the State Tax Commission, which shall  
1067 conform thereto.

1068         If the order of the State Tax Commission assessing said  
1069 property be affirmed, then the person, firm or corporation who  
1070 appealed, and the sureties on the appeal bond, shall be liable to  
1071 the state for damages at the rate of ten percent (10%) on the  
1072 amount of taxes in controversy, and all cost of such appeal.

1073         If the state shall be aggrieved by an order of the State Tax  
1074 Commission as to the assessment of such property for ad valorem  
1075 taxes, the Attorney General or the district attorney, if all the  
1076 property sought to be taxed is located within the judicial





1077 district for which such district attorney is elected, may, within  
1078 twenty (20) days after the adjournment of the meeting at which  
1079 such assessment is made final, appeal to the Court of  
1080 Appeals \* \* \* in like manner as in the case of any person, firm or  
1081 corporation aggrieved as hereinbefore provided, except no bonds  
1082 shall be required of the Attorney General or district attorney who  
1083 may appeal. Upon the filing of a petition for appeal or review as  
1084 herein provided, the clerk of the Court of Appeals shall thereupon  
1085 issue process to the person, firm or corporation whose property is  
1086 assessed, and such person, firm or corporation shall plead to said  
1087 petition within twenty (20) days after the receipt of said notice.

1088 \* \* \*

1089 Any taxpayer aggrieved by an order of the Court of Appeals  
1090 may appeal, with supersedeas, to the Supreme Court by giving bond  
1091 in the amount and conditioned as provided in the preceding  
1092 paragraphs hereof.

1093 The officer who appealed the matter from the order of the  
1094 State Tax Commission may have an appeal to the Supreme Court  
1095 without bond.

1096 In the event the appeal by the taxpayer delays the collection  
1097 of the tax due by him, then such taxpayer shall be liable for and  
1098 shall pay, at the time the taxes are paid to the tax collector  
1099 whose duty it is to collect the taxes, interest at the rate of  
1100 twelve percent (12%) per annum from the date the taxes were due  
1101 until paid.

1102 (2) Any telephone company operating in more than six (6)  
1103 counties, which is aggrieved by an order of the State Tax  
1104 Commission, may, within twenty (20) days after the adjournment of  
1105 the meeting at which such assessment is made final, appeal without  
1106 bond as to the amount of taxes in controversy \* \* \*. \* \* \*

1107 If the state shall be aggrieved by an order of the State Tax  
1108 Commission as to the assessment of such property for ad valorem  
1109 taxes, the Attorney General or the district attorney, if all the



1110 property sought to be taxed is located within the judicial  
1111 district for which such district attorney is elected, may, within  
1112 twenty (20) days after the adjournment of the meeting at which  
1113 such assessment is made final, appeal without bond \* \* \*, and such  
1114 telephone company shall plead to said petition within twenty (20)  
1115 days after the receipt of said notice.

1116 \* \* \*

1117 Any such telephone company aggrieved by an order of the Court  
1118 of Appeals may appeal without bond to the Supreme Court.

1119 The officer who appealed the matter from the order of the  
1120 State Tax Commission may have an appeal to the Supreme Court  
1121 without bond.

1122 If the value as set by the State Tax Commission is reduced by  
1123 the courts as a result of appeals filed by such telephone company,  
1124 the ad valorem taxes attributable to such reduction shall be  
1125 disposed of by each affected local taxing district in the  
1126 following manner:

1127 (a) (i) Such local telephone company shall be entitled  
1128 to a refund equal to the amount of ad valorem taxes paid by such  
1129 company to the taxing district which are attributable to such  
1130 reduction in value, less the portion of any refunds previously  
1131 received by such telephone company pursuant to Section 27-38-5,  
1132 which are attributable to such reduction in value.

1133 (ii) If the taxing district has not paid the full  
1134 amount of the refund required by this subsection by the time that  
1135 ad valorem taxes become due and payable by such telephone company  
1136 to such taxing district for any subsequent year or years, such  
1137 telephone company shall be entitled to take a credit against the  
1138 ad valorem tax liability for such subsequent year or years up to  
1139 the total amount of the refund owed to such telephone company  
1140 pursuant to this paragraph (a).

1141 (b) (i) The remaining portion of the ad valorem taxes  
1142 attributable to such reduction shall be paid by the taxing



1143 district to the state, and such amount shall be credited to the  
1144 Telecommunications Ad Valorem Tax Reduction Fund.

1145 (ii) To the extent that the taxing district has  
1146 not fully paid to the state the amount required by this  
1147 subsection, any monies due by the state to such local taxing  
1148 jurisdiction shall be offset until such amount is fully paid.

1149 **SECTION 18.** Section 63-21-61, Mississippi Code of 1972, is  
1150 amended as follows:

1151 63-21-61. The owner of any motor vehicle, manufactured home  
1152 or mobile home for which the State Tax Commission has refused to  
1153 issue a certificate of title, or has suspended or revoked the  
1154 certificate of title thereon, or any person having an interest in  
1155 such motor vehicle, manufactured home or mobile home, or having a  
1156 lien thereon, who feels that he has been denied any right under  
1157 this chapter by the commission, or its designated agents, or his  
1158 designated agents, may, within ninety (90) days thereafter, file a  
1159 petition in the Court of Appeals \* \* \* for a hearing or review of  
1160 such action of the commission. The judge of such court shall set  
1161 the matter for hearing or review upon not less than ten (10) days'  
1162 notice after the execution of proper process or citation duly  
1163 served upon the party or parties made defendant thereto, and shall  
1164 thereupon hear such cause and enter such order as may be  
1165 proper. \* \* \*

1166 **SECTION 19.** Section 27-7-73, Mississippi Code of 1972, is  
1167 amended as follows:

1168 27-7-73. The findings of the state tax commission shall be  
1169 final unless the taxpayer shall, within thirty days from the date  
1170 of the receipt of notice of such findings, file a petition in the  
1171 Court of Appeals \* \* \* requesting a hearing of the case on its  
1172 merits, which petition shall be a concise statement of the facts  
1173 as contended for by the petitioner. The petition shall be  
1174 accompanied with a bond, to be approved by the clerk of said  
1175 court, in a sum double the amount in controversy, conditioned to



1176 pay the judgment of the court. On filing such petition, the clerk  
1177 of the court shall give the state tax commission notice of the  
1178 proceedings as required by law by serving the chairman of the  
1179 state tax commission. The Court of Appeals shall have  
1180 jurisdiction to hear and determine said cause or issue joined as  
1181 in other cases. Either the state tax commission or the taxpayer,  
1182 or both, shall have the right of appeal to the supreme court as in  
1183 other cases.

1184 **SECTION 20.** Section 27-13-45, Mississippi Code of 1972, is  
1185 amended as follows:

1186 27-13-45. The findings of the state tax commission shall be  
1187 final unless the taxpayer shall, within thirty days from the date  
1188 of the receipt of notice of such findings, file a petition in the  
1189 Court of Appeals \* \* \* requesting a hearing of the case on its  
1190 merits, which petition shall be a concise statement of the facts  
1191 as contended for by the petitioner. The petition shall be  
1192 accompanied with a bond, to be approved by the clerk of said  
1193 court, in a sum double the amount in controversy, conditioned to  
1194 pay the judgment of the court. On filing such petition, the clerk  
1195 of the court shall give the state tax commission notice of the  
1196 proceedings as required by law by serving the chairman of the  
1197 state tax commission. The Court of Appeals shall have  
1198 jurisdiction to hear and determine said cause or issue joined as  
1199 in other cases. Either the state tax commission or the taxpayer,  
1200 or both, shall have the right of appeal to the supreme court as in  
1201 other cases.

