HOUSE BILL NO.  536
(As Passed the House)

AN ACT TO AMEND SECTION 71-5-11, MISSISSIPPI CODE OF 1972, TO AMEND THE DEFINITION OF "UNEMPLOYMENT" TO EXCLUDE INDIVIDUALS RECEIVING VOLUNTARY PAYMENTS FROM EMPLOYERS IF THOSE PAYMENTS EQUAL THEIR REGULAR SALARY AND INDIVIDUALS ON ADMINISTRATIVE LEAVE; TO AMEND THE DEFINITION OF "WAGES" TO INCLUDE PAYMENTS FROM EMPLOYERS THAT ARE IN LIEU OF THE EMPLOYEE'S REGULAR WAGES; TO AMEND SECTION 71-5-365, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF EMPLOYMENT SECURITY TO DESIGNATE A DEPARTMENT EMPLOYEE TO DETERMINE WHETHER AN EMPLOYER REPORT ON CONTRIBUTIONS DUE IS INCORRECT OR SUFFICIENT, MAKE AN ASSESSMENT ON BEST INFORMATION AVAILABLE, ASSESS THE CONTRIBUTIONS DUE, AND ASSESS A PENALTY IF ONE IS NEEDED FOR NONCOMPLIANT EMPLOYERS; TO AMEND SECTION 71-5-363, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF EMPLOYMENT SECURITY TO ABATE INTEREST ACCRUED ON PAST DUE CONTRIBUTIONS OR OVERPAYMENTS WHEN NEGOTIATING THE SETTLEMENTS OF SUCH PAST DUE AMOUNTS; TO AMEND SECTION 71-5-389, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT TAX OFFSETS ARE FROM BOTH THE MISSISSIPPI DEPARTMENT OF REVENUE AND THE UNITED STATES DEPARTMENT OF TREASURY; TO AMEND SECTION 71-5-355, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT A PERSON WHO ACQUIRES A BUSINESS SOLELY TO OBTAIN A LOWER RATE OF UNEMPLOYMENT INSURANCE CONTRIBUTIONS SHALL HAVE A TWO PERCENT INCREASE IN THE TAX RATE; TO CREATE THE "COMPREHENSIVE CAREER AND TECHNICAL EDUCATION REFORM (CCATER) ACT"; TO BRING FORWARD SECTION 37-15-38, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO AMEND SECTION 37-16-17, MISSISSIPPI CODE OF 1972, TO REQUIRE THE STATE BOARD OF EDUCATION TO PROVIDE NOTICE TO ALL INCOMING MIDDLE SCHOOL AND JUNIOR HIGH STUDENTS OF THE CAREER AND TECHNICAL EDUCATION PROGRAMS OFFERED BY LOCAL SCHOOL BOARDS; TO REQUIRE ALL STUDENTS TO TAKE THE ACT WORKKEYS ASSESSMENT; TO PROVIDE THAT EACH INDIVIDUAL SCHOOL DISTRICT SHALL DETERMINE WHETHER THE ACT WORKKEYS ASSESSMENT IS ADMINISTERED IN THE NINTH, TENTH OR ELEVENTH GRADE; TO REVISE THE CURRICULUM IN THE CAREER AND TECHNICAL EDUCATION PROGRAM; TO AMEND SECTION 37-3-2,
MISSISSIPPI CODE OF 1972, TO PROVIDE THAT LOCAL BUSINESS OR OTHER PROFESSIONAL PERSONNEL SHALL NOT BE REQUIRED TO HOLD AN ASSOCIATE OR BACHELOR'S DEGREE IN ORDER TO BE GRANTED AN EXPERT CITIZEN-TEACHER LICENSE; TO EXPAND THE EXPERT CITIZEN-TEACHER LICENSE FROM ONE YEAR TO FIVE YEARS; TO PROVIDE THAT CERTAIN INSTRUCTIONAL STAFF EMPLOYED BY A PUBLIC SCHOOL DISTRICT OR NONPUBLIC SCHOOL ACCREDITED OR APPROVED BY THE STATE FOR A MINIMUM OF FIVE YEARS SHALL BE GRANTED A STANDARD TEACHER LICENSE; TO REQUIRE SUCH TEACHERS TO COMPLY WITH ANY ADDITIONAL REQUIREMENTS FOR EXISTING TEACHERS, INCLUDING PROFESSIONAL DEVELOPMENT TRAINING AND COMPLETION OF THE REQUIRED CONTINUING EDUCATION UNITS; TO AMEND SECTION 37-16-3, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND SECTION 37-17-6, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ACCREDITATION SYSTEM SHALL INCLUDE STUDENT PERFORMANCE ON THE ADMINISTRATION OF THE ACT WORKKEYS ASSESSMENT, WHICH SHALL BE WEIGHTED IN THE SAME PERCENTAGE AS THE STANDARD ACT ASSESSMENT; TO REQUIRE THE STATE BOARD OF EDUCATION, ACTING THROUGH THE COMMISSION ON TEACHER AND ADMINISTRATOR EDUCATION, CERTIFICATION AND LICENSURE AND DEVELOPMENT, AND IN CONJUNCTION WITH THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING, TO REQUIRE EACH EDUCATOR PREPARATION PROGRAM IN THE STATE TO INCLUDE A PRAXIS CORE ACADEMIC SKILLS FOR EDUCATORS EXAMINATION AND A PRAXIS II EXAMINATION PREPARATORY REVIEW COURSE, AS PART OF ITS CURRICULUM; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 71-5-11, Mississippi Code of 1972, is amended as follows:

71-5-11. As used in this chapter, unless the context clearly requires otherwise:

A. "Base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

B. "Benefit year" with respect to any individual means the period beginning with the first day of the first week with respect to which he or she first files a valid claim for benefits, and ending with the day preceding the same day of the same month in the next calendar year; and, thereafter, the period beginning with
the first day of the first week with respect to which he or she next files his or her valid claim for benefits, and ending with the day preceding the same day of the same month in the next calendar year. Any claim for benefits made in accordance with Section 71-5-515 shall be deemed to be a "valid claim" for purposes of this subsection if the individual has been paid the wages for insured work required under Section 71-5-511(e).

C. "Contributions" means the money payments to the State Unemployment Compensation Fund required by this chapter.

D. "Calendar quarter" means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31.

E. "Department" or "commission" means the Mississippi Department of Employment Security, Office of the Governor.

F. "Executive director" means the Executive Director of the Mississippi Department of Employment Security, Office of the Governor, appointed under Section 71-5-107.

G. "Employing unit" means this state or another state or any instrumentalities or any political subdivisions thereof or any of their instrumentalities or any instrumentality of more than one (1) of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions, any Indian tribe as defined in Section 3306(u) of the Federal Unemployment Tax Act (FUTA), which includes any subdivision, subsidiary or business enterprise wholly owned by such Indian
tribe, any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two (2) or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this chapter. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all purposes of this chapter, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work. All individuals performing services in the employ of an elected fee-paid county official, other than those related by blood or marriage within the third degree computed by the rule of the civil law to such fee-paid county official, shall be deemed to be employed by such county as the employing unit for all the purposes of this chapter. For purposes of defining an "employing unit" which shall pay contributions on remuneration paid to individuals, if two (2) or more related corporations concurrently employ the same individual and compensate such individual through
a common paymaster which is one (1) of such corporations, then each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual such amounts actually disbursed to such individual by another of such corporations.

