

By: Representative Baria

To: Workforce Development;
Judiciary A

HOUSE BILL NO. 8

1 AN ACT TO CREATE THE "MISSISSIPPI MINIMUM WAGE LAW"; TO
2 ESTABLISH THE STATE MINIMUM WAGE AT NINE DOLLARS PER HOUR; TO
3 PROVIDE THAT EMPLOYERS WITH TIPPED EMPLOYEES ARE EXEMPT FROM THE
4 REQUIREMENT TO PAY THE STATE MINIMUM WAGE; TO ESTABLISH GUIDELINES
5 FOR EMPLOYEES ENTITLED TO OVERTIME PAY; TO BRING FORWARD SECTIONS
6 7-7-204, 17-1-51, 23-15-239, 25-3-40, 37-7-307, 57-34-5, 85-3-4,
7 97-3-54.4 AND 99-19-20, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
8 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** This act shall be known and may be cited as the
11 "Mississippi Minimum Wage Act."

12 **SECTION 2.** (1) As used in this section, the following words
13 and phrases shall have the following meanings, unless the context
14 clearly requires otherwise:

15 (a) "Tipped employee" means any employee engaged in an
16 occupation in which the employee customarily and regularly
17 receives more than Thirty Dollars (\$30.00) a month in tips.

18 (b) "Manual laborers" and "blue collar" workers mean
19 workers who perform work involving repetitive operations with
20 their hands, physical skill and energy. They gain the skills and



21 knowledge required for performance of their routine manual and
22 physical work through apprenticeships and on-the-job training.

23 (2) Every employer shall pay each of his or her employees
24 wages at the rate of not less than Nine Dollars (\$9.00) per hour,
25 except as otherwise provided in this section.

26 (3) Every employer shall pay each of his or her tipped
27 employees wages at the rate of not less than Three Dollars
28 Sixty-two cents (\$3.62) per hour.

29 (4) The overtime pay standard requires that overtime must be
30 compensated at a rate not less than one and one-half (1-1/2) times
31 the regular rate at which the employee is actually employed. The
32 regular rate of pay at which the employee is employed may in no
33 event be less than the statutory minimum wage rate established in
34 this section. All employees who receive Four Hundred Fifty-five
35 Dollars (\$455.00) or less per week, or equivalent amounts for
36 periods of pay longer than one (1) week, shall be entitled to
37 receive overtime pay. Additionally, the following people shall
38 not be exempt from receiving overtime pay, regardless of their
39 salary:

40 (a) Manual laborers or other blue collar workers;

41 (b) Police officers, detectives, deputy sheriffs, state
42 troopers, highway patrol officers, investigators, inspectors,
43 correctional officers, parole or probation officers, park rangers,
44 fire fighters, paramedics, emergency medical technicians,
45 ambulance personnel, rescue workers, hazardous materials workers



46 and similar employees who perform work such as preventing,
47 controlling or extinguishing fires of any type; rescuing fire,
48 crime or accident victims; preventing or detecting crimes;
49 conducting investigations or inspections for violations of law;
50 performing surveillance; pursuing, restraining and apprehending
51 suspects; detaining or supervising suspected and convicted
52 criminals, including those on probation or parole; interviewing
53 witnesses; interrogating and fingerprinting suspects; preparing
54 investigative reports; or other similar work;

55 (c) Any employee whose primary duty is not management
56 of the entity in which the employee is employed;

57 (d) Any employee whose primary duty is not the
58 performance of work directly related to the management or general
59 business operations of the employer or the employer's customers;
60 and

61 (e) Any employee whose primary duty is not the
62 performance of work requiring knowledge of an advanced type in a
63 field of science or learning customarily acquired by a prolonged
64 course of specialized intellectual instruction or the performance
65 of work requiring invention, imagination, originality or talent in
66 a recognized field of artistic or creative endeavor.

67 (5) Employers and employees who are not specifically
68 mentioned in this section shall fall under the purview of the Fair
69 Labor Standards Act.



70 **SECTION 3.** Section 7-7-204, Mississippi Code of 1972, is
71 brought forward as follows:

72 7-7-204. (1) Within the limits of the funds available to
73 the Office of the State Auditor for such purpose, the State
74 Auditor may grant a paid internship to students pursuing junior or
75 senior undergraduate-level year coursework toward a bachelor's
76 degree in accounting or graduate-level coursework toward a
77 master's degree in accounting. Those applicants deemed qualified
78 shall receive funds that may be used to pay for tuition, books and
79 related fees to pursue their degree. It is the intent of the
80 Legislature that the paid internship program (hereinafter referred
81 to as the program) shall be used as an incentive for accounting
82 students to develop job-related skills and to encourage accounting
83 careers at the Office of the State Auditor.

84 (2) In order to be eligible for the program, an applicant
85 must:

86 (a) Attend any college or school approved and
87 designated by the Office of the State Auditor.

88 (b) Satisfy the following conditions:

89 (i) Undergraduate stipulations: Applicants must
90 have successfully obtained a minimum of fifty-eight (58) semester
91 hours toward a bachelor of science degree in accounting from a
92 Mississippi institution of higher learning.



93 Applicants must have achieved a minimum grade point average
94 (GPA) on the previously obtained semester hours toward a bachelor
95 of science degree in accounting of 3.0 on a 4.0 scale.

96 If accepted into the program, participants shall maintain a
97 minimum cumulative GPA of 3.0 on a 4.0 scale in all coursework
98 counted toward a bachelor of science degree in accounting.

99 (ii) Graduate stipulations: Applicants must have
100 met the regular admission standards and have been accepted into
101 the master of science accounting program at a Mississippi
102 institution of higher learning.

103 If accepted into the program, participants shall maintain a
104 minimum cumulative GPA of 3.0 on a 4.0 scale in all coursework
105 counted toward a master of science degree in accounting.

106 (c) All program participants will be required to work a
107 total of three hundred thirty-six (336) hours each summer at the
108 Office of the State Auditor in Jackson, Mississippi.