1202 **SECTION 21.** Section 37-15-21, Mississippi Code of 1972, is  
1203 amended as follows:

1204 37-15-21. If any parent, guardian or other person having  
1205 custody of any child affected by the assignment of such child to a  
1206 school or attendance center by the school board shall feel  
1207 aggrieved at the order of the school board provided for in Section  
1208 37-15-17, such person may, at any time within thirty (30) days



1209 from the date of such order, appeal therefrom by filing a petition  
1210 for appeal in the Court of Appeals. Upon the filing of such  
1211 petition for an appeal, process shall be issued for and served  
1212 upon the president of the school board of the school district  
1213 involved. Upon being served with process, it shall be the duty of  
1214 the school board to transmit promptly to the court a certified  
1215 copy of the entire record of the proceedings as shown by the file  
1216 of the school board. From the judgment of the Court of Appeals,  
1217 an appeal may be taken to the Supreme Court in the same manner as  
1218 other appeals are taken from other judgments of such court.

1219 **SECTION 22.** Section 53-1-39, Mississippi Code of 1972, is  
1220 amended as follows:

1221 53-1-39. (a) In addition to other remedies now available,  
1222 the state, or any interested person aggrieved by any final rule,  
1223 regulation or order of the board, shall have the right, regardless  
1224 of the amount involved, of appeal to the Court of Appeals \* \* \*  
1225 which shall be taken and perfected as hereinafter provided, within  
1226 thirty (30) days from the date that such final rule, regulation or  
1227 order is filed for record in the office of the board; and the said  
1228 Court of Appeals may affirm such rule, regulation or order, or  
1229 reverse same for further proceedings as justice may require. All  
1230 such appeals shall be taken and perfected, heard and  
1231 determined \* \* \* on the record, including a transcript of  
1232 pleadings and testimony, both oral and documentary, filed and  
1233 heard before the board, and such appeal shall be heard and  
1234 disposed of promptly by the court as a preference cause. In  
1235 perfecting any appeal provided by this section, the provisions of  
1236 law respecting notice to the reporter and the allowance of bills  
1237 of exception, now or hereafter in force respecting appeals \* \* \*  
1238 to the Supreme Court shall be applicable. However, the reporter  
1239 shall transcribe his notes and file the transcript of the record  
1240 with the board within thirty (30) days after approval of the  
1241 appeal bond.



1242           (b) Upon the filing with the board of a petition for  
1243 appeal to the Court of Appeals, it shall be the duty of the board,  
1244 as promptly as possible, and in any event within sixty (60) days  
1245 after approval of the appeal bond, to file with the clerk of the  
1246 Court of Appeals a copy of the petition for appeal and of the  
1247 rule, regulation or order appealed from, and the original and one  
1248 (1) copy of the transcript of the record of proceedings in  
1249 evidence before the board. After the filing of said petition, the  
1250 appeal shall be perfected by the filing with the clerk of the  
1251 Court of Appeals of bond in the sum of Five Hundred Dollars  
1252 (\$500.00) with two (2) sureties or with a surety company qualified  
1253 to do business in Mississippi as the surety, conditioned to pay  
1254 the cost of such appeal; said bond to be approved by any member of  
1255 the board or by the supervisor, or by the clerk of the Court of  
1256 Appeals. The perfection of an appeal shall not stay or suspend  
1257 the operation of any rule, regulation or order of the board, but  
1258 the Court of Appeals may award a writ of supersedeas to any rule,  
1259 regulation or order of the board after five (5) days' notice to  
1260 the board and after hearing. Any order or judgment staying the  
1261 operation of any rule, regulation or order of the board shall  
1262 contain a specific finding, based upon evidence submitted to the  
1263 Court of Appeals and identified by reference thereto, that great  
1264 or irreparable damage would result to the appellant if he is  
1265 denied relief, and the stay shall not become effective until a  
1266 supersedeas bond shall have been executed and filed with and  
1267 approved by the clerk of the court \* \* \*, payable to the state.  
1268 The bond shall be in an amount fixed by the \* \* \* judge and  
1269 conditioned as said \* \* \* judge may direct in the order granting  
1270 the supersedeas.

1271           Appeals of rules, regulations or orders of the board pending  
1272 in the circuit court prior to July 1, 1988, shall proceed in the  
1273 circuit court having jurisdiction under the appropriate statutes  
1274 and rules applicable to such cases in the circuit courts. Appeals



1275 of rules, regulations or orders of the board pending in the  
1276 chancery court prior to July 1, 2002, shall proceed in the  
1277 chancery court having jurisdiction under the appropriate statutes  
1278 and rules applicable to such cases in the chancery courts.

1279 Appeals of rules, regulations or orders of the board on or after  
1280 July 1, 2002, shall be perfected in the \* \* \* Court of Appeals and  
1281 shall proceed under the statutes and rules applicable to such  
1282 cases \* \* \*.

1283 **SECTION 23.** Section 65-2-15, Mississippi Code of 1972, is  
1284 amended as follows:

1285 65-2-15. (1) Either party to the dispute may, within  
1286 fifteen (15) days from the date such order is filed with the clerk  
1287 of the court, petition the Court of Appeals \* \* \* for a review of  
1288 such order on the ground that:

1289 (a) the parties were not given reasonable opportunity  
1290 to be heard;

1291 (b) the board exceeded its powers;

1292 (c) the order is unreasonable in that it is not  
1293 supported by the evidence; and

1294 (d) the order was procured by fraud, collusion, or  
1295 other unlawful means or methods.

1296 (2) Upon the filing of an appeal from the decision of the  
1297 State Highway Arbitration Board, the decision of that board shall  
1298 be suspended until it is reinstated or reversed by the Court of  
1299 Appeals. The party bringing the appeal shall be required to place  
1300 a supercedeas bond in an amount to be determined by the Court of  
1301 Appeals.

1302 (3) A summons to the other party to the dispute shall be  
1303 issued as provided by law in other civil cases. Either party  
1304 shall have the same rights to a \* \* \* change of judge as provided  
1305 by law in other civil cases. The Court of Appeals \* \* \* shall  
1306 hear the evidence adduced by both parties with respect to the  
1307 issue raised by such petition and may reverse said order only if



1308 it affirmatively finds that one of the grounds set forth in  
1309 subsection (1) was in fact present to such a degree that the  
1310 decision of the board should not be allowed to stand. The  
1311 decision of the Court of Appeals shall be final, unless an appeal  
1312 is taken to the Supreme Court as hereinafter provided. If the  
1313 court reverses said order for one of the reasons stated herein,  
1314 and no appeal is taken to the Supreme Court, the decision of the  
1315 board shall no longer be binding on either party.

1316 **SECTION 24.** Section 69-15-63, Mississippi Code of 1972, is  
1317 amended as follows:

1318 69-15-63. (1) Any individual aggrieved by a final decision  
1319 of the Board of Animal Health after its review of the hearing  
1320 officer's recommendation shall be entitled to judicial review.