H. "Employer" means:

(1) Any employing unit which,

(a) In any calendar quarter in either the current or preceding calendar year paid for service in employment wages of One Thousand Five Hundred Dollars ($1,500.00) or more, except as provided in paragraph (9) of this subsection, or

(b) For some portion of a day in each of twenty (20) different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year had in employment at least one (1) individual (irrespective of whether the same individual was in employment in each such day), except as provided in paragraph (9) of this subsection;

(2) Any employing unit for which service in employment, as defined in subsection I(3) of this section, is performed;

(3) Any employing unit for which service in employment, as defined in subsection I(4) of this section, is performed;

(4) (a) Any employing unit for which agricultural labor, as defined in subsection I(6) of this section, is performed;
(b) Any employing unit for which domestic service in employment, as defined in subsection I(7) of this section, is performed;

(5) Any individual or employing unit which acquired the organization, trade, business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this chapter;

(6) Any individual or employing unit which acquired its organization, trade, business, or substantially all the assets thereof, from another employing unit, if the employment record of the acquiring individual or employing unit subsequent to such acquisition, together with the employment record of the acquired organization, trade, or business prior to such acquisition, both within the same calendar year, would be sufficient to constitute an employing unit as an employer subject to this chapter under paragraph (1) or (3) of this subsection;

(7) Any employing unit which, having become an employer under paragraph (1), (3), (5) or (6) of this subsection or under any other provisions of this chapter, has not, under Section 71-5-361, ceased to be an employer subject to this chapter;

(8) For the effective period of its election pursuant to Section 71-5-361(3), any other employing unit which has elected to become subject to this chapter;

(9) (a) In determining whether or not an employing unit for which service other than domestic service is also
performed is an employer under paragraph (1) or (4)(a) of this subsection, the wages earned or the employment of an employee performing domestic service, shall not be taken into account;

(b) In determining whether or not an employing unit for which service other than agricultural labor is also performed is an employer under paragraph (1) or (4)(b) of this subsection, the wages earned or the employment of an employee performing services in agricultural labor, shall not be taken into account. If an employing unit is determined an employer of agricultural labor, such employing unit shall be determined an employer for purposes of paragraph (1) of this subsection;

(10) All entities utilizing the services of any employee leasing firm shall be considered the employer of the individuals leased from the employee leasing firm. Temporary help firms shall be considered the employer of the individuals they provide to perform services for other individuals or organizations.

I. "Employment" means and includes:

(1) Any service performed, which was employment as defined in this section and, subject to the other provisions of this subsection, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) Services performed for remuneration for a principal:
(a) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services;

(b) As a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, a principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operator of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

However, for purposes of this subsection, the term "employment" shall include services described in subsection I(2)(a) and (b) of this section, only if:

(i) The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

(ii) The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and

(iii) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.
(3) Service performed in the employ of this state or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one (1) of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions or any Indian tribe as defined in Section 3306(u) of the Federal Unemployment Tax Act (FUTA), which includes any subdivision, subsidiary or business enterprise wholly owned by such Indian tribe; however, such service is excluded from "employment" as defined in the Federal Unemployment Tax Act by Section 3306(c)(7) of that act and is not excluded from "employment" under subsection I(5) of this section.

(4) (a) Services performed in the employ of a religious, charitable, educational, or other organization, but only if the service is excluded from "employment" as defined in the Federal Unemployment Tax Act, 26 USCS Section 3306(c)(8), and

(b) The organization had four (4) or more individuals in employment for some portion of a day in each of twenty (20) different weeks, whether or not such weeks were consecutive, within the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

(5) For the purposes of subsection I(3) and (4) of this section, the term "employment" does not apply to service performed:
(a) In the employ of:

   (i) A church or convention or association of churches; or

   (ii) An organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

(b) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry, or by a member of a religious order in the exercise of duties required by such order; or

(c) In the employ of a governmental entity referred to in subsection I(3), if such service is performed by an individual in the exercise of duties:

   (i) As an elected official;

   (ii) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision or a member of an Indian tribal council;

   (iii) As a member of the State National Guard or Air National Guard;

   (iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;
(v) In a position which, under or pursuant to the laws of this state or laws of an Indian tribe, is designated as:

1. A major nontenured policy-making or advisory position, or

2. A policy-making or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week; or

(d) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

(e) By an inmate of a custodial or penal institution; or

(f) As part of an unemployment work-relief or work-training program assisted or financed, in whole or in part, by any federal agency or agency of a state or political subdivision thereof or of an Indian tribe, by an individual receiving such work relief or work training, unless coverage of such service is required by federal law or regulation.
(6) Service performed by an individual in agricultural labor as defined in paragraph (15)(a) of this subsection when:

(a) Such service is performed for a person who:

   (i) During any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of Twenty Thousand Dollars ($20,000.00) or more to individuals employed in agricultural labor, or

   (ii) For some portion of a day in each of twenty (20) different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten (10) or more individuals, regardless of whether they were employed at the same moment of time.

(b) For the purposes of subsection I(6) any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader:

   (i) If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

   (ii) If such individual is not an employee of such other person within the meaning of subsection I(1).
(c) For the purpose of subsection I(6), in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (6)(b) of this subsection:

(i) Such other person and not the crew leader shall be treated as the employer of such individual; and

(ii) Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his or her own behalf or on behalf of such other person) for the service in agricultural labor performed for such other person.

(d) For the purposes of subsection I(6) the term "crew leader" means an individual who:

(i) Furnishes individuals to perform service in agricultural labor for any other person;

(ii) Pays (either on his or her own behalf or on behalf of such other person) the individuals so furnished by him or her for the service in agricultural labor performed by them; and

(iii) Has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.
(7) The term "employment" shall include domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for an employing unit which paid cash remuneration of One Thousand Dollars ($1,000.00) or more in any calendar quarter in the current or the preceding calendar year to individuals employed in such domestic service. For the purpose of this subsection, the term "employment" does not apply to service performed as a "sitter" at a hospital in the employ of an individual.

(8) An individual's entire service, performed within or both within and without this state, if:

(a) The service is localized in this state; or

(b) The service is not localized in any state but some of the service is performed in this state; and

(i) The base of operations or, if there is no base of operations, the place from which such service is directed or controlled is in this state; or

(ii) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(9) Services not covered under paragraph (8) of this subsection and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal
government, shall be deemed to be employment subject to this chapter if the individual performing such services is a resident of this state and the department approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter.