109 (d) Agree to work as an auditor at the Office of the
110 State Auditor upon graduation for a period of time equivalent to
111 the period of time for which the applicant receives compensation,
112 calculated to the nearest whole month, but in no event less than
113 two (2) years.

114 (3) (a) Before being placed into the program, each
115 applicant shall enter into a contract with the Office of the State
116 Auditor, which shall be deemed a contract with the State of
117 Mississippi, agreeing to the terms and conditions upon which the



118 internship shall be granted to him. The contract shall include
119 such terms and provisions necessary to carry out the full purpose
120 and intent of this section. The form of such contract shall be
121 prepared and approved by the Attorney General of this state, and
122 shall be signed by the State Auditor of the Office of the State
123 Auditor and the participant.

124 (b) Upon entry into the program, participants will
125 become employees of the Office of the State Auditor during their
126 time in the program and shall be eligible for benefits such as
127 medical insurance paid by the agency for the participant; however,
128 in accordance with Section 25-11-105II(b), those participants
129 shall not become members of the Public Employees' Retirement
130 System while participating in the program. Participants shall not
131 accrue personal or major medical leave while they are in the
132 program.

133 (c) The Office of the State Auditor shall have the
134 authority to cancel any contract made between it and any program
135 participant upon such cause being deemed sufficient by the State
136 Auditor.

137 (d) The Office of the State Auditor is vested with full
138 and complete authority and power to sue in its own name any
139 participant for any damages due the state on any such uncompleted
140 contract, which suit shall be filed and handled by the Attorney
141 General of the state. The Office of the State Auditor may
142 contract with a collection agency or banking institution, subject



143 to approval by the Attorney General, for collection of any damages
144 due the state from any participant. The State of Mississippi, the
145 Office of the State Auditor and its employees are immune from any
146 suit brought in law or equity for actions taken by the collection
147 agency or banking institution incidental to or arising from their
148 performance under the contract. The Office of the State Auditor,
149 collection agency and banking institution may negotiate for the
150 payment of a sum that is less than full payment in order to
151 satisfy any damages the participant owes the state, subject to
152 approval by the director of the sponsoring facility within the
153 Office of the State Auditor.

154 (4) (a) Any recipient who is accepted into the program by
155 the Mississippi Office of the State Auditor and who fails to
156 complete undergraduate- or graduate-level coursework toward a
157 degree in accounting, or withdraws from school at any time before
158 completing his or her education, shall be liable to repay the
159 Office of the State Auditor for all monies received during the
160 time the recipient was in the program, at the rate of pay received
161 by the employee while in the program, including benefits paid by
162 the agency for the participant, and monies received for tuition,
163 books and related fees used to pursue their degree with interest
164 accruing at ten percent (10%) per annum from the date the
165 recipient failed or withdrew from school. The recipient also will
166 not be liable for repayment for any money earned during the



167 required summer hours. This money shall be considered earned by
168 the recipient at the federal minimum wage rate.

169 (b) All paid internship compensation received by the
170 recipient while in school shall be considered earned conditioned
171 upon the fulfillment of the terms and obligations of the paid
172 internship contract and this section. However, no recipient of
173 the paid internship shall accrue personal or major medical leave
174 while the recipient is pursuing junior or senior
175 undergraduate-level year coursework toward a bachelor's degree in
176 accounting or graduate-level coursework toward a master's degree
177 in accounting. The recipient shall not be liable for liquidated
178 damages.

179 (c) If the recipient does not work as an auditor at the
180 Office of the State Auditor for the period required under
181 subsection (2) (d) of this section, the recipient shall be liable
182 for repayment on demand of the remaining portion of the
183 compensation that the recipient was paid while in the program
184 which has not been unconditionally earned, with interest accruing
185 at ten percent (10%) per annum from the recipient's date of
186 graduation or the date that the recipient last worked at the
187 Office of the State Auditor, whichever is the later date. In
188 addition, there shall be included in any contract for paid student
189 internship a provision for liquidated damages equal to Five
190 Thousand Dollars (\$5,000.00) which may be reduced on a pro rata
191 basis for each year served under such contract.



192 **SECTION 4.** Section 17-1-51, Mississippi Code of 1972, is
193 brought forward as follows:

194 17-1-51. (1) No county, board of supervisors of a county,
195 municipality or governing authority of a municipality is
196 authorized to establish a mandatory, minimum living wage rate,
197 minimum number of vacation or sick days, whether paid or unpaid,
198 that would regulate how a private employer pays its employees.
199 Each county, board of supervisors of a county, municipality or
200 governing authority of a municipality shall be prohibited from
201 establishing a mandatory, minimum living wage rate, minimum number
202 of vacation or sick days, whether paid or unpaid, that would
203 regulate how a private employer pays its employees.

204 (2) The Legislature finds that the prohibitions of
205 subsection (1) of this section are necessary to ensure an economic
206 climate conducive to new business development and job growth in
207 the State of Mississippi. We believe that inconsistent
208 application of wage and benefit laws from city to city or county
209 to county must be avoided. While not suggesting a state minimum
210 wage or minimum benefit package, any debate and subsequent action
211 on these matters should be assigned to the Mississippi Legislature
212 as provided in Section 25-3-40, and not local counties or
213 municipalities.

214 (3) The Legislature further finds that wages and employee
215 benefits comprise the most significant expense of operating a
216 business. It also recognizes that neither potential employees or



217 business patrons are likely to restrict themselves to employment
218 opportunities or goods and services in any particular county or
219 municipality. Consequently, local variations in legally required
220 minimum wage rates or mandatory minimum number of vacation or sick
221 leave days would threaten many businesses with a loss of employees
222 to local governments which require a higher minimum wage rate and
223 many other businesses with the loss of patrons to areas which
224 allow for a lower wage rate and more or less vacation or sick
225 days. The net effect of this situation would be detrimental to
226 the business environment of the state and to the citizens,
227 businesses and governments of the local jurisdictions as well as
228 the local labor markets.