1321 (2) An appeal from the board's decision shall be filed in  
1322 the Court of Appeals on the record made, including a verbatim  
1323 transcript of the testimony at the hearing held before the  
1324 designated hearing committee of the Board of Animal Health. The  
1325 appeal shall be filed within thirty (30) days after notification  
1326 of the action of the board is mailed or served and the  
1327 proceedings \* \* \* shall be conducted as other such matters coming  
1328 before the court. The appeal shall be perfected upon filing  
1329 notice of the appeal and by the prepayment of all costs, including  
1330 the cost of preparation of the record of the proceedings by the  
1331 Board of Animal Health, and the filing of a bond in the sum of  
1332 Five Hundred Dollars (\$500.00) conditioned that if the action of  
1333 the board be affirmed by the \* \* \* court, the aggrieved party  
1334 shall pay the costs of the appeal and the action of the Court of  
1335 Appeals.

1336 (3) The scope of review of the Court of Appeals in such  
1337 cases shall be limited to a review of the record made before the  
1338 board or hearing committee to determine if the action of the board  
1339 is unlawful for the reason that it was:

1340 (a) Not supported by any substantial evidence;





1341 (b) Arbitrary or capricious; or  
1342 (c) In violation of some statutory or constitutional  
1343 right of the individual.

1344 (4) No relief shall be granted based upon the court's  
1345 finding of harmless error by the board in complying with the  
1346 procedural requirements of Sections 69-15-51 through 69-15-61. In  
1347 the event that there is a finding of prejudicial error in the  
1348 proceedings, the cause may be remanded for a rehearing consistent  
1349 with the findings of the court.

1350 (5) Any party aggrieved by action of the Court of Appeals  
1351 may appeal to the State Supreme Court in the manner provided by  
1352 law.

1353 **SECTION 25.** Section 77-3-413, Mississippi Code of 1972, is  
1354 amended as follows:

1355 77-3-413. At any time within ten (10) days of the entry of  
1356 the order forfeiting or refusing to forfeit such charter, the  
1357 attorney general or the corporation may apply to the Court of  
1358 Appeals for a writ of certiorari, which, if granted, shall have  
1359 the effect of transferring the record of the last proceeding to  
1360 the Court of Appeals. The Court of Appeals shall examine such  
1361 record for errors of law. If the said court shall find no errors  
1362 of law, the order shall be affirmed. If errors of law appear, the  
1363 order shall be reversed and such reversal shall operate as a stay  
1364 of such order, and the cause shall be remanded to the commission  
1365 with directions for a new hearing, or dismissal, as the \* \* \*  
1366 court finds proper from the examination of the record.

1367 **SECTION 26.** Section 77-3-415, Mississippi Code of 1972, is  
1368 amended as follows:

1369 77-3-415. Appeals from the order of the Court of Appeals  
1370 affirming or reviewing such order may be taken as other appeals  
1371 are taken to the supreme court.

1372 **SECTION 27.** Section 77-7-295, Mississippi Code of 1972, is  
1373 amended as follows:



1374           77-7-295. In addition to other remedies now available, the  
1375 state, or any party aggrieved by any final finding, order or  
1376 judgment of the commission, shall have the right, regardless of  
1377 the amount involved, of appeal to the Court of Appeals. If an  
1378 application for rehearing has been filed, an appeal must be filed  
1379 within thirty (30) days after the application for rehearing has  
1380 been refused or deemed refused because of the commission's failure  
1381 to act thereon within the time specified in Section 77-7-293, or  
1382 if the application is granted, within thirty (30) days after the  
1383 rendition of the decision on rehearing. If an application for  
1384 rehearing has not been filed, an appeal must be filed within  
1385 thirty (30) days after the entry of the commission's order. In  
1386 those cases wherein an administrative order of the commission is  
1387 involved, the Court of Appeals may affirm or reverse for further  
1388 proceedings as justice may require. In those cases wherein the  
1389 commission's order appealed from is a judicial finding, the Court  
1390 of Appeals shall review, affirm, reverse or modify the same and  
1391 enter therein such order or judgment as may be right and just.  
1392 Without excluding any other finding, order or judgment of the  
1393 commission as constituting a judicial finding, the granting or  
1394 denial by the commission of an application for a certificate of  
1395 public convenience and necessity, or the granting of denial of an  
1396 application for a permit to operate as a contract carrier, shall  
1397 be construed as a judicial finding, and appealable as such. All  
1398 such appeals shall be taken and perfected, heard and  
1399 determined \* \* \* on the record, including a transcript of  
1400 pleadings and testimony, both oral and documentary, filed and  
1401 heard before the commission; and such appeal shall be heard and  
1402 disposed of promptly by the court as a preference cause. In  
1403 perfecting any appeal provided by this section, the provisions of  
1404 law respecting notice to the reporter and the allowance of bills  
1405 of exception, now or hereafter in force respecting appeals \* \* \*  
1406 to the Supreme Court, shall be applicable.



1407           **SECTION 28.** Section 77-3-67, Mississippi Code of 1972, is  
1408 amended as follows:

1409           77-3-67. (1) In addition to other remedies now available at  
1410 law or in equity, any party aggrieved by any final finding, order  
1411 or judgment of the commission, except those final findings, orders  
1412 or judgments specified in Section 77-3-72, shall have the right,  
1413 regardless of the amount involved, of appeal to the Court of  
1414 Appeals \* \* \*. \* \* \* If an application for rehearing has been  
1415 filed, an appeal must be filed within thirty (30) days after the  
1416 application for rehearing has been refused or deemed refused  
1417 because of the commission's failure to act thereon within the time  
1418 specified in Section 77-3-65 or, if the application is granted,  
1419 within thirty (30) days after the rendition of the decision on  
1420 rehearing. If an application for rehearing has not been filed, an  
1421 appeal must be filed within thirty (30) days after the entry of  
1422 the commission's order. Every appeal shall state briefly the  
1423 nature of the proceedings before the commission, and shall specify  
1424 the order complained of. Any person whose rights may be directly  
1425 affected by said appeal may appear and become a party, or the  
1426 court may upon proper notice order any person to be joined as a  
1427 party.

1428           (2) Upon the filing of an appeal the clerk of the Court of  
1429 Appeals shall serve notice thereof upon the commission, whereupon  
1430 the commission shall, within sixty (60) days (or within such  
1431 additional time as the court may for cause allow) from the service  
1432 of such notice, certify to the Court of Appeals the record in the  
1433 case, which record shall include a transcript of all testimony,  
1434 together with all exhibits or copies thereof, all pleadings,  
1435 proceedings, orders, findings and opinions entered in the case.  
1436 However, the parties and the commission may stipulate that a  
1437 specified portion only of the record shall be certified to the  
1438 court as the record on appeal.



1439 (3) No new or additional evidence shall be introduced in the  
1440 appeal but the case shall be determined upon the record and  
1441 evidence transferred.