(10) Service shall be deemed to be localized within a state if:

(a) The service is performed entirely within such state; or

(b) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

(11) The services of an individual who is a citizen of the United States, performed outside the United States (except in Canada), in the employ of an American employer (other than service which is deemed "employment" under the provisions of paragraph (8), (9) or (10) of this subsection or the parallel provisions of another state's law), if:

(a) The employer's principal place of business in the United States is located in this state; or

(b) The employer has no place of business in the United States; but
(i) The employer is an individual who is a resident of this state; or

(ii) The employer is a corporation which is organized under the laws of this state; or

(iii) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one (1) other state; or

(c) None of the criteria of subparagraphs (a) and (b) of this paragraph are met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state; or

(d) An "American employer," for purposes of this paragraph, means a person who is:

(i) An individual who is a resident of the United States; or

(ii) A partnership if two-thirds (2/3) or more of the partners are residents of the United States; or

(iii) A trust if all of the trustees are residents of the United States; or

(iv) A corporation organized under the laws of the United States or of any state.

(12) All services performed by an officer or member of the crew of an American vessel on or in connection with such
vessel, if the operating office from which the operations of such vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled, is within this state, notwithstanding the provisions of subsection I(8).

(13) Service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund, or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, 26 USCS Section 3301 et seq., is required to be covered under this chapter, notwithstanding any other provisions of this subsection.

(14) Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the department that such individual has been and will continue to be free from control and direction over the performance of such services both under his or her contract of service and in fact; and the relationship of employer and employee shall be determined in accordance with the principles of the common law governing the relation of master and servant.

(15) The term "employment" shall not include:

(a) Agricultural labor, except as provided in subsection I(6) of this section. The term "agricultural labor" includes all services performed:
(i) On a farm or in a forest in the employ of any employing unit in connection with cultivating the soil, in connection with cutting, planting, deadening, marking or otherwise improving timber, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, fur-bearing animals and wildlife;

(ii) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(iii) In connection with the production or harvesting of naval stores products or any commodity defined in the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g), or in connection with the raising or harvesting of mushrooms, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(iv) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, in its
unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half (1/2) of the commodity with respect to which such service is performed;

(B) In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subitem (A), but only if such operators produced more than one-half (1/2) of the commodity with respect to which such service is performed;

(C) The provisions of subitems (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption;

(v) On a farm operated for profit if such service is not in the course of the employer's trade or business;

(vi) As used in paragraph (15)(a) of this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(b) Domestic service in a private home, local college club, or local chapter of a college fraternity or
sorority, except as provided in subsection I(7) of this section, or service performed as a "sitter" at a hospital in the employ of an individual.

(c) Casual labor not in the usual course of the employing unit's trade or business.

(d) Service performed by an individual in the employ of his or her son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) in the employ of his or her father or mother.

(e) Service performed in the employ of the United States government or of an instrumentality wholly owned by the United States; except that if the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, then to the extent permitted by Congress and from and after the date as of which such permission becomes effective, all of the provisions of this chapter shall be applicable to such instrumentalities and to services performed by employees for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers and employing units. If this state should not be certified under the Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any year, then the payment required by such instrumentality with respect to such year shall be deemed to have been erroneously
collected and shall be refunded by the department from the fund in accordance with the provisions of Section 71-5-383.

(f) Service performed in the employ of an "employer" as defined by the Railroad Unemployment Insurance Act, 45 USCS Section 351(a), or as an "employee representative" as defined by the Railroad Unemployment Insurance Act, 45 USCS Section 351(f), and service with respect to which unemployment compensation is payable under an unemployment compensation system for maritime employees, or under any other unemployment compensation system established by an act of Congress; however, the department is authorized and directed to enter into agreements with the proper agencies under such act or acts of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in Section 71-5-117 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such act or acts of Congress or who have, after acquiring potential rights to unemployment compensation under such act or acts of Congress, acquired rights to benefits under this chapter.

(g) Service performed in any calendar quarter in the employ of any organization exempt from income tax under the Internal Revenue Code, 26 USCS Section 501(a) (other than an organization described in 26 USCS Section 401(a)), or exempt from
income tax under 26 USCS Section 521 if the remuneration for such service is less than Fifty Dollars ($50.00).

(h) Service performed in the employ of a school, college, or university if such service is performed:

(i) By a student who is enrolled and is regularly attending classes at such school, college or university, or

(ii) By the spouse of such a student if such spouse is advised, at the time such spouse commences to perform such service, that

(A) The employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and

(B) Such employment will not be covered by any program of unemployment insurance.

(i) Service performed by an individual under the age of twenty-two (22) who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program and such institution has so certified to the
employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

(j) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital, as defined in subsection M of this section.

(k) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and services performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law.

(l) Service performed by an individual as an insurance agent or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission.

(m) Service performed by an individual in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, except those employed by political subdivisions, state and local governments, nonprofit organizations and Indian tribes, as defined by this chapter, or any other entities for which coverage is required by federal statute and regulation.
(n) If the services performed during one-half (1/2) or more of any pay period by an employee for the employing unit employing him or her constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half (1/2) of any such pay period by an employee for the employing unit employing him or her do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of not more than thirty-one (31) consecutive days) for which a payment of remuneration is ordinarily made to the employee by the employing unit employing him or her.

(o) Service performed by a barber or beautician whose work station is leased to him or her by the owner of the shop in which he or she works and who is compensated directly by the patrons he or she serves and who is free from direction and control by the lessor.

(p) Service performed by a "direct seller" if:

(i) Such person is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the department prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment; or such person is engaged in the trade or business of selling (or soliciting the
sale of) consumer products in the home or otherwise than in a permanent retail establishment;

(ii) Substantially all the remuneration (whether or not paid in cash) for the performance of the services described in item (i) of this subparagraph is directly related to sales or other output (including the performance of services) rather than to the number of hours worked; and

(iii) The services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for federal tax purposes.

J. "Employment office" means a free public employment office or branch thereof, operated by this state or maintained as a part of the state controlled system of public employment offices.

K. "Public employment service" means the operation of a program that offers free placement and referral services to applicants and employers, including job development.

L. "Fund" means the Unemployment Compensation Fund established by this chapter, to which all contributions required and from which all benefits provided under this chapter shall be paid.

M. "Hospital" means an institution which has been licensed, certified, or approved by the State Department of Health as a hospital.
ST:  Mississippi Department of Employment Security; revise various provisions regarding authority of.

N. "Institution of higher learning," for the purposes of this section, means an educational institution which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) Is legally authorized in this state to provide a program of education beyond high school;

(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation;

(4) Is a public or other nonprofit institution;

(5) Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this state are institutions of higher learning for purposes of this section.

O. "Re-employment assistance" means money payments payable to an individual as provided in this chapter and in accordance with Section 3304(a)(4) and 3306(h) of the Federal Unemployment Tax Act and Section 303(a)(5) of the Social Security Act, with respect to his or her unemployment through no fault of his or her own. Wherever the terms "benefits" or "unemployment benefits" appear in this chapter, they shall mean re-employment assistance.
P. (1) "State" includes, in addition to the states of the United States of America, the District of Columbia, Commonwealth of Puerto Rico and the Virgin Islands.

(2) The term "United States" when used in a geographical sense includes the states, the District of Columbia, Commonwealth of Puerto Rico and the Virgin Islands.

(3) The provisions of paragraphs (1) and (2) of subsection P, as including the Virgin Islands, shall become effective on the day after the day on which the United States Secretary of Labor approves for the first time under Section 3304(a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted to the secretary by the Virgin Islands for such approval.