229 (4) The Legislature concludes from these findings that, in
230 order for a business to remain competitive and yet attract and
231 retain the highest possible caliber of employees, and thereby
232 remain sound, an enterprise must work in a uniform environment
233 with respect to minimum wage rates, and mandatory minimum number
234 of vacation or sick leave days. The net impact of local
235 variations in mandated wages and mandatory minimum number of
236 vacation or sick leave days would be economically unstable and
237 create a decline and decrease in the standard of living for the
238 citizens of the state. Consequently, decisions regarding minimum
239 wage, living wage and other employee benefit policies must be made
240 by the state as provided in Section 25-3-40, so that consistency
241 in the wage market is preserved.



242 **SECTION 5.** Section 23-15-239, Mississippi Code of 1972, is
243 brought forward as follows:

244 23-15-239. (1) (a) The executive committee of each county,
245 in the case of a primary election, or the commissioners of
246 election of each county, in the case of all other elections, in
247 conjunction with the circuit clerk, shall sponsor and conduct, not
248 less than five (5) days prior to each election, training sessions
249 to instruct managers as to their duties in the proper
250 administration of the election and the operation of the polling
251 place. No manager shall serve in any election unless he has
252 received such instructions once during the twelve (12) months
253 immediately preceding the date upon which such election is held;
254 however, nothing in this section shall prevent the appointment of
255 an alternate manager to fill a vacancy in case of an emergency.
256 The county executive committee or the commissioners of election,
257 as appropriate, shall train a sufficient number of alternates to
258 serve in the event a manager is unable to serve for any reason.

259 (b) The executive committee of each county, in the case
260 of a primary election, or the commissioners of election of each
261 county, in the case of all other elections, in conjunction with
262 the circuit clerk, shall sponsor and conduct annually an
263 eight-hour training course for managers that meets criteria that
264 the Secretary of State shall prescribe. Managers shall be
265 required to attend this course every four (4) years from August 7,
266 2008. The Secretary of State shall develop a version of the



267 course that may be taken by managers over the Internet. Training
268 courses, including, but not limited to, online training courses,
269 that meet criteria prescribed by the Secretary of State and are
270 not sponsored or conducted by the executive committee or the
271 commissioners of election, may be utilized to meet the
272 requirements of this paragraph if the training course is approved
273 by the Secretary of State.

274 (2) (a) If it is eligible under Section 23-15-266, the
275 county executive committee may enter into a written agreement with
276 the circuit clerk or the county election commission authorizing
277 the circuit clerk or the county election commission to perform any
278 of the duties required of the county executive committee pursuant
279 to this section. Any agreement entered into pursuant to this
280 subsection shall be signed by the chairman of the county executive
281 committee and the circuit clerk or the chairman of the county
282 election commission, as appropriate. The county executive
283 committee shall notify the state executive committee and the
284 Secretary of State of the existence of such agreement.

285 (b) If it is eligible under Section 23-15-266, the
286 municipal executive committee may enter into a written agreement
287 with the municipal clerk or the municipal election commission
288 authorizing the municipal clerk or the municipal election
289 commission to perform any of the duties required of the municipal
290 executive committee pursuant to this section. Any agreement
291 entered into pursuant to this subsection shall be signed by the



292 chairman of the municipal executive committee and the municipal
293 clerk or the chairman of the municipal election commission, as
294 appropriate. The municipal executive committee shall notify the
295 state executive committee and the Secretary of State of the
296 existence of such agreement.

297 (3) The board of supervisors and the municipal governing
298 authority, in their discretion, may compensate managers who attend
299 such training sessions. The compensation shall be at a rate of
300 not less than the federal hourly minimum wage nor more than Twelve
301 Dollars (\$12.00) per hour. Managers shall not be compensated for
302 more than sixteen (16) hours of attendance at the training
303 sessions regardless of the actual amount of time that they
304 attended the training sessions.

305 (4) The time and location of the training sessions required
306 pursuant to this section shall be announced to the general public
307 by posting a notice thereof at the courthouse and by delivering a
308 copy of the notice to the office of a newspaper having general
309 circulation in the county five (5) days before the date upon which
310 the training session is to be conducted. Persons who will serve
311 as poll watchers for candidates and political parties, as well as
312 members of the general public, shall be allowed to attend the
313 sessions.

314 (5) Subject to the following annual limitations, the
315 commissioners of election shall be entitled to receive a per diem
316 in the amount of Eighty-four Dollars (\$84.00), to be paid from the



317 county general fund, for every day or period of no less than five
318 (5) hours accumulated over two (2) or more days actually employed
319 in the performance of their duties for the necessary time spent in
320 conducting training sessions as required by this section:

321 (a) In counties having less than fifteen thousand
322 (15,000) residents according to the latest federal decennial
323 census, not more than five (5) days per year;

324 (b) In counties having fifteen thousand (15,000)
325 residents according to the latest federal decennial census but
326 less than thirty thousand (30,000) residents according to the
327 latest federal decennial census, not more than eight (8) days per
328 year;

329 (c) In counties having thirty thousand (30,000)
330 residents according to the latest federal decennial census but
331 less than seventy thousand (70,000) residents according to the
332 latest federal decennial census, not more than ten (10) days per
333 year;

334 (d) In counties having seventy thousand (70,000)
335 residents according to the latest federal decennial census but
336 less than ninety thousand (90,000) residents according to the
337 latest federal decennial census, not more than twelve (12) days
338 per year;

339 (e) In counties having ninety thousand (90,000)
340 residents according to the latest federal decennial census but
341 less than one hundred seventy thousand (170,000) residents



342 according to the latest federal decennial census, not more than
343 fifteen (15) days per year;

344 (f) In counties having one hundred seventy thousand
345 (170,000) residents according to the latest federal decennial
346 census but less than two hundred thousand (200,000) residents
347 according to the latest federal decennial census, not more than
348 eighteen (18) days per year;

349 (g) In counties having two hundred thousand (200,000)
350 residents according to the latest federal decennial census but
351 less than two hundred twenty-five thousand (225,000) residents
352 according to the latest federal decennial census, not more than
353 nineteen (19) days per year;

354 (h) In counties having two hundred twenty-five thousand
355 (225,000) residents according to the latest federal decennial
356 census but less than two hundred fifty thousand (250,000)
357 residents according to the latest federal decennial census, not
358 more than twenty-two (22) days per year;

359 (i) In counties having two hundred fifty thousand
360 (250,000) residents according to the latest federal decennial
361 census but less than two hundred seventy-five thousand (275,000)
362 residents according to the latest federal decennial census, not
363 more than thirteen (13) days per year;

364 (j) In counties having two hundred seventy-five
365 thousand (275,000) residents according to the latest federal



366 decennial census or more, not more than fourteen (14) days per
367 year.