1442 (4) The court may \* \* \* sustain or dismiss the appeal,  
1443 modify or vacate the order complained of in whole or in part, as  
1444 the case may be. In case the order is wholly or partly vacated  
1445 the court may also, in its discretion, remand the matter to the  
1446 commission for such further proceedings, not inconsistent with the  
1447 court's order as, in the opinion of the court, justice may  
1448 require. The order shall not be vacated or set aside either in  
1449 whole or in part, except for errors of law, unless the court finds  
1450 that the order of the commission is not supported by substantial  
1451 evidence, is contrary to the manifest weight of the evidence, is  
1452 in excess of the statutory authority or jurisdiction of the  
1453 commission, or violates constitutional rights.

1454 **SECTION 29.** Section 77-3-71, Mississippi Code of 1972, is  
1455 amended as follows:

1456 77-3-71. Appeals in accordance with law may be had to the  
1457 supreme court of the state of Mississippi from any final judgment  
1458 of the Court of Appeals.

1459 (a) If the party taking the appeal has theretofore  
1460 furnished security as provided in Sections 77-3-39 and 77-3-69,  
1461 and has filed a bond conditioned as provided in Sections 77-3-39  
1462 and 77-3-69, the taking of an appeal to the supreme court shall  
1463 operate as a supersedeas without the furnishing of further  
1464 security or bond. In such cases the supreme court may, upon  
1465 application to it, require such additional security, or such  
1466 additional bond conditioned as provided in Sections 77-3-39 and  
1467 77-3-69, as in its opinion will adequately secure the other party  
1468 to the appeal, or parties who may become entitled to refunds,  
1469 against loss in the event the judgment under review is affirmed.

1470 (b) If an appeal to the supreme court be taken from a  
1471 final judgment of the Court of Appeals which alters an order of



1472 the commission by approving a level of revenue in excess of that  
1473 allowed by the commission's order, the public utility may, as a  
1474 matter of right, place such level of revenue which has been so  
1475 approved by the Court of Appeals in such final judgment into  
1476 effect, pending final determination of the appeal to the supreme  
1477 court, upon filing with the supreme court a bond in a reasonable  
1478 amount approved by such court, with sureties approved by such  
1479 court, conditioned upon the refund with interest at the lawful  
1480 rate to the parties entitled thereto, of the amount of the excess  
1481 if the rates so put into effect are finally determined to be  
1482 excessive. In lieu of payment, the utility may credit the service  
1483 account with the amount due under this section if the consumer  
1484 entitled to the refund, is at that time, a consumer of the  
1485 utility.

1486 (c) In addition to the foregoing, if an appeal to the  
1487 supreme court be taken from a final judgment of the Court of  
1488 Appeals with respect to a proceeding for determination of rates,  
1489 and the public utility is not then collecting under refunding bond  
1490 rates in excess of rates which have been ordered by the  
1491 commission, such utility may request upon motion filed in the  
1492 supreme court an order allowing the utility to place into effect  
1493 forthwith interim rates which may be charged and collected,  
1494 subject to refund as hereinafter provided, pending final  
1495 determination of the rate proceeding. The court may, in its  
1496 discretion, upon a hearing by not fewer than three (3) justices  
1497 and upon a finding that undue hardship or irreparable injury to  
1498 the utility or the public interest would probably result  
1499 otherwise, allow the utility to place into effect such interim  
1500 rates at a revenue level up to, but not exceeding, the proposed  
1501 rates. The court may allow the utility to collect all or part of  
1502 a proposed rate increase. However, before such increased rates  
1503 can take effect, the utility shall file with the court a bond in a  
1504 reasonable amount approved by the court, with sureties approved by



1505 the court, conditioned upon the refund, with interest at the  
1506 lawful rate, to the parties entitled thereto, of the amount of the  
1507 excess after the existing rate or rates or the rate or rates so  
1508 put into effect are finally determined to be excessive. In lieu  
1509 of payment, the utility may credit the service account with the  
1510 amount due under this section if the consumer entitled to the  
1511 refund is, at that time, a consumer of the utility.

1512 If the court does not dispose of the motion for interim rates  
1513 as contemplated herein within thirty (30) days of the filing of  
1514 such motion, then the public utility, as a matter of right, may  
1515 place into effect forthwith fifty percent (50%) of that portion of  
1516 the proposed rate schedule not allowed by the commission's order,  
1517 pending final determination of the appeal, upon filing with the  
1518 court a surety bond in the same manner as previously provided for  
1519 herein. If the court does not make a final determination and  
1520 adjudication of the rate proceeding within one hundred eighty  
1521 (180) days after the record has been certified and filed, or if  
1522 the court remands the matter to the commission for further  
1523 proceedings and the commission has not entered its order allowing  
1524 rates within forty-five (45) days from the time of receipt of the  
1525 mandate of the court, or if the commission has at any time entered  
1526 its order after remand and an appeal therefrom has been taken,  
1527 then, in any such case, the public utility may, as a matter of  
1528 right, place into effect the entire proposed rate schedule, under  
1529 refunding bond, as provided for in this section or in Section  
1530 77-3-39, whichever is applicable. Interim rates under refunding  
1531 bond charged by the utility under this subsection shall terminate  
1532 upon final disposition of the rate proceeding without timely  
1533 appeal.

1534 **SECTION 30.** Section 75-57-117, Mississippi Code of 1972, is  
1535 amended as follows:

1536 75-57-117. (1) Any individual aggrieved by a final decision  
1537 of the board shall be entitled to judicial review.



1538 (2) Any appeal from the board's decision shall be filed in  
1539 the Court of Appeals. The appeal shall be filed within thirty  
1540 (30) days after notification of the action of the board is mailed  
1541 or served and the proceedings \* \* \* shall be conducted as other  
1542 matters coming before the court. The appeal shall be perfected  
1543 upon filing notice of the appeal and by the prepayment of all  
1544 costs, including the cost of preparation of the record of the  
1545 proceedings before the board, and the filing of a bond in the sum  
1546 of Five Hundred Dollars (\$500.00) conditioned that if the action  
1547 of the board be affirmed by the Court of Appeals, the aggrieved  
1548 party shall pay the costs of the appeal \* \* \*.

1549 (3) The scope of review of the Court of Appeals in such  
1550 cases shall be limited to a review of the record made before the  
1551 board to determine if the action of the board is unlawful for the  
1552 reason that it was:

- 1553 (a) Not supported by any substantial evidence;
- 1554 (b) Arbitrary or capricious; or
- 1555 (c) In violation of some statutory or constitutional  
1556 right of the individual.

1557 (4) No relief shall be granted based upon the court's  
1558 finding of harmless error by the board in complying with the  
1559 procedural requirements of this chapter. If there is a finding of  
1560 prejudicial error in the proceedings, the cause may be remanded  
1561 for a rehearing consistent with the findings of the court.

1562 (5) Any party aggrieved by action of the Court of Appeals  
1563 may appeal in the manner provided by law.

1564 **SECTION 31.** Section 83-53-37, Mississippi Code of 1972, is  
1565 amended as follows:

1566 83-53-37. Any person affected by an order of the  
1567 commissioner under Section 83-53-35 may obtain a review of such  
1568 order by filing in the Court of Appeals, within thirty (30) days  
1569 from the date of the service of such order, a complaint praying  
1570 that the order of the commissioner be modified or set aside. A



1571 copy of such petition or complaint shall be forthwith served upon  
1572 the commissioner, and thereupon the commissioner forthwith shall  
1573 certify and file in such court a transcript of the entire record  
1574 in the proceeding, including all the evidence taken and the  
1575 findings and order of the commissioner. Upon such filing of the  
1576 petition and transcript, such court shall have jurisdiction of the  
1577 proceedings and of the question determined therein, shall  
1578 determine whether the filing of such petition shall operate as a  
1579 stay of such order of the commissioner, and shall have power to  
1580 make and enter upon the pleadings, evidence and proceedings set  
1581 forth in such transcript a judgment modifying, affirming or  
1582 reversing the order of the commissioner, in whole or in part. Any  
1583 party, including the commissioner, aggrieved by a final decision  
1584 of said Court of Appeals, may appeal to the Supreme Court in the  
1585 manner provided by law.