Q. "Unemployment."

(1) An individual shall be deemed "unemployed" in any week during which he or she performs no services and with respect to which no wages are payable to him or her, or in any week of less than full-time work if the wages payable to him or her with respect to such week are less than his or her weekly benefit amount as computed and adjusted in Section 71-5-505. This definition shall exclude individuals receiving voluntary payments from employers, from any source, that are in lieu of the worker's regular wages. However, individuals receiving voluntary payments of less than their set full weekly wage, as well as individuals who do not work a specified number of hours each week resulting in
inconsistent weekly wages, and who are receiving voluntary
payments for partial wage substitution, may be considered
"unemployed," but would be required to report the gross amount of
the voluntary payments to be treated as wages so the appropriate
deductions to the weekly benefit amount can be made. The
department shall prescribe regulations applicable to unemployed
individuals, making such distinctions in the procedure as to total
unemployment, part-total unemployment, partial unemployment of
individuals attached to their regular jobs, and other forms of
short-time work, as the department deems necessary.

(2) An individual's week of total unemployment shall be
deemed to commence only after his registration * * * with an
employment office, except as the department may by regulation
otherwise prescribe.

(3) Unemployment shall not include administrative leave
for any week with respect to which:

(a) An employer has designated their employee as
being on official administrative leave;

(b) The administrative leave is for a specified
period of time;

(c) There is no apparent permanent job separation;

and

(d) The employee has received compensation equal
to their standard compensation.
(4) If the individual, on official administrative leave, as designated by the employer, does not receive full compensation in line with his or her standard hours or salary, the individual may be eligible for unemployment insurance benefits as partially unemployed for the wages they are missing.

(5) Any individual on official administrative leave is required to report all compensation received.

R. (1) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, except that "wages," for purposes of determining employer's coverage and payment of contributions for agricultural and domestic service means cash remuneration only. Wages shall include payments from employers, from any source, and for any reason, that are in lieu of the employee's regular wages. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the department; however, that the term "wages" shall not include:

(a) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his or her employees generally or for a class or classes of his or her employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of:

(i) Retirement, or
(ii) Sickness or accident disability, or

(iii) Medical or hospitalization expenses in connection with sickness or actual disability, or

(iv) Death, provided the employee:

(A) Has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his or her employer, and

(B) Has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive a cash consideration in lieu of such benefit, either upon his or her withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his or her employment with such employer;

(b) Dismissal payments which the employer is not legally required to make;

(c) Payment by an employer (without deduction from the remuneration of an employee) of the tax imposed by the Internal Revenue Code, 26 USCS Section 3101;

(d) From and after January 1, 1992, the amount of any payment made to or on behalf of an employee for a "cafeteria" plan, which meets the following requirements:
(i) Qualifies under Section 125 of the Internal Revenue Code;
(ii) Covers only employees;
(iii) Covers only noncash benefits;
(iv) Does not include deferred compensation plans.

(2) [Not enacted].

S. "Week" means calendar week or such period of seven (7) consecutive days as the department may by regulation prescribe. The department may by regulation prescribe that a week shall be deemed to be in, within, or during any benefit year which includes any part of such week.

T. "Insured work" means "employment" for "employers."

U. The term "includes" and "including," when used in a definition contained in this chapter, shall not be deemed to exclude other things otherwise within the meaning of the term defined.

V. "Employee leasing arrangement" means any agreement between an employee leasing firm and a client, whereby specified client responsibilities such as payment of wages, reporting of wages for unemployment insurance purposes, payment of unemployment insurance contributions and other such administrative duties are to be performed by an employee leasing firm, on an ongoing basis.

W. "Employee leasing firm" means any entity which provides specified duties for a client company such as payment of wages,
reporting of wages for unemployment insurance purposes, payment of
unemployment insurance contributions and other administrative
duties, in connection with the client's employees, that are
directed and controlled by the client and that are providing
ongoing services for the client.

X. (1) "Temporary help firm" means an entity which hires
its own employees and provides those employees to other
individuals or organizations to perform some service, to support
or supplement the existing workforce in special situations such as
employee absences, temporary skill shortages, seasonal workloads
and special assignments and projects, with the expectation that
the worker's position will be terminated upon the completion of
the specified task or function.

(2) "Temporary employee" means an employee assigned to
work for the clients of a temporary help firm.

Y. For the purposes of this chapter, the term "notice" shall
include any official communication, statement or other
correspondence required under the administration of this chapter,
and sent by the department through the United States Postal
Service or electronic or digital transfer, via modem or the
Internet.

SECTION 2. Section 71-5-365, Mississippi Code of 1972, is
amended as follows:

71-5-365. If any employer fails to make and file any report
as and when required by the terms and provisions of this chapter
or by any rule or regulation of the commission for the purpose of
determining the amount of contributions due by him or her under
this chapter, or if any report which has been filed is deemed by
the executive director or his or her designee within the
department to be incorrect or insufficient, and such employer,
after having been given notice by the executive director or his or
her designee within the department to file such report, or a
corrected or sufficient report, as the case may be, shall fail to
file such report within fifteen (15) days after the date of such
notice, the executive director or his or her designee within the
department may (a) determine the amount of contributions due from
such noncompliant employer on the basis of * * * the best
information * * * that may be readily available to * * * the
department, which * * * determination shall be prima facie
correct, (b) assess such noncompliant employer with the amount of
contribution so determined as due, to which amount may be added
and assessed by the executive director or his or her designee
within the department in his or her discretion, as damages, in an
amount equal to ten percent (10%) of * * * the assessed amount,
and (c) immediately give notice to such noncompliant employer of
such determination, assessment, and * * * penalties, if any, added
and assessed, demanding payment of same together with interest, as
herein provided, on the amount of contributions owed from the date
when same were due and payable. Such determination and assessment
by the executive director or his or her designee within the
department shall be final at the expiration of fifteen (15) days from the date of such notice thereof demanding payment, unless:

(a) Such employer shall have filed with the department a written protest and petition for a hearing, specifying his or her objections thereto. Upon receipt of such petition within the fifteen (15) days allowed, the department shall fix the time and place for a hearing and shall notify the petitioner thereof. At any hearing held before the department as herein provided, evidence may be offered to support such determination and assessment or to prove that it is incorrect, and the commission shall have all the power provided in Sections 71-5-137 and 71-5-139. Immediately after such hearing a final decision in the matter shall be made by the commission, and any contributions or deficiencies in contributions found and determined by the commission to be due shall be assessed and paid, together with interest, within fifteen (15) days after notice of such final decision and assessment, and demand for payment thereof by the department shall have been sent to such employer.

(b) The department, in its discretion, determines on the basis of information submitted by the employer that such assessment should be amended and adjusted to reflect the correct amount of taxes.

Sixty (60) days after the due date of the contributions, together with interest and damages, or upon issuance of a warrant, whichever occurs first, the department, in its discretion, may
assess an additional sum not exceeding one hundred percent (100%) of the amount of the unpaid contributions due as penalties for failure to pay.