368 (6) Commissioners of election shall claim the per diem
369 authorized in subsection (5) of this section in the manner
370 provided for in Section 23-15-153(6).

371 **SECTION 6.** Section 25-3-40, Mississippi Code of 1972, is
372 brought forward as follows:

373 25-3-40. On July 1, 1978, and each year thereafter, the
374 Mississippi Compensation Plan shall be amended to provide salary
375 increases in such amounts and percentages as might be recommended
376 by the Legislative Budget Office and as may be authorized by funds
377 appropriated by the Legislature for the purpose of granting
378 incentive salary increases as deemed possible dependent upon the
379 availability of general and special funds.

380 It is hereby declared to be the intent of the Mississippi
381 Legislature to implement the minimum wage as enacted by statutory
382 law of the United States Congress subject to funds being available
383 for that purpose. It is the intent and purpose of this section to
384 maximize annual salary increases consistent with the availability
385 of funds as might be determined by the Mississippi Legislature at
386 its regular annual session and that all salary increases hereafter
387 be made consistent with the provisions of this section.

388 **SECTION 7.** Section 37-7-307, Mississippi Code of 1972, is
389 brought forward as follows:



390 37-7-307. (1) For purposes of this section, the term
391 "licensed employee" means any employee of a public school district
392 required to hold a valid license by the Commission on Teacher and
393 Administrator Education, Certification and Licensure and
394 Development.

395 (2) The school board of a school district shall establish by
396 rules and regulations a policy of sick leave with pay for licensed
397 employees and teacher assistants employed in the school district,
398 and such policy shall include the following minimum provisions for
399 sick and emergency leave with pay:

400 (a) Each licensed employee and teacher assistant, at
401 the beginning of each school year, shall be credited with a
402 minimum sick leave allowance, with pay, of seven (7) days for
403 absences caused by illness or physical disability of the employee
404 during that school year.

405 (b) Any unused portion of the total sick leave
406 allowance shall be carried over to the next school year and
407 credited to such licensed employee and teacher assistant if the
408 licensed employee or teacher assistant remains employed in the
409 same school district. In the event any public school licensed
410 employee or teacher assistant transfers from one public school
411 district in Mississippi to another, any unused portion of the
412 total sick leave allowance credited to such licensed employee or
413 teacher assistant shall be credited to such licensed employee or
414 teacher assistant in the computation of unused leave for



415 retirement purposes under Section 25-11-109. Accumulation of sick
416 leave allowed under this section shall be unlimited.

417 (c) No deduction from the pay of such licensed employee
418 or teacher assistant may be made because of absence of such
419 licensed employee or teacher assistant caused by illness or
420 physical disability of the licensed employee or teacher assistant
421 until after all sick leave allowance credited to such licensed
422 employee or teacher assistant has been used.

423 (d) For the first ten (10) days of absence of a
424 licensed employee because of illness or physical disability, in
425 any school year, in excess of the sick leave allowance credited to
426 such licensed employee, there shall be deducted from the pay of
427 such licensed employee the established substitute amount of
428 licensed employee compensation paid in that local school district,
429 necessitated because of the absence of the licensed employee as a
430 result of illness or physical disability. In lieu of deducting
431 the established substitute amount from the pay of such licensed
432 employee, the policy may allow the licensed employee to receive
433 full pay for the first ten (10) days of absence because of illness
434 or physical disability, in any school year, in excess of the sick
435 leave allowance credited to such licensed employee. Thereafter,
436 the regular pay of such absent licensed employee shall be
437 suspended and withheld in its entirety for any period of absence
438 because of illness or physical disability during that school year.



439 (3) (a) Beginning with the school year 1983-1984, each
440 licensed employee at the beginning of each school year shall be
441 credited with a minimum personal leave allowance, with pay, of two
442 (2) days for absences caused by personal reasons during that
443 school year. Effective for the 2010-2011 and 2011-2012 school
444 years, licensed employees shall be credited with an additional
445 one-half (1/2) day of personal leave for every day the licensed
446 employee is furloughed without pay as provided in Section
447 37-7-308. Except as otherwise provided in paragraph (b) of this
448 subsection, such personal leave shall not be taken on the first
449 day of the school term, the last day of the school term, on a day
450 previous to a holiday or a day after a holiday. Personal leave
451 may be used for professional purposes, including absences caused
452 by attendance of such licensed employee at a seminar, class,
453 training program, professional association or other functions
454 designed for educators. No deduction from the pay of such
455 licensed employee may be made because of absence of such licensed
456 employee caused by personal reasons until after all personal leave
457 allowance credited to such licensed employee has been used.
458 However, the superintendent of a school district, in his
459 discretion, may allow a licensed employee personal leave in
460 addition to any minimum personal leave allowance, under the
461 condition that there shall be deducted from the salary of such
462 licensed employee the actual amount of any compensation paid to
463 any person as a substitute, necessitated because of the absence of



464 the licensed employee. Any unused portion of the total personal
465 leave allowance up to five (5) days shall be carried over to the
466 next school year and credited to such licensed employee if the
467 licensed employee remains employed in the same school district.
468 Any personal leave allowed for a furlough day shall not be carried
469 over to the next school year.