1586         **SECTION 32.** Section 83-53-39, Mississippi Code of 1972, is  
1587 amended as follows:

1588         83-53-39. A cease and desist order issued by the  
1589 commissioner under Section 83-53-31 shall become final upon the  
1590 completion of the time allowed for filing a petition with the  
1591 commissioner for a hearing if no such petition has been duly filed  
1592 within such time. If a petition for a hearing is filed within  
1593 such time pursuant to Section 83-53-33, the order of the  
1594 commissioner shall not take effect and be in force until the  
1595 issuance of an order pursuant to Section 83-53-35. An order  
1596 issued pursuant to Section 83-53-35 shall take effect and be in  
1597 force upon issuance or at such time as may be stated in such  
1598 order. The commissioner, in his discretion, or the Court of  
1599 Appeals, upon appeal, may stay the execution or enforcement of any  
1600 such order.

1601         **SECTION 33.** Section 83-6-41, Mississippi Code of 1972, is  
1602 amended as follows:





1603           83-6-41. (1) Any person aggrieved by any act,  
1604 determination, rule, regulation or order or any other action of  
1605 the commissioner pursuant to this chapter may appeal to the Court  
1606 of Appeals.

1607           (2) The filing of an appeal pursuant to this section shall  
1608 stay the application of any such rule, regulation, order or other  
1609 action of the commissioner to the appealing party unless the  
1610 court, after giving such party notice and an opportunity to be  
1611 heard, determines that such a stay would be detrimental to the  
1612 interests of policyholders, shareholders, creditors or the public.

1613           (3) Any person aggrieved by any failure of the commissioner  
1614 to act or make a determination required by this chapter may  
1615 petition the Court of Appeals for a writ in the nature of a  
1616 mandamus or a peremptory mandamus directing the commissioner to  
1617 act or make such determination forthwith.

1618           **SECTION 34.** Section 83-5-43, Mississippi Code of 1972, is  
1619 amended as follows:

1620           83-5-43. (1) Any person required by an order of the  
1621 commissioner under Section 83-5-41 to cease and desist from  
1622 engaging in any unfair method of competition or any unfair or  
1623 deceptive act or practice defined in Section 83-5-35 may obtain a  
1624 review of such order by filing in the Court of Appeals, within  
1625 thirty days from the date of the service of such order, a written  
1626 petition praying that the order of the commissioner be set aside.  
1627 A copy of such petition shall be forthwith served upon the  
1628 commissioner, and thereupon the commissioner forthwith shall  
1629 certify and file in such court a transcript of the entire record  
1630 in the proceeding, including all the evidence taken and the report  
1631 and order of the commissioner. Upon such filing of the petition  
1632 and transcript, such court shall have jurisdiction of the  
1633 proceeding and of the question determined therein, shall determine  
1634 whether the filing of such petition shall operate as a stay of  
1635 such order of the commissioner, and shall have power to make and



1636 enter upon the pleadings, evidence, and proceedings set forth in  
1637 such transcript a judgment modifying, affirming, or reversing the  
1638 order of the commissioner, in whole or in part. The findings of  
1639 the commissioner as to the facts, if supported by substantial  
1640 evidence, shall be conclusive.

1641 (2) To the extent that the order of the commissioner is  
1642 affirmed, the court shall thereupon issue its own order commanding  
1643 obedience to the terms of such order of the commissioner. If  
1644 either party shall apply to the court for leave to adduce  
1645 additional evidence, and shall show to the satisfaction of the  
1646 court that such additional evidence is material and that there  
1647 were reasonable grounds for the failure to adduce such evidence in  
1648 the proceeding before the commissioner, the court may order such  
1649 additional evidence to be taken before the commissioner and to be  
1650 adduced upon the hearing in such manner and upon such terms and  
1651 conditions as to the court may seem proper. The commissioner may  
1652 modify his findings of fact or make new findings by reason of the  
1653 additional evidence so taken; and he shall file such modified or  
1654 new findings which, if supported by substantial evidence, shall be  
1655 conclusive, and his recommendations, if any, for the modification  
1656 or setting aside of his original order, with the return of such  
1657 additional evidence.

1658 (3) A cease and desist order issued by the commissioner  
1659 under Section 83-5-41 shall become final:

1660 (a) Upon the completion of the time allowed for filing  
1661 a petition for review if no such petition has been duly filed  
1662 within such time; except that the commissioner may thereafter  
1663 modify or set aside his order to the extent provided in Section  
1664 83-5-41(2) or

1665 (b) Upon the final decision of the court if the court  
1666 directs that the order of the commissioner be affirmed or the  
1667 petition for review dismissed.



1668 (4) No order of the commissioner under Sections 83-5-29 to  
1669 83-5-51 or order of the court to enforce the same shall in any way  
1670 relieve or absolve any person affected by such order from any  
1671 liability under any other laws of this state.

1672 **SECTION 35.** Section 83-53-33, Mississippi Code of 1972, is  
1673 amended as follows:

1674 83-53-33. Any person affected by a cease and desist order  
1675 issued under Section 83-53-31 may, within thirty (30) days after  
1676 being served with such cease and desist order, petition the  
1677 commissioner for a hearing to consider the alleged violation of  
1678 this chapter or any rule or regulation issued pursuant thereto.  
1679 The commissioner shall set the time and place of such hearing,  
1680 which shall not be less than ten (10) days nor more than thirty  
1681 (30) days after the date the petition is received by the  
1682 commissioner.

1683 At the time and place fixed for such hearing, such person  
1684 shall have an opportunity to be heard and to show cause why the  
1685 order of the commissioner requiring such person to cease and  
1686 desist from the violation or violations complained of should not  
1687 be made final.

1688 Upon good cause shown, the commissioner shall permit any  
1689 person to intervene, appear and be heard at such hearing by  
1690 counsel or in person.

1691 Nothing contained herein shall require the observance at any  
1692 such hearing of formal rules of pleadings or evidence.

1693 The commissioner, upon such hearing, may administer oaths,  
1694 examine and cross-examine witnesses, receive oral and documentary  
1695 evidence, and shall have the power to subpoena witnesses, compel  
1696 their attendance and require the production of books, papers,  
1697 records, correspondence or other documents which he deems relevant  
1698 to the inquiry. The commissioner, upon such hearing, may, and  
1699 upon the request of any party shall, cause to be made a  
1700 stenographic record of all the evidence and all the proceeding had



1701 at such hearing. If no stenographic record is made and if a  
1702 judicial review is sought, the commissioner shall prepare a  
1703 statement of the evidence and proceeding for use on review. In  
1704 case of a refusal of any person to comply with any subpoena issued  
1705 hereunder or to testify with respect to any matter concerning  
1706 which he may be lawfully interrogated, the Court of Appeals, on  
1707 application of the commissioner, may issue an order requiring such  
1708 person to comply with such subpoena and to testify; and any  
1709 failure to obey any such order of the court may be punished by the  
1710 court as a contempt thereof.