SECTION 3. Section 71-5-363, Mississippi Code of 1972, is amended as follows:

71-5-363. (1) Contributions unpaid on the date on which they are due and payable shall bear interest at the rate of one percent (1%) per month from and after such date until payment plus accrued interest is received by the department, provided that the department may prescribe fair and reasonable general rules pursuant to which such interest shall not accrue during the first calendar year that any employer is subject to this chapter. Interest collected pursuant to this section shall be paid into the Special Employment Security Administration Fund established by Section 71-5-114.

(2) Notwithstanding the provisions of subsection (1) of this section, the executive director or his or her designee within the department, shall have the discretion, subject only to federal laws and regulations, to abate interest accrued on past due contributions or overpayments, in part or in full, when negotiating the settlements of past due amounts owed to the agency.

SECTION 4. Section 71-5-389, Mississippi Code of 1972, is amended as follows:
71-5-389. (1) For the purposes of this section, the following terms shall have the respective meanings ascribed by this section:

(a) "Claimant agency" means the Mississippi Department of Employment Security.

(b) "Debtor" means any individual, corporation or partnership owing money or having a delinquent account with any claimant agency, which obligation has not been adjudicated satisfied by court order, set aside by court order, or discharged in bankruptcy.

(c) "Debt" means any sum due and owing any claimant agency, including costs, court costs, fines, penalties and interest which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

(d) "Department" or "Department of Revenue" or "Revenue" means the Department of Revenue of the State of Mississippi.

(e) "Refund" means the Mississippi income tax refund or federal income tax refund which the department determines to be due any individual taxpayer, corporation or partnership.

(f) "Treasury" means the United States Department of the Treasury.
(2) The collection remedy authorized by this section is in addition to and is not substitution for any other remedy available by law.

(3) (a) A claimant agency may submit debts in excess of Twenty-five Dollars ($25.00) owed to it to the department for collection through setoff, under the procedure established by this section, except in cases where the validity of the debt is legitimately in dispute, an alternate means of collection is pending and believed to be adequate, or such collection would result in a loss of federal funds or federal assistance.

(b) Upon the request of a claimant agency, the department and/or Treasury, if applicable, shall set off any refund, as defined herein, against the sum certified by the claimant agency as provided in this section.

(4) (a) Within the time frame specified by the department and/or Treasury, a claimant agency seeking to collect a debt through setoff shall supply the information necessary to identify each debtor whose refund is sought to be set off and certify the amount of debt or debts owed by each such debtor.

(b) If a debtor identified by a claimant agency is determined by the department and/or Treasury to be entitled to a refund of at least Twenty-five Dollars ($25.00), the department and/or Treasury, if applicable, shall transfer an amount equal to the refund owed, not to exceed the amount of the claimed debt certified, to the claimant agency. The Department of Revenue
and/or Treasury, if applicable, shall send the excess amount to
the debtor within a reasonable time after such excess is
determined. At the time of the transfer of funds to a claimant
agency pursuant to this paragraph (b), the Department of Revenue
and/or Treasury, if applicable, shall notify the taxpayer or
taxpayers whose refund is sought to be set off that the transfer
has been made. Such notice shall clearly set forth the name of
the debtor, the manner in which the debt arose, the amount of the
claimed debt, the transfer of funds to the claimant agency
pursuant to this paragraph (b) and the intention to set off the
refund against the debt, the amount of the refund in excess of the
claimed debt, the taxpayer's opportunity to give written notice to
contest the setoff within thirty (30) days of the date of mailing
of the notice, the name and mailing address of the claimant agency
to which the application for such a hearing must be sent, and the
fact that the failure to apply for such a hearing, in writing,
within the thirty-day period will be deemed a waiver of the
opportunity to contest the setoff. In the case of a joint return
or a joint refund, the notice shall also state the name of the
taxpayer named in the return, if any, against whom no debt is
claimed, the fact that a debt is not claimed against such
taxpayer, the fact that such taxpayer is entitled to receive a
refund if it is due him or her regardless of the debt asserted
against his or her spouse, and that in order to obtain a refund
due him or her such taxpayer must apply in writing for a hearing
with the claimant agency named in the notice within thirty (30) days of the date of the mailing of the notice. If a taxpayer fails to apply in writing for such a hearing within thirty (30) days of the mailing of such notice, he or she will have waived his or her opportunity to contest the setoff.

(c) Upon receipt of funds transferred from the Department of Revenue and/or Treasury pursuant to paragraph (b) of this subsection, the claimant agency shall deposit and hold such funds in an escrow account until a final determination of the validity of the debt.

(d) The claimant agency shall pay the Department of Revenue and/or Treasury a fee, not to exceed Seventeen Dollars ($17.00) in each case in which a tax refund is identified as being available for offset. Such fees shall be deposited by the Department of Revenue into a special fund hereby created in the State Treasury, out of which the Legislature shall appropriate monies to defray expenses of the Department of Revenue in employing personnel to administer the provisions of this section.

(5) (a) When the claimant agency receives a protest or an application in writing from a taxpayer within thirty (30) days of the notice issued by the Department of Revenue and/or Treasury, the claimant agency shall set a date to hear the protest and give notice to the taxpayer through the United States Postal Service or electronic digital transfer of the date so set. The time and place of such hearing shall be designated in such notice and the
date set shall not be less than fifteen (15) days from the date of such notice. If, at the hearing, the sum asserted as due and owing is found not to be correct, an adjustment to the claim may be made. The claimant agency shall give notice to the debtor of its final determination as provided in paragraph (c) of this subsection.

(b) No issues shall be reconsidered at the hearing which have been previously litigated.

(c) If any debtor is dissatisfied with the final determination made at the hearing by the claimant agency, he or she may appeal the final determination to the circuit court of the county in which the main office of the claimant agency is located by filing notice of appeal with the administrative head of the claimant agency and with the clerk of the circuit court of the county in which the appeal shall be taken within thirty (30) days from the date the notice of final determination was given by the claimant agency.

(6) (a) Upon final determination of the amount of the debt due and owing by means of hearing or by the taxpayer's default through failure to comply with timely request for review, the claimant agency shall remove the amount of the debt due and owing from the escrow account and credit such amount to the debtor's obligation.

(b) Upon transfer of the debt due and owing from the escrow account to the credit of the debtor's account, the claimant
agency shall notify the debtor in writing of the finalization of the setoff. Such notice shall include a final accounting if the refund which was set off, including the amount of the refund to which the debtor was entitled * * * before the setoff, the amount of the debt due and owing, the amount of the collection fee paid to the Department of Revenue and/or Treasury, the amount of the refund in excess of the debt which was returned to the debtor by the Department of Revenue and/or Treasury, and the amount of the funds transferred to the claimant agency in excess of the debt determined to be due and owing at a hearing, if such a hearing was held. At such time, the claimant agency shall refund to the debtor the amount of the claimed debt originally certified and transferred to it by the Department of Revenue in excess of the amount of debt finally found to be due and owing.

(7) (a) Notwithstanding the provision that prohibits disclosure by the Department of Revenue and/or Treasury of the contents of taxpayer records or information and notwithstanding any other confidentiality statute, the Department of Revenue and/or Treasury may provide to a claimant agency all information necessary to accomplish and effectuate the intent of the section.