470 (b) Notwithstanding the restrictions on the use of
471 personal leave prescribed under paragraph (a) of this subsection,
472 a licensed employee may use personal leave as follows:

473 (i) Personal leave may be taken on the first day
474 of the school term, the last day of the school term, on a day
475 previous to a holiday or a day after a holiday if, on the
476 applicable day, an immediate family member of the employee is
477 being deployed for military service.

478 (ii) Personal leave may be taken on a day previous
479 to a holiday or a day after a holiday if an employee of a school
480 district has either a minimum of ten (10) years' experience as an
481 employee of that school district or a minimum of thirty (30) days
482 of unused accumulated leave that has been earned while employed in
483 that school district.

484 (iii) Personal leave may be taken on the first day
485 of the school term, the last day of the school term, on a day
486 previous to a holiday or a day after a holiday if, on the
487 applicable day, the employee has been summoned to appear for jury
488 duty or as a witness in court.



489 (4) Beginning with the school year 1992-1993, each licensed
490 employee shall be credited with a professional leave allowance,
491 with pay, for each day of absence caused by reason of such
492 employee's statutorily required membership and attendance at a
493 regular or special meeting held within the State of Mississippi of
494 the State Board of Education, the Commission on Teacher and
495 Administrator Education, Certification and Licensure and
496 Development, the Commission on School Accreditation, the
497 Mississippi Authority for Educational Television, the meetings of
498 the state textbook rating committees or other meetings authorized
499 by local school board policy.

500 (5) Upon retirement from employment, each licensed and
501 nonlicensed employee shall be paid for not more than thirty (30)
502 days of unused accumulated leave earned while employed by the
503 school district in which the employee is last employed. Such
504 payment for licensed employees shall be made by the school
505 district at a rate equal to the amount paid to substitute teachers
506 and for nonlicensed employees, the payment shall be made by the
507 school district at a rate equal to the federal minimum wage. The
508 payment shall be treated in the same manner for retirement
509 purposes as a lump-sum payment for personal leave as provided in
510 Section 25-11-103(e). Any remaining lawfully credited unused
511 leave, for which payment has not been made, shall be certified to
512 the Public Employees' Retirement System in the same manner and
513 subject to the same limitations as otherwise provided by law for



514 unused leave. No payment for unused accumulated leave may be made
515 to either a licensed or nonlicensed employee at termination or
516 separation from service for any purpose other than for the purpose
517 of retirement.

518 (6) The school board may adopt rules and regulations which
519 will reasonably aid to implement the policy of sick and personal
520 leave, including, but not limited to, rules and regulations having
521 the following general effect:

522 (a) Requiring the absent employee to furnish the
523 certificate of a physician or dentist or other medical
524 practitioner as to the illness of the absent licensed employee,
525 where the absence is for four (4) or more consecutive school days,
526 or for two (2) consecutive school days immediately preceding or
527 following a nonschool day;

528 (b) Providing penalties, by way of full deduction from
529 salary, or entry on the work record of the employee, or other
530 appropriate penalties, for any materially false statement by the
531 employee as to the cause of absence;

532 (c) Forfeiture of accumulated or future sick leave, if
533 the absence of the employee is caused by optional dental or
534 medical treatment or surgery which could, without medical risk,
535 have been provided, furnished or performed at a time when school
536 was not in session;

537 (d) Enlarging, increasing or providing greater sick or
538 personal leave allowances than the minimum standards established



539 by this section in the discretion of the school board of each
540 school district.

541 (7) School boards may include in their budgets provisions
542 for the payment of substitute employees, necessitated because of
543 the absence of regular licensed employees. All such substitute
544 employees shall be paid wholly from district funds, except as
545 otherwise provided for long-term substitute teachers in Section
546 37-19-20. Such school boards, in their discretion, also may pay,
547 from district funds other than adequate education program funds,
548 the whole or any part of the salaries of all employees granted
549 leaves for the purpose of special studies or training.

550 (8) The school board may further adopt rules and regulations
551 which will reasonably implement such leave policies for all other
552 nonlicensed and hourly paid school employees as the board deems
553 appropriate. Effective for the 2010-2011 and 2011-2012 school
554 years, nonlicensed employees shall be credited with an additional
555 one-half (1/2) day of personal leave for every day the nonlicensed
556 employee is furloughed without pay as provided in Section
557 37-7-308.

558 (9) Vacation leave granted to either licensed or nonlicensed
559 employees shall be synonymous with personal leave. Unused
560 vacation or personal leave accumulated by licensed employees in
561 excess of the maximum five (5) days which may be carried over from
562 one year to the next may be converted to sick leave. The annual
563 conversion of unused vacation or personal leave to sick days for



564 licensed or unlicensed employees shall not exceed the allowable
565 number of personal leave days as provided in Section 25-3-93. The
566 annual total number of converted unused vacation and/or personal
567 days added to the annual unused sick days for any employee shall
568 not exceed the combined allowable number of days per year provided
569 in Sections 25-3-93 and 25-3-95. Local school board policies that
570 provide for vacation, personal and sick leave for employees shall
571 not exceed the provisions for leave as provided in Sections
572 25-3-93 and 25-3-95. Any personal or vacation leave previously
573 converted to sick leave under a lawfully adopted policy before May
574 1, 2004, or such personal or vacation leave accumulated and
575 available for use prior to May 1, 2004, under a lawfully adopted
576 policy but converted to sick leave after May 1, 2004, shall be
577 recognized as accrued leave by the local school district and
578 available for use by the employee. The leave converted under a
579 lawfully adopted policy prior to May 1, 2004, or such personal and
580 vacation leave accumulated and available for use as of May 1,
581 2004, which was subsequently converted to sick leave may be
582 certified to the Public Employees' Retirement System upon
583 termination of employment and any such leave previously converted
584 and certified to the Public Employees' Retirement System shall be
585 recognized.