1711 The commissioner by regulation shall provide for the  
1712 assessment of, costs for stenographic records, process and other  
1713 related expenses pertaining to proceedings pursuant to this  
1714 section, and may require a deposit or other security therefor.

1715 Statements of charges, notices, orders and other processes of  
1716 the commissioner may be served by anyone duly authorized by the  
1717 commissioner, either in the manner provided by law for service of  
1718 process in civil actions or by registering and mailing a copy  
1719 thereof to the person affected by such statement, notice, order or  
1720 other process at his or its residence or principal office or place  
1721 of business. The verified return by the person so serving such  
1722 statement, notice, order or other process, setting forth the  
1723 manner of such service, shall be proof of the same; and the return  
1724 postcard receipt for such statement, notice, order or other  
1725 process, registered and mailed as aforesaid, shall be proof of the  
1726 service of the same.

1727 **SECTION 36.** Section 83-17-83, Mississippi Code of 1972, is  
1728 amended as follows:

1729 83-17-83. Any person aggrieved by any action or decision of  
1730 the Commissioner of Insurance under the provisions of this article  
1731 may appeal therefrom to the Court of Appeals by certiorari in the  
1732 manner provided by law. Such appeal shall be without supersedeas,



1733 except that the court may grant supersedeas as otherwise provided  
1734 by law where the license is revoked. \* \* \*

1735 **SECTION 37.** Section 83-6-41, Mississippi Code of 1972, is  
1736 amended as follows:

1737 83-6-41. (1) Any person aggrieved by any act,  
1738 determination, rule, regulation or order or any other action of  
1739 the commissioner pursuant to this chapter may appeal to the Court  
1740 of Appeals.

1741 (2) The filing of an appeal pursuant to this section shall  
1742 stay the application of any such rule, regulation, order or other  
1743 action of the commissioner to the appealing party unless the  
1744 court, after giving such party notice and an opportunity to be  
1745 heard, determines that such a stay would be detrimental to the  
1746 interests of policyholders, shareholders, creditors or the public.

1747 (3) Any person aggrieved by any failure of the commissioner  
1748 to act or make a determination required by this chapter may  
1749 petition the Court of Appeals for a writ in the nature of a  
1750 mandamus or a peremptory mandamus directing the commissioner to  
1751 act or make such determination forthwith.

1752 **SECTION 38.** Section 83-41-339, Mississippi Code of 1972, is  
1753 amended as follows:

1754 83-41-339. (1) Any certificate of authority issued under  
1755 this article may be suspended or revoked, and any application for  
1756 a certificate of authority may be denied, if the commissioner  
1757 after a hearing finds that any of the conditions listed below  
1758 exist:

1759 (a) The health maintenance organization is operating  
1760 significantly in contravention of its basic organizational  
1761 document or in a manner contrary to that described in any other  
1762 information submitted under Section 83-41-305, unless amendments  
1763 to the submissions have been filed with and approved by the  
1764 commissioner;



1765           (b) The health maintenance organization issues an  
1766 evidence of coverage or uses a schedule of charges for health care  
1767 services which do not comply with the requirements of Sections  
1768 83-41-315 and 83-41-331;

1769           (c) The health maintenance organization does not  
1770 provide or arrange for basic health care services;

1771           (d) The State Health Officer certifies to the  
1772 commissioner that:

1773                 (i) The health maintenance organization does not  
1774 meet the requirements of Section 83-41-307(1)(b); or

1775                 (ii) The health maintenance organization is unable  
1776 to fulfill its obligations to furnish health care services;

1777           (e) The health maintenance organization operating in a  
1778 "hazardous condition", and is no longer financially responsible  
1779 and may reasonably be expected to be unable to meet its  
1780 obligations to enrollees or prospective enrollees;

1781           (f) The health maintenance organization has failed to  
1782 correct, within the time prescribed by subsection (3), any  
1783 deficiency occurring due to such health maintenance organization's  
1784 prescribed minimum net worth being impaired;

1785           (g) The health maintenance organization has failed to  
1786 implement the grievance procedures required by Section 83-41-321  
1787 in a reasonable manner to resolve valid complaints;

1788           (h) The health maintenance organization, or any person  
1789 on its behalf, has advertised or merchandised its services in an  
1790 untrue, misrepresentative, misleading, deceptive or unfair manner;

1791           (i) The continued operation of the health maintenance  
1792 organization would be hazardous to its enrollees; or

1793           (j) The health maintenance organization has otherwise  
1794 failed substantially to comply with this article.

1795           (2) In addition to or in lieu of suspension or revocation of  
1796 a certificate of authority pursuant to this section, the applicant  
1797 or health maintenance organization may be subjected to an



1798 administrative penalty of up to One Thousand Dollars (\$1,000.00)  
1799 for each violation.

1800 (3) The following shall pertain when insufficient net worth  
1801 is maintained:

1802 (a) Whenever the commissioner finds that the net worth  
1803 maintained by any health maintenance organization subject to the  
1804 provisions of this article is less than the minimum net worth  
1805 required to be maintained by Section 83-41-325, he shall give  
1806 written notice to the health maintenance organization of the  
1807 amount of the deficiency and require: (i) filing with the  
1808 commissioner a plan for correction of the deficiency acceptable to  
1809 the commissioner and (ii) correction of the deficiency within a  
1810 reasonable time, not to exceed sixty (60) days, unless an  
1811 extension of time, not to exceed sixty (60) additional days, is  
1812 granted by the commissioner. The deficiency shall be deemed an  
1813 impairment, and failure to correct the impairment in the  
1814 prescribed time shall be grounds for suspension or revocation of  
1815 the certificate of authority or for placing the health maintenance  
1816 organization in administrative supervision, rehabilitation or  
1817 liquidation as per the insurance laws of this State.

1818 (b) Unless allowed by the commissioner no health  
1819 maintenance organization or person acting on its behalf may,  
1820 directly or indirectly, renew, issue or deliver any certificate,  
1821 agreement or contract of coverage in this state, for which a  
1822 premium is charged or collected, when the health maintenance  
1823 organization writing such coverage is impaired, and the fact of  
1824 such impairment is known to the health maintenance organization or  
1825 to such person.

1826 However, the existence of an impairment shall not prevent the  
1827 issuance or renewal of a certificate, agreement or contract when  
1828 the enrollee exercises an option granted under the plan to obtain  
1829 a new, renewed or converted coverage.



1830           (4) A certificate of authority shall be suspended or revoked  
1831 or an application or a certificate of authority denied or an  
1832 administrative penalty imposed only after compliance with the  
1833 requirements of this section.

1834           (a) Suspension or revocation of a certificate of  
1835 authority or the denial of an application or the imposition of an  
1836 administrative penalty pursuant to this section shall be by  
1837 written order and shall be sent to the health maintenance  
1838 organization or applicant by certified or registered mail and to  
1839 the State Health Officer. The written order shall state the  
1840 grounds, charges or conduct on which suspension, revocation or  
1841 denial or administrative penalty is based. The health maintenance  
1842 organization or applicant may in writing request a hearing within  
1843 twenty (20) days from the date of mailing of the order. The said  
1844 request must be filed with the commissioner within the twenty (20)  
1845 day period. If no written request is made, such order shall be  
1846 final upon the expiration of said twenty (20) days.