(b) The information obtained by claimant agency from the Department of Revenue and/or Treasury in accordance with the provisions of this section shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices; and any employee or prior...
employee of any claimant agency who unlawfully discloses any such
information for any other purpose, except as specifically
authorized by law, shall be subject to the same penalties
specified by law for unauthorized confidential information by an
agent or employee of the Department of Revenue and/or Treasury.

SECTION 5. Section 71-5-355, Mississippi Code of 1972, is
amended as follows:

71-5-355. (1) As used in this section, the following words
and phrases shall have the following meanings, unless the context
clearly requires otherwise:

(a) "Tax year" means any period beginning on January 1
and ending on December 31 of a year.
(b) "Computation date" means June 30 of any calendar
year immediately preceding the tax year during which the
particular contribution rates are effective.
(c) "Effective date" means January 1 of the tax year.
(d) Except as hereinafter provided, "payroll" means the
total of all wages paid for employment by an employer as defined
in Section 71-5-11, subsection H, plus the total of all
remuneration paid by such employer excluded from the definition of
wages by Section 71-5-351. For the computation of modified rates,
"payroll" means the total of all wages paid for employment by an
employer as defined in Section 71-5-11, subsection H.
(e) For the computation of modified rates, "eligible
employer" means an employer whose experience-rating record has
been chargeable with benefits throughout the thirty-six (36) consecutive calendar-month period ending on the computation date, except that any employer who has not been subject to the Mississippi Employment Security Law for a period of time sufficient to meet the thirty-six (36) consecutive calendar-month requirement shall be an eligible employer if his or her experience-rating record has been chargeable throughout not less than the twelve (12) consecutive calendar-month period ending on the computation date. No employer shall be considered eligible for a contribution rate less than five and four-tenths percent (5.4%) with respect to any tax year, who has failed to file any two (2) quarterly reports within the qualifying period by September 30 following the computation date. No employer or employing unit shall be eligible for a contribution rate of less than five and four-tenths percent (5.4%) for the tax year in which the employing unit is found by the department to be in violation of Section 71-5-19(2) or (3) and for the next two (2) succeeding tax years. No representative of such employing unit who was a party to a violation as described in Section 71-5-19(2) or (3), if such representative was or is an employing unit in this state, shall be eligible for a contribution rate of less than five and four-tenths percent (5.4%) for the tax year in which such violation was detected by the department and for the next two (2) succeeding tax years.
(f) With respect to any tax year, "reserve ratio" means the ratio which the total amount available for the payment of benefits in the Unemployment Compensation Fund, excluding any amount which has been credited to the account of this state under Section 903 of the Social Security Act, as amended, and which has been appropriated for the expenses of administration pursuant to Section 71-5-457 whether or not withdrawn from such account, on October 31 (close of business) of each calendar year bears to the aggregate of the taxable payrolls of all employers for the twelve (12) calendar months ending on June 30 next preceding.

(g) "Modified rates" means the rates of employer unemployment insurance contributions determined under the provisions of this chapter and the rates of newly subject employers, as provided in Section 71-5-353.

(h) For the computation of modified rates, "qualifying period" means a period of not less than the thirty-six (36) consecutive calendar months ending on the computation date throughout which an employer's experience-rating record has been chargeable with benefits; except that with respect to any eligible employer who has not been subject to this article for a period of time sufficient to meet the thirty-six (36) consecutive calendar-month requirement, "qualifying period" means the period ending on the computation date throughout which his or her experience-rating record has been chargeable with benefits, but in no event less than the twelve (12) consecutive calendar-month
period ending on the computation date throughout which his or her experience-rating record has been so chargeable.

(i) The "exposure criterion" (EC) is defined as the cash balance of the Unemployment Compensation Fund which is available for the payment of benefits as of November 16 of each calendar year or the next working day if November 16 falls on a holiday or a weekend, divided by the total wages, exclusive of wages paid by all state agencies, all political subdivisions, reimbursable nonprofit corporations, and tax-exempt public service employment, for the twelve-month period ending June 30 immediately preceding such date. The EC shall be computed to four (4) decimal places and rounded up if any fraction remains.

(j) The "cost rate criterion" (CRC) is defined as follows: Beginning with January 1974, the benefits paid for the twelve-month period ending December 1974 are summed and divided by the total wages for the twelve-month period ending on June 30, 1975. Similar ratios are computed by subtracting the earliest month's benefit payments and adding the benefits of the next month in the sequence and dividing each sum of twelve (12) months' benefits by the total wages for the twelve-month period ending on the June 30 which is nearest to the final month of the period used to compute the numerator. If December is the final month of the period used to compute the numerator, then the twelve-month period ending the following June 30 will be used for the denominator. Benefits and total wages used in the computation of the cost rate
criterion shall exclude all benefits and total wages applicable to state agencies, political subdivisions, reimbursable nonprofit corporations, and tax-exempt PSE employment.

The CRC shall be computed as the average for the highest monthly value of the cost rate criterion computations during each of the economic cycles since the calendar year 1974 as defined by the National Bureau of Economic Research. The CRC shall be computed to four (4) decimal places and any remainder shall be rounded up.

The CRC shall be adjusted only through annual computations and additions of future economic cycles.

(k) "Size of fund index" (SOFI) is defined as the ratio of the exposure criterion (EC) to the cost rate criterion (CRC). The target size of fund index will be fixed at 1.0. If the insured unemployment rate (IUR) exceeds a four and five-tenths percent (4.5%) average for the most recent completed July to June period, the target SOFI will be .8 and will remain at that level until the computed SOFI (the average exposure criterion of the current year and the preceding year divided by the average cost rate criterion) equals 1.0 or the average IUR falls to four and five-tenths percent (4.5%) or less for any period July to June. However, if the IUR falls below two and five-tenths percent (2.5%) for any period July to June the target SOFI shall be 1.2 until such time as the computed SOFI is equal to or greater than 1.0 or
the IUR is equal to or greater than two and five-tenths percent
(2.5%), at which point the target SOFI shall return to 1.0.

(1) No employer's unemployment contribution general
experience rate plus individual unemployment experience rate shall
exceed five and four-tenths percent (5.4%). Accrual rules shall
apply for purposes of computing contribution rates including
associated functions.

(m) The term "general experience rate" has the same
meaning as the minimum tax rate.

(2) Modified rates:

(a) For any tax year, when the reserve ratio on the
preceding November 16, in the case of any tax year, equals or
exceeds three percent (3%), the modified rates, as hereinafter
prescribed, shall be in effect. In computation of this reserve
ratio, any remainder shall be rounded down.

(b) Modified rates shall be determined for the tax year
for each eligible employer on the basis of his or her
experience-rating record in the following manner:

(i) The department shall maintain an
experience-rating record for each employer. Nothing in this
chapter shall be construed to grant any employer or individuals
performing services for him or her any prior claim or rights to
the amounts paid by the employer into the fund.