586 (10) (a) For the purposes of this subsection, the following
587 words and phrases shall have the meaning ascribed in this
588 paragraph unless the context requires otherwise:



589 (i) "Catastrophic injury or illness" means a
590 life-threatening injury or illness of an employee or a member of
591 an employee's immediate family that totally incapacitates the
592 employee from work, as verified by a licensed physician, and
593 forces the employee to exhaust all leave time earned by that
594 employee, resulting in the loss of compensation from the local
595 school district for the employee. Conditions that are short-term
596 in nature, including, but not limited to, common illnesses such as
597 influenza and the measles, and common injuries, are not
598 catastrophic. Chronic illnesses or injuries, such as cancer or
599 major surgery, that result in intermittent absences from work and
600 that are long-term in nature and require long recuperation periods
601 may be considered catastrophic.

602 (ii) "Immediate family" means spouse, parent,
603 stepparent, sibling, child or stepchild.

604 (b) Any school district employee may donate a portion
605 of his or her unused accumulated personal leave or sick leave to
606 another employee of the same school district who is suffering from
607 a catastrophic injury or illness or who has a member of his or her
608 immediate family suffering from a catastrophic injury or illness,
609 in accordance with the following:

610 (i) The employee donating the leave (the "donor
611 employee") shall designate the employee who is to receive the
612 leave (the "recipient employee") and the amount of unused
613 accumulated personal leave and sick leave that is to be donated,



614 and shall notify the school district superintendent or his
615 designee of his or her designation.

616 (ii) The maximum amount of unused accumulated
617 personal leave that an employee may donate to any other employee
618 may not exceed a number of days that would leave the donor
619 employee with fewer than seven (7) days of personal leave
620 remaining, and the maximum amount of unused accumulated sick leave
621 that an employee may donate to any other employee may not exceed
622 fifty percent (50%) of the unused accumulated sick leave of the
623 donor employee.

624 (iii) An employee must have exhausted all of his
625 or her available leave before he or she will be eligible to
626 receive any leave donated by another employee. Eligibility for
627 donated leave shall be based upon review and approval by the donor
628 employee's supervisor.

629 (iv) Before an employee may receive donated leave,
630 he or she must provide the school district superintendent or his
631 designee with a physician's statement that states that the illness
632 meets the catastrophic criteria established under this section,
633 the beginning date of the catastrophic injury or illness, a
634 description of the injury or illness, and a prognosis for recovery
635 and the anticipated date that the recipient employee will be able
636 to return to work.

637 (v) Before an employee may receive donated leave,
638 the superintendent of education of the school district shall



639 appoint a review committee to approve or disapprove the said
640 donations of leave, including the determination that the illness
641 is catastrophic within the meaning of this section.

642 (vi) If the total amount of leave that is donated
643 to any employee is not used by the recipient employee, the whole
644 days of donated leave shall be returned to the donor employees on
645 a pro rata basis, based on the ratio of the number of days of
646 leave donated by each donor employee to the total number of days
647 of leave donated by all donor employees.

648 (vii) Donated leave shall not be used in lieu of
649 disability retirement.

650 **SECTION 8.** Section 57-34-5, Mississippi Code of 1972, is
651 brought forward as follows:

652 57-34-5. **Definitions.** As used in this chapter, the
653 following words and phrases shall have the meanings ascribed to
654 them in this section, unless the context clearly indicates a
655 different meaning:

656 (a) "Act" means the provisions of this chapter.

657 (b) "Authority" means the Alabama-Mississippi Joint
658 Economic Development Authority created pursuant to this chapter.

659 (c) "Board of directors" means the board of directors
660 of the authority.

661 (d) "Designated geographic area" means:



662 (i) Those counties in the State of Alabama that
663 share a common border with any county in the State of Mississippi;
664 and

665 (ii) Those counties in the State of Mississippi
666 that share a common border with any county in the State of
667 Alabama.

668 (e) "Herein," "hereby," "hereunder," "hereof" and other
669 equivalent words refer to this chapter as an entirety and not
670 solely to the particular section or portion thereof in which any
671 such word is used.

672 (f) "Project" means:

673 (i) Any industrial, commercial, research and
674 development, warehousing, distribution, transportation,
675 processing, mining, United States government or tourism enterprise
676 together with all real property required for construction,
677 maintenance and operation of the enterprise:

678 1. With an initial capital investment of not
679 less than Three Hundred Million Dollars (\$300,000,000.00) from
680 private or United States government sources together with all
681 buildings, and other supporting land and facilities, structures or
682 improvements of whatever kind required or useful for construction,
683 maintenance and operation of the enterprise; or

684 2. With an initial capital investment of not
685 less than One Hundred Fifty Million Dollars (\$150,000,000.00) from
686 private or United States government sources together with all



687 buildings and other supporting land and facilities, structures or
688 improvements of whatever kind required or useful for construction,
689 maintenance and operation of the enterprise and which creates at
690 least one thousand (1,000) net new full-time jobs; or

691 3. Which creates at least one thousand
692 (1,000) net new full-time jobs which provide an average hourly
693 wage of not less than two hundred percent (200%) of the federal
694 minimum wage in effect on the date the project is placed in
695 service.

696 (ii) Any addition to, or expansion of, any
697 existing enterprise as described in this paragraph if the addition
698 or expansion:

699 1. Has an initial capital investment of not
700 less than Three Hundred Million Dollars (\$300,000,000.00) from
701 private or United States government sources;

702 2. Has an initial capital investment of not
703 less than One Hundred Fifty Million Dollars (\$150,000,000.00) from
704 private or United States government sources together with all
705 buildings and other supporting land and facilities, structures or
706 improvements of whatever kind required or useful for construction,
707 maintenance and operation of the enterprise and which creates at
708 least one thousand (1,000) net new full-time jobs; or

709 3. Creates at least one thousand (1,000) net
710 new full-time jobs which provide an average hourly wage of not



711 less than two hundred percent (200%) of the federal minimum wage
712 in effect on the date the project is placed in service.

713 (iii) Any development with an initial capital
714 investment from private sources of not less than Seven Hundred
715 Fifty Million Dollars (\$750,000,000.00) which will create at least
716 three thousand (3,000) net new full-time jobs satisfying criteria
717 to be established by the authority.