1847           (b) If the health maintenance organization or applicant  
1848 requests a hearing pursuant to this section, the commissioner  
1849 shall issue a written notice of hearing and send it to the health  
1850 maintenance organization or applicant by certified or registered  
1851 mail and to the State Health Officer stating:

1852                   (i) A specific time for the hearing, which may not  
1853 be less than twenty (20) days after mailing of the notice of  
1854 hearing; and

1855                   (ii) A specific place for the hearing which shall  
1856 be at the discretion of the commissioner and which may be either  
1857 in Jackson, Hinds County, Mississippi or in the county where the  
1858 health maintenance organization's or applicant's principal place  
1859 of business is located.

1860                   (iii) If a hearing is requested, the State Health  
1861 Officer or his designated representative shall be in attendance  
1862 and shall participate in the proceedings. The recommendations and





1863 findings of the State Health Officer with respect to matters  
1864 relating to the quality of health care services provided in  
1865 connection with any decision regarding denial, suspension or  
1866 revocation of a certificate of authority, shall be conclusive and  
1867 binding upon the commissioner.

1868         After the hearing, or upon failure of the health maintenance  
1869 organization to appear at the hearing, the commissioner shall take  
1870 whatever action he deems necessary based on written findings and  
1871 shall mail his decision to the health maintenance organization or  
1872 applicant with a copy to the State Health Officer. The action of  
1873 the commissioner and the recommendation and findings of the State  
1874 Health Officer shall be subject to review under the Administrative  
1875 Rules of Practice and Procedure Act.

1876         (5) When the certificate of authority of a health  
1877 maintenance organization is suspended, the health maintenance  
1878 organization shall not, during the period of such suspension,  
1879 enroll any additional enrollees except newborn children or other  
1880 newly acquired dependents of existing enrollees, and shall not  
1881 engage in any advertising or solicitation whatsoever.

1882         (6) When the certificate of authority of a health  
1883 maintenance organization is revoked, such organization shall  
1884 proceed, immediately following the effective date of the order of  
1885 revocation, to wind up its affairs, and shall conduct no further  
1886 business except as may be essential to the orderly conclusion of  
1887 the affairs of such organization under supervision of the  
1888 commissioner. It shall engage in no further advertising or  
1889 solicitation whatsoever. The commissioner may, by written order,  
1890 permit such further operation of the organization as he may find  
1891 to be in the best interest of enrollees, to the end that enrollees  
1892 will be afforded the greatest practical opportunity to obtain  
1893 continuing health care coverage.



1894 (7) Any appeal from a decision of the commissioner under  
1895 this section shall be to the Court of Appeals within thirty days  
1896 (30) from the final Order of the commissioner.

1897 **SECTION 39.** Section 83-53-15, Mississippi Code of 1972, is  
1898 amended as follows:

1899 83-53-15. All policies, certificates of insurance, notices  
1900 of proposed insurance, applications for insurance, endorsements  
1901 and riders delivered or issued for delivery in this state, and the  
1902 schedules of premium rates pertaining thereto, shall be filed with  
1903 the commissioner for his approval prior to use.

1904 If after filing, the commissioner notifies the insurer that  
1905 the form is disapproved, it is unlawful for the insurer to issue  
1906 or use the form. In the notice the commissioner shall specify the  
1907 reason for his disapproval and state that a hearing will be  
1908 granted within thirty (30) days after receipt of request in  
1909 writing by the insurer. No such policy, certificate of insurance,  
1910 notice of proposed insurance, nor any application, endorsement or  
1911 rider shall be issued or used unless and until the commissioner  
1912 shall give his prior written approval thereto.

1913 Any insurer or other party affected by any order or final  
1914 determination of the commissioner under the provisions of this  
1915 section may obtain judicial review thereof by filing in the Court  
1916 of Appeals within thirty (30) days from the date thereof a written  
1917 petition or complaint praying that said order or final  
1918 determination be modified or reversed. A copy of such petition or  
1919 complaint shall be forthwith served upon the commissioner, and the  
1920 commissioner shall file a transcript of the entire record of the  
1921 proceedings with said court, which shall then have jurisdiction of  
1922 the proceedings and questions determined therein. Said court  
1923 shall have the power to make or enter a judgment modifying,  
1924 affirming or reversing the order or final determination of the  
1925 commissioner in whole or in part.



1926           A premium rate or schedule of premium rates shall be deemed  
1927 reasonable for all purposes under this chapter and shall be deemed  
1928 approved by the commissioner upon filing with the commissioner as  
1929 required by this section if the premium rate or schedule of  
1930 premium rates meets the requirements for being considered  
1931 reasonable under Section 83-53-23. However, a different premium  
1932 rate or schedule of premium rates shall be deemed reasonable upon  
1933 the filing thereof with the commissioner as required by this  
1934 section if it produces, or reasonably may be expected to result in  
1935 claims incurred in excess of fifty percent (50%) of earned  
1936 premiums.

1937           **SECTION 40.** Section 83-54-27, Mississippi Code of 1972, is  
1938 amended as follows:

1939           83-54-27. (1) The commissioner may conduct investigations  
1940 and/or examinations of insurers and producers to ensure compliance  
1941 with the provisions of the act or any rule, regulation or order  
1942 hereunder, as well as under any other applicable statutes or  
1943 regulations.

1944           (2) The commissioner may by order, deny, suspend or revoke  
1945 an insurer's certificate of authority or a producer's license if  
1946 the commissioner finds that such insurer or producer has violated  
1947 any provision of the act.

1948           (3) If the commissioner has reason to believe that any  
1949 person or entity is engaging in any activity that would be a  
1950 violation of this chapter or any rule promulgated under this  
1951 chapter, the commissioner may issue an order directing that person  
1952 or entity to cease and desist from committing the violations,  
1953 impose a civil penalty for the violations, provide an equitable  
1954 remedy for past violations, or any combination of these. Such  
1955 order may be issued without prior notice if the commissioner makes  
1956 a finding that such order is necessary for the protection of  
1957 policyholders and that the public health, safety and welfare  
1958 require the order to be issued without prior notice to affected



1959 parties. At any hearing or other proceeding conducted as a result  
1960 of an order to cease and desist, pursuant to this chapter, the  
1961 person or entity subject to the order shall be required to show  
1962 cause why such order should be annulled, modified or confirmed.

1963 (4) Whenever it appears to the commissioner that any person  
1964 or entity has engaged or is about to engage in an act of practice  
1965 constituting a violation of any provision of this chapter or any  
1966 rule, regulation or order hereunder, the commissioner may, in the  
1967 commissioner's discretion, bring an action in chancery court of  
1968 any county in this state to enjoin the acts or practices and to  
1969 enforce compliance with this chapter or any rule, regulation or  
1970 order hereunder. Upon a proper showing, a permanent or temporary  
1971 injunction, restraining order, writ of mandamus, disgorgement or  
1972 other proper equitable relief shall be granted.