(ii) Benefits paid to an eligible individual shall
be charged against the experience-rating record of his or her base
period employers in the proportion to which the wages paid by each
base period employer bears to the total wages paid to the
individual by all the base period employers, provided that
benefits shall not be charged to an employer's experience-rating
record if the department finds that the individual:

1. Voluntarily left the employ of such
employer without good cause attributable to the employer or to
accept other work;

2. Was discharged by such employer for
misconduct connected with his or her work;

3. Refused an offer of suitable work by such
employer without good cause, and the department further finds that
such benefits are based on wages for employment for such employer
prior to such voluntary leaving, discharge or refusal of suitable
work, as the case may be;

4. Had base period wages which included wages
for previously uncovered services as defined in Section
71-5-511(e) to the extent that the Unemployment Compensation Fund
is reimbursed for such benefits pursuant to Section 121 of Public
Law 94-566;

5. Extended benefits paid under the
provisions of Section 71-5-541 which are not reimbursable from
federal funds shall be charged to the experience-rating record of
base period employers;
6. Is still working for such employer on a regular part-time basis under the same employment conditions as hired. Provided, however, that benefits shall be charged against an employer if an eligible individual is paid benefits who is still working for such employer on a part-time "as-needed" basis;

7. Was hired to replace a United States serviceman or servicewoman called into active duty and was laid off upon the return to work by that serviceman or servicewoman, unless such employer is a state agency or other political subdivision or instrumentality of the state;

8. Was paid benefits during any week while in training with the approval of the department, under the provisions of Section 71-5-513B, or for any week while in training approved under Section 236(a)(1) of the Trade Act of 1974, under the provisions of Section 71-5-513C;

9. Is not required to serve the one-week waiting period as described in Section 71-5-505(2). In that event, only the benefits paid in lieu of the waiting period week may be noncharged; or

10. Was paid benefits as a result of a fraudulent claim, provided notification was made to the Mississippi Department of Employment Security in writing or by email by the employer, within ten (10) days of the mailing of the notice of claim filed to the employer's last-known address.
(iii) Notwithstanding any other provision contained herein, an employer shall not be noncharged when the department finds that the employer or the employer's agent of record was at fault for failing to respond timely or adequately to the request of the department for information relating to an unemployment claim that was subsequently determined to be improperly paid, unless the employer or the employer's agent of record shows good cause for having failed to respond timely or adequately to the request of the department for information. For purposes of this subparagraph "good cause" means an event that prevents the employer or employer's agent of record from timely responding, and includes a natural disaster, emergency or similar event, or an illness on the part of the employer, the employer's agent of record, or their staff charged with responding to such inquiries when there is no other individual who has the knowledge or ability to respond. Any agency error that resulted in a delay in, or the failure to deliver notice to, the employer or the employer's agent of record shall also be considered good cause for purposes of this subparagraph.

(iv) The department shall compute a benefit ratio for each eligible employer, which shall be the quotient obtained by dividing the total benefits charged to his or her experience-rating record during the period his or her experience-rating record has been chargeable, but not less than the twelve (12) consecutive calendar-month period nor more than...
the thirty-six (36) consecutive calendar-month period ending on
the computation date, by his or her total taxable payroll for the
same period on which all unemployment insurance contributions due
have been paid on or before the September 30 immediately following
the computation date. Such benefit ratio shall be computed to the
ten tenth of a percent (.1%), rounding any remainder to the next
higher tenth.

(v) 1. The unemployment insurance contribution
rate for each eligible employer shall be the sum of two (2) rates:
his or her individual experience rate in the range from zero
percent (0%) to five and four-tenths percent (5.4%), plus a
general experience rate. In no event shall the resulting
unemployment insurance rate be in excess of five and four-tenths
percent (5.4%), however, it is the intent of this section to
provide the ability for employers to have a tax rate, the general
experience rate plus the individual experience rate, of up to five
and four-tenths percent (5.4%).

2. The employer's individual experience rate
shall be equal to his or her benefit ratio as computed under
subsection (2)(b)(iv) above.

3. The general experience rate shall be
determined in the following manner: The department shall
determine annually, for the thirty-six (36) consecutive
calendar-month period ending on the computation date, the amount
of benefits which were not charged to the record of any employer
and of benefits which were ineffectively charged to the employer's experience-rating record. For the purposes of this item 3, the term "ineffectively charged benefits" shall include:

a. The total of the amounts of benefits charged to the experience-rating records of all eligible employers which caused their benefit ratios to exceed five and four-tenths percent (5.4%);

b. The total of the amounts of benefits charged to the experience-rating records of all ineligible employers which would cause their benefit ratios to exceed five and four-tenths percent (5.4%) if they were eligible employers; and

c. The total of the amounts of benefits charged or chargeable to the experience-rating record of any employer who has discontinued his or her business or whose coverage has been terminated within such period; provided, that solely for the purposes of determining the amounts of ineffectively charged benefits as herein defined, a "benefit ratio" shall be computed for each ineligible employer, which shall be the quotient obtained by dividing the total benefits charged to his or her experience-rating record throughout the period ending on the computation date, during which his or her experience-rating record has been chargeable with benefits, by his or her total taxable payroll for the same period on which all unemployment insurance contributions due have been paid on or before the...
September 30 immediately following the computation date; and
provided further, that such benefit ratio shall be computed to the

tenth of one percent (.1%) and any remainder shall be rounded to
the next higher tenth.

The ratio of the sum of these amounts (subsection
(2)(b)(v)3a, b and c) to the taxable wages paid during the same
period divided by all eligible employers whose benefit ratio did
not exceed five and four-tenths percent (5.4%), computed to the
next higher tenth of one percent (.1%), shall be the general
experience rate; however, the general experience rate for rate
year 2014 shall be two tenths of one percent (.2%) and to that
will be added the employer's individual experience rate for the
total unemployment insurance rate.

4. a. Except as otherwise provided in this
item 4, the general experience rate shall be adjusted by use of
the size of fund index factor. This factor may be positive or
negative, and shall be determined as follows: From the target
SOFI, as defined in subsection (1)(k) of this section, subtract
the simple average of the current and preceding years' exposure
criterions divided by the cost rate criterion, as defined in
subsection (1)(j) of this section. The result is then multiplied
by the product of the CRC, as defined in subsection (1)(j) of this
section, and total wages for the twelve-month period ending June
30 divided by the taxable wages for the twelve-month period ending
June 30. This is the percentage positive or negative added to the
general experience rate. The sum of the general experience rate and the trust fund adjustment factor shall be multiplied by fifty percent (50%) and this product shall be computed to one (1) decimal place, and rounded to the next higher tenth.

b. Notwithstanding the minimum rate provisions as set forth in subsection (1)(l) of this section, the general experience rate of all employers shall be reduced by seven one-hundredths of one percent (.07%) for calendar year 2013 only.

5. The general experience rate shall be zero percent (0%) unless the general experience ratio for any tax year as computed and adjusted on the basis of the trust fund adjustment factor and reduced by fifty percent (50%) is an amount equal to or greater than two-tenths of one percent (.2%), then the general experience rate shall be the computed general experience ratio and adjusted on the basis of the trust fund adjustment factor and reduced by fifty percent (50%); however, in no case shall the sum of the general experience plus the individual experience unemployment insurance rate exceed five and four-tenths percent (5.4%). For rate years subsequent to 2014, Mississippi Workforce Enhancement Training contribution rate, and/or State Workforce Investment contribution rate, and/or Mississippi Works contribution rate, when in effect, shall be added to the unemployment contribution rate, regardless of whether the addition of this contribution rate causes the total contribution rate for the employer to exceed five and four-tenths percent (5.4%).
6. The department shall include in its annual rate notice to employers a brief explanation of the elements of the general experience rate, and shall include in its regular publications an annual analysis of benefits not charged to the record of any employer, and of the benefit experience of employers by industry group whose benefit ratio exceeds four percent (4%), and of any other factors which may affect the size of the general experience rate.