718 In addition to meeting the other requirements of this
719 paragraph, in order to fall within the definition of the term
720 "project":

721 (i) The enterprise or development must be located
722 within the designated geographic area; and

723 (ii) Each state must provide funds or in-kind
724 contributions equal to at least one-third (1/3) of the total costs
725 of the project to the states.

726 (g) "Project agreement" means an agreement, approved by
727 the Legislature of the states, setting forth certain obligations,
728 responsibilities, benefits, administrative matters and any other
729 matters with respect to a specific project that are not
730 inconsistent with the terms of this chapter as the legislatures of
731 the states deem appropriate with respect to a specific project.

732 (h) "Project tax revenues" means:

733 (i) All of the following state and local taxes
734 paid directly to a state or a local government by the project:
735 income taxes, ad valorem taxes on real and personal property,



736 sales and use taxes, franchise taxes, license taxes, excise taxes
737 and severance taxes; and

738 (ii) All state and local personal income tax and
739 occupational tax withholdings from employees of the project
740 attributable to employment at the project.

741 (i) "States" means the State of Alabama and the State
742 of Mississippi collectively.

743 **SECTION 9.** Section 85-3-4, Mississippi Code of 1972, is
744 brought forward as follows:

745 85-3-4. (1) The wages, salaries or other compensation of
746 laborers or employees, residents of this state, shall be exempt
747 from seizure under attachment, execution or garnishment for a
748 period of thirty (30) days from the date of service of any writ of
749 attachment, execution or garnishment.

750 (2) After the passage of the period of thirty (30) days
751 described in subsection (1) of this section, the maximum part of
752 the aggregate disposable earnings (as defined by Section 1672(b)
753 of Title 15, USCS) of an individual that may be levied by
754 attachment, execution or garnishment shall be:

755 (a) In the case of earnings for any workweek, the
756 lesser amount of either,

757 (i) Twenty-five percent (25%) of his disposable
758 earnings for that week, or

759 (ii) The amount by which his disposable earnings
760 for that week exceed thirty (30) times the federal minimum hourly



761 wage (prescribed by section 206 (a) (1) of Title 29, USCS) in
762 effect at the time the earnings are payable; or

763 (b) In the case of earnings for any period other than a
764 week, the amount by which his disposable earnings exceed the
765 following "multiple" of the federal minimum hourly wage which is
766 equivalent in effect to that set forth in subparagraph (a) (ii) of
767 this subsection (2): The number of workweeks, or fractions
768 thereof multiplied by thirty (30) multiplied by the applicable
769 federal minimum wage.

770 (3) (a) The restrictions of subsection (1) and (2) of this
771 section do not apply in the case of:

772 (i) Any order for the support of any person issued
773 by a court of competent jurisdiction or in accordance with an
774 administrative procedure, which is established by state law, which
775 affords substantial due process, and which is subject to judicial
776 review.

777 (ii) Any debt due for any state or local tax.

778 (b) Except as provided in subparagraph (b) (iii) of this
779 subsection (3), the maximum part of the aggregate disposable
780 earnings of an individual for any workweek which is subject to
781 garnishment to enforce any order for the support of any person
782 shall not exceed:

783 (i) Where such individual is supporting his spouse
784 or dependent child (other than a spouse or child with respect to



785 whose support such order is used), fifty percent (50%) of such
786 individual's disposable earnings for that week; and

787 (ii) Where such individual is not supporting such
788 a spouse or dependent child described in subparagraph (b)(i) of
789 this subsection (3), sixty percent (60%) of such individual's
790 disposable earnings for that week;

791 (iii) With respect to the disposable earnings of
792 any individual for that workweek, the fifty percent (50%)
793 specified in subparagraph (b)(i) of this subsection (3) shall be
794 deemed to be fifty-five percent (55%) and the sixty percent (60%)
795 specified in subparagraph (b)(ii) of this subsection (3) shall be
796 deemed to be sixty-five percent (65%), if and to the extent that
797 such earnings are subject to garnishment to enforce a support
798 order with respect to a period which is prior to the period of
799 twelve (12) weeks which ends with the beginning of such workweek.

800 **SECTION 10.** Section 97-3-54.4, Mississippi Code of 1972, is
801 brought forward as follows:

802 97-3-54.4. For the purposes of the Mississippi Human
803 Trafficking Act the following words and phrases shall have the
804 meanings ascribed herein unless the context clearly requires
805 otherwise:

806 (a) "Act" or "this act" means the Mississippi Human
807 Trafficking Act.

808 (b) "Actor" means a person who violates any of the
809 provisions of Sections 97-3-54 through 97-3-54.4.



810 (c) "Blackmail" means obtaining property or things of
811 value of another by threatening to (i) inflict bodily injury on
812 anyone; or (ii) commit any other criminal offense.

813 (d) "Coerce" or "coercion" means:

814 (i) Causing or threatening to cause bodily harm to
815 any person, physically restraining or confining any person, or
816 threatening to physically restrain or confine any person;

817 (ii) Exposing or threatening to expose any fact or
818 information or disseminating or threatening to disseminate any
819 fact or information that would tend to subject a person to
820 criminal or immigration proceedings, hatred, contempt or ridicule;

821 (iii) Destroying, concealing, removing,
822 confiscating or possessing any actual or purported passport or
823 other immigration document, or any other actual or purported
824 government identification document of any person;

825 (iv) Providing a controlled substance to a person
826 for the purpose of compelling the person to engage in labor or
827 sexual servitude against the person's will;

828 (v) Causing or threatening to cause financial harm
829 to any person or using financial control over any person;

830 (vi) Abusing or threatening to abuse a position of
831 power, the law, or legal process;

832 (vii) Using blackmail;

833 (viii) Using an individual's personal services as
834 payment or satisfaction of a real or purported debt when: 1. the



835 reasonable value of the services is not applied toward the
836 liquidation of the debt; 2. the length of the services is not
837 limited and the nature of the services is not defined; 3. the
838 principal amount of the debt does not reasonably reflect the value
839 of the items or services for which the debt is incurred; or 4. the
840 individual is prevented from acquiring accurate and timely
841 information about the disposition of the debt; or

842 (ix) Using any scheme, plan or pattern of conduct
843 intended to cause any person to believe that, if the person did
844 not perform the labor or services, that the person or another
845 person would suffer serious harm or physical restraint.