1973 (5) Additionally, upon a finding that any person or entity  
1974 has violated a provision of this chapter, the commissioner may  
1975 impose a civil penalty of not more than One Thousand Dollars  
1976 (\$1,000.00) for each violation, and may revoke, suspend or decline  
1977 to renew any license of such person or entity to sell or issue  
1978 insurance.

1979 (6) Any person aggrieved by a final order of the  
1980 commissioner under this chapter may obtain judicial review of the  
1981 order in the Court of Appeals within thirty (30) days of the  
1982 issuance and service of such order, a written petition or  
1983 complaint praying that said order be modified or set aside. A  
1984 copy of such petition shall be served upon the commissioner, and  
1985 the commissioner shall file a complete record of the proceedings  
1986 with said court, which shall then have jurisdiction of the  
1987 proceedings and questions determined therein.

1988 **SECTION 41.** Section 99-41-13, Mississippi Code of 1972, is  
1989 amended as follows:



1990           99-41-13. Any claimant aggrieved by a final decision of the  
1991 deputy director of the department shall be entitled to judicial  
1992 review thereof in the manner provided in this section.

1993           (a) An appeal may be taken by such claimant to the  
1994 Court of Appeals filing a petition with the clerk of the court and  
1995 executing and filing bond payable to the State of Mississippi with  
1996 sufficient sureties to be approved by the clerk of the court,  
1997 conditioned upon the payment of all costs of appeal, including the  
1998 cost of preparing the transcript of the hearing before the  
1999 department. The petition and bond shall be filed within thirty  
2000 (30) days of the receipt of the final decision of the deputy  
2001 director of the department. Upon approval of the bond, the clerk  
2002 of the court shall notify the department, which shall prepare its  
2003 record in the matter and transmit it to the circuit court.

2004           (b) The scope of review of the Court of Appeals in such  
2005 cases shall be limited to a review of the record made before the  
2006 department to determine if the action of the department is  
2007 unlawful for the reason that it was:

2008                   (i) Not supported by a preponderance of the  
2009 evidence;

2010                   (ii) Arbitrary and capricious; or

2011                   (iii) In violation of a statutory right of  
2012 claimant.

2013           (c) No relief shall be granted based upon the court's  
2014 finding of harmless error.

2015           (d) Any party aggrieved by action of the Court of  
2016 Appeals may appeal to the Supreme Court in the manner provided by  
2017 law.

2018           **SECTION 42.** Section 71-3-51, Mississippi Code of 1972, is  
2019 amended as follows:

2020           71-3-51. The final award of the commission shall be  
2021 conclusive and binding unless either party to the  
2022 controversy \* \* \*, within thirty (30) days from the date of its



2023 filing in the office of the commission \* \* \*, shall appeal  
2024 therefrom to the Court of Appeals \* \* \*. Notice of the filing of  
2025 the decision shall be sent by the commission to the parties. The  
2026 commission shall review and decide a party's claim that timely  
2027 notice was not received by utilizing by analogy the Mississippi  
2028 Rule of Appellate Procedure applicable to failure to receive  
2029 notice of the entry of a judgment.

2030       Such appeal may be taken by filing notice of appeal with the  
2031 commission, whereupon the commission shall under its certificate  
2032 transmit to the Court of Appeals \* \* \* all documents and papers on  
2033 file in the matter, together with a transcript of the evidence,  
2034 the findings, and award, which shall thereupon become the record  
2035 of the cause. If the notice of appeal is mistakenly filed with  
2036 the clerk of the Court of Appeals, the clerk will note the date on  
2037 which it was received and transmit the notice to the commission;  
2038 such notice shall be considered received by the commission on the  
2039 date received by the clerk of the Court of Appeals. Appeals shall  
2040 be considered only upon the record as made before the  
2041 commission. \* \* \* The Court of Appeals shall review all questions  
2042 of law and of fact. If no prejudicial error is found, the matter  
2043 shall be affirmed \* \* \*. If prejudicial error is found, the  
2044 commission's decision shall be reversed and the Court of Appeals  
2045 shall enter such judgment or award as the commission should have  
2046 entered or remand for further commission action, as warranted.  
2047 Review of decisions of the Court of Appeals by the Supreme Court  
2048 shall be by petition for certiorari as \* \* \* required by law. An  
2049 appeal from the commission to the Court of Appeals shall not act  
2050 as a supersedeas unless the court \* \* \* shall so direct, and then  
2051 upon such terms as the court imposes.

2052       No controversy shall be heard by the commission or an award  
2053 of compensation made therein while the same matter is pending  
2054 either before a federal court or in any court in this state. Once  
2055 judicial review of a commission decision has been completed and no



2056 further review is procedurally available, the continuing  
2057 jurisdiction of the commission and the jurisdiction of any court  
2058 shall be as otherwise provided by statute.

2059 Any award of compensation made by the Court of Appeals and  
2060 reviewed by the Supreme Court shall bear the same interest and  
2061 penalties as do other judgments awarded in the Court of Appeals.

2062 **SECTION 43.** Section 9-4-3, Mississippi Code of 1972, is  
2063 amended as follows:

2064 9-4-3. (1) The Court of Appeals shall have the power to  
2065 determine or otherwise dispose of any appeal or other proceeding  
2066 assigned to it by the Supreme Court.

2067 Except as otherwise provided by law, the jurisdiction of the  
2068 Court of Appeals is limited to those matters which have been  
2069 assigned to it by the Supreme Court.

2070 The Supreme Court shall prescribe rules for appeals by law to  
2071 the Court of Appeals and for the assignment of other matters to  
2072 the Court of Appeals. These rules may provide for the selective  
2073 assignment of individual cases and may provide for the assignment  
2074 of cases according to subject matter or other general criteria.  
2075 However, the Supreme Court shall retain appeals in cases imposing  
2076 the death penalty, or cases involving utility rates, annexations,  
2077 bond issues, election contests, or a statute held unconstitutional  
2078 by the lower court.

2079 (2) Except as otherwise provided by law, decisions of the  
2080 Court of Appeals are final and are not subject to review by the  
2081 Supreme Court, except by writ of certiorari. The Supreme Court  
2082 may grant certiorari review only by the affirmative vote of four  
2083 (4) of its members. At any time before final decision by the  
2084 Court of Appeals, the Supreme Court may, by order, transfer to the  
2085 Supreme Court any case pending before the Court of Appeals.

2086 (3) The Court of Appeals shall have jurisdiction to issue  
2087 writs of habeas corpus, mandamus, quo warranto, certiorari,



2088 prohibition or any other process when this may be necessary in any  
2089 case assigned to it by the Supreme Court or by law.

2090 (4) The Court of Appeals shall issue a decision in every  
2091 case heard before the Court of Appeals within two hundred seventy  
2092 (270) days after the final briefs have been filed with the court.

2093 (5) The Supreme Court shall issue a decision in every case  
2094 within its original jurisdiction, including all direct and  
2095 post-conviction collateral relief appeals or applications in cases  
2096 imposing the death penalty, within two hundred seventy (270) days  
2097 after the final briefs have been filed with the court. The  
2098 Supreme Court shall issue a decision in every case received on  
2099 certiorari from the Court of Appeals within one hundred eighty  
2100 (180) days after the final briefs have been filed with the court.

2101 **SECTION 44.** This act shall take effect and be in force from  
2102 and after January 1, 2003.