846 (e) "Commercial sexual activity" means any sex act on
847 account of which anything of value is given to, promised to, or
848 received by any person.

849 (f) "Enterprise" means any individual, sole
850 proprietorship, partnership, corporation, union or other legal
851 entity, or any association or group of individuals associated in
852 fact regardless of whether a legal entity has been formed pursuant
853 to any state, federal or territorial law. It includes illicit as
854 well as licit enterprises and governmental as well as other
855 entities.

856 (g) "Financial harm" includes, but is not limited to,
857 extortion as defined by Section 97-3-82, Mississippi Code of 1972,
858 or violation of the usury law as defined by Title 75, Chapter 17,
859 Mississippi Code of 1972.



860 (h) "Forced labor or services" means labor or services
861 that are performed or provided by another person and are obtained
862 or maintained through coercion.

863 (i) "Labor" means work of economic or financial value.

864 (j) "Maintain" means, in relation to labor or services,
865 to secure continued performance thereof, regardless of any initial
866 agreement on the part of the trafficked person to perform such
867 labor or service.

868 (k) "Minor" means a person under the age of eighteen
869 (18) years.

870 (l) "Obtain" means, in relation to labor or services,
871 to secure performance thereof.

872 (m) "Pecuniary damages" means any of the following:

873 (i) The greater of the gross income or value to
874 the defendant of the victim's labor or services, including sexual
875 services, not reduced by the expense the defendant incurred as a
876 result of maintaining the victim, or the value of the victim's
877 labor or services calculated under the minimum wage and overtime
878 provisions of the Fair Labor Standards Act, 29 USCS Section 201 et
879 seq., whichever is higher;

880 (ii) If it is not possible or in the best interest
881 of the victim to compute a value under subparagraph (i) of this
882 paragraph (m), the equivalent of the value of the victim's labor
883 or services if the victim had provided labor or services that were



884 subject to the minimum wage and overtime provisions of the Fair
885 Labor Standards Act, 29 USCS 201 et seq.;

886 (iii) Costs and expenses incurred by the victim as
887 a result of the offense for:

- 888 1. Medical services;
- 889 2. Therapy or psychological counseling;
- 890 3. Temporary housing;
- 891 4. Transportation;
- 892 5. Childcare;
- 893 6. Physical and occupational therapy or
894 rehabilitation;
- 895 7. Funeral, interment, and burial services;
896 reasonable attorney's fees and other legal costs; and
- 897 8. Other expenses incurred by the victim.

898 (n) "Serious harm" means harm, whether physical or
899 nonphysical, including psychological, economic or reputational, to
900 an individual that would compel a reasonable person in similar
901 circumstances as the individual to perform or continue to perform
902 labor or services to avoid incurring the harm.

903 (o) "Services" means an ongoing relationship between a
904 person and the actor in which the person performs activities under
905 the supervision of or for the benefit of the actor or a third
906 party and includes, without limitation, commercial sexual
907 activity, sexually explicit performances, or the production of
908 sexually explicit materials.



909 (p) "Sexually explicit performance" means a live or
910 public act or show intended to arouse or satisfy the sexual
911 desires or appeal to the prurient interests of patrons.

912 (q) "Trafficked person" means a person subjected to the
913 practices prohibited by this act regardless of whether a
914 perpetrator is identified, apprehended, prosecuted or convicted,
915 and is a term used interchangeably with the terms "victim,"
916 "victim of trafficking" and "trafficking victim."

917 (r) "Venture" means any group of two (2) or more
918 individuals associated in fact, whether or not a legal entity.

919 (s) "Sexually oriented material" shall have the meaning
920 ascribed in Section 97-5-27, Mississippi Code of 1972.

921 **SECTION 11.** Section 99-19-20, Mississippi Code of 1972, is
922 brought forward as follows:

923 99-19-20. (1) When any court sentences a defendant to pay a
924 fine, the court may order (a) that the fine be paid immediately,
925 or (b) that the fine be paid in installments to the clerk of said
926 court or to the judge, if there be no clerk, or (c) that payment
927 of the fine be a condition of probation, or (d) that the defendant
928 be required to work on public property for public benefit under
929 the direction of the sheriff for a specific number of hours, or
930 (e) any combination of the above.

931 (2) The defendant may be imprisoned until the fine is paid
932 if the defendant is financially able to pay a fine and the court
933 so finds, subject to the limitations hereinafter set out. The



934 defendant shall not be imprisoned if the defendant is financially
935 unable to pay a fine and so states to the court in writing, under
936 oath, after sentence is pronounced, and the court so finds, except
937 if the defendant is financially unable to pay a fine and such
938 defendant failed or refused to comply with a prior sentence as
939 specified in subsection (1) of this section, the defendant may be
940 imprisoned.

941 This subsection shall be limited as follows:

942 (a) In no event shall such period of imprisonment
943 exceed one (1) day for each Twenty-five Dollars (\$25.00) of the
944 fine. If a defendant is unable to work or if the county or the
945 municipality is unable to provide work for the defendant, the
946 defendant shall receive a credit of Twenty-five Dollars (\$25.00)
947 for each day of imprisonment.

948 (b) If a sentence of imprisonment, as well as a fine,
949 were imposed, the aggregate of such term for nonpayment of a fine
950 and the original sentence of imprisonment shall not exceed the
951 maximum authorized term of imprisonment.

952 (c) It shall be in the discretion of the judge to
953 determine the rate of the credit to be earned for work performed
954 under subsection (1)(d), but the rate shall be no lower than the
955 rate of the highest current federal minimum wage.

956 (3) Periods of confinement imposed for nonpayment of two (2)
957 or more fines shall run consecutively unless specified by the
958 court to run concurrently.



959 **SECTION 12.** This act shall take effect and be in force from
960 and after July 1, 2017.