7. Notwithstanding any other provision contained herein, the general experience rate for calendar year 2021 shall be zero percent (0%). Charges attributed to each employer's individual experience rate for the period March 8, 2020, through June 30, 2020, will not impact the employer's individual experience rate calculations for purposes of calculating the total unemployment insurance rate for 2021 and the two (2) subsequent tax rate years. Moreover, charges attributed to each employer's individual experience rate for the period July 1, 2020, through December 31, 2020, will not impact the employer's individual experience rate calculations for purposes of calculating the total unemployment insurance rate for 2022 and the two (2) subsequent tax rate years.

(vi) When any employing unit in any manner succeeds to or acquires the organization, trade, business or substantially all the assets thereof of an employer, excepting any assets retained by such employer incident to the liquidation of
his or her obligations, whether or not such acquiring employing unit was an employer within the meaning of Section 71-5-11, subsection H, prior to such acquisition, and continues such organization, trade or business, the experience-rating and payroll records of the predecessor employer shall be transferred as of the date of acquisition to the successor employer for the purpose of rate determination.

(vii) When any employing unit succeeds to or acquires a distinct and severable portion of an organization, trade or business, the experience-rating and payroll records of such portion, if separately identifiable, shall be transferred to the successor upon:

1. The mutual consent of the predecessor and the successor;
2. Approval of the department;
3. Continued operation of the transferred portion by the successor after transfer; and
4. The execution and the filing with the department by the predecessor employer of a waiver relinquishing all rights to have the experience-rating and payroll records of the transferred portion used for the purpose of determining modified rates of contribution for such predecessor.

(viii) If the successor was an employer subject to this chapter prior to the date of acquisition, it shall continue to pay unemployment insurance contributions at the rate applicable...
to it from the date the acquisition occurred until the end of the then current tax year. If the successor was not an employer prior to the date of acquisition, it shall pay unemployment insurance contributions at the rate applicable to the predecessor or, if more than one (1) predecessor and the same rate is applicable to both, the rate applicable to the predecessor or predecessors, from the date the acquisition occurred until the end of the then current tax year. If the successor was not an employer prior to the date the acquisition occurred and simultaneously acquires the businesses of two (2) or more employers to whom different rates of unemployment insurance contributions are applicable, it shall pay unemployment insurance contributions from the date of the acquisition until the end of the current tax year at a rate computed on the basis of the combined experience-rating and payroll records of the predecessors as of the computation date for such tax year. In all cases the rate of unemployment insurance contributions applicable to such successor for each succeeding tax year shall be computed on the basis of the combined experience-rating and payroll records of the successor and the predecessor or predecessors.

(ix) The department shall notify each employer quarterly of the benefits paid and charged to his or her experience-rating record; and such notification, in the absence of an application for redetermination filed within thirty (30) days after the date of such notice, shall be final, conclusive and
binding upon the employer for all purposes. A redetermination, made after notice and opportunity for a fair hearing, by a hearing officer designated by the department who shall consider and decide these and related applications and protests; and the finding of fact in connection therewith may be introduced into any subsequent administrative or judicial proceedings involving the determination of the rate of unemployment insurance contributions of any employer for any tax year, and shall be entitled to the same finality as is provided in this subsection with respect to the findings of fact in proceedings to redetermine the contribution rate of an employer.

(x) The department shall notify each employer of his or her rate of contribution as determined for any tax year as soon as reasonably possible after September 1 of the preceding year. Such determination shall be final, conclusive and binding upon such employer unless, within thirty (30) days after the date of such notice to his or her last-known address, the employer files with the department an application for review and redetermination of his or her contribution rate, setting forth his or her reasons therefor. If the department grants such review, the employer shall be promptly notified thereof and shall be afforded an opportunity for a fair hearing by a hearing officer designated by the department who shall consider and decide these and related applications and protests; but no employer shall be allowed, in any proceeding involving his or her rate of
unemployment insurance contributions or contribution liability, to contest the chargeability to his or her account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Sections 71-5-515 through 71-5-533 except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him or her, and then only in the event that he or she was not a party to such determination, redetermination, decision or to any other proceedings provided in this chapter in which the character of such services was determined. The employer shall be promptly notified of the denial of this application or of the redetermination, both of which shall become final unless, within ten (10) days after the date of notice thereof, there shall be an appeal to the department itself. Any such appeal shall be on the record before said designated hearing officer, and the decision of said department shall become final unless, within thirty (30) days after the date of notice thereof to the employer's last-known address, there shall be an appeal to the Circuit Court of the First Judicial District of Hinds County, Mississippi, in accordance with the provisions of law with respect to review of civil causes by certiorari.

(3) Notwithstanding any other provision of law, the following shall apply regarding assignment of rates and transfers of experience:
(a) (i) If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management or control of the two (2) employers, then the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. The rates of both employers shall be recalculated and made effective on January 1 of the year following the year the transfer occurred.

(ii) If, following a transfer of experience under subparagraph (i) of this paragraph (a), the department determines that a substantial purpose of the transfer of trade or business was to obtain a reduced liability of unemployment insurance contributions, then the experience-rating accounts of the employers involved shall be combined into a single account and a single rate assigned to such account.

(b) Whenever a person who is not an employer or an employing unit under this chapter at the time it acquires the trade or business of an employer, the unemployment experience of the acquired business shall not be transferred to such person if the department finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of unemployment insurance contributions. Instead, such person shall be assigned the new employer rate under Section 71-5-353; unless assignment of the new employer rate results in an increase of less
than two percent (2%) in which case such person would be assigned the new employer rate plus an additional two percent (2%) penalty for the rate year. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of unemployment insurance contributions, the department shall use objective factors which may include the cost of acquiring the business, whether the person continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(c) (i) If a person knowingly violates or attempts to violate paragraph (a) or (b) of this subsection or any other provision of this chapter related to determining the assignment of a contribution rate, or if a person knowingly advises another person in a way that results in a violation of such provision, the person shall be subject to the following penalties:

1. If the person is an employer, then such employer shall be assigned the highest rate assignable under this chapter for the rate year during which such violation or attempted violation occurred and the three (3) rate years immediately following this rate year. However, if the person's business is already at such highest rate for any year, or if the amount of increase in the person's rate would be less than two percent (2%) for such year, then ** the person's tax rate shall be increased
by two percent (2%) for such year. The penalty rate will apply to
the successor business as well as the related entity from which
the employees were transferred in an effort to obtain a lower rate
of unemployment insurance contributions.

2. If the person is not an employer, such
person shall be subject to a civil money penalty of not more than
Five Thousand Dollars ($5,000.00). Each such transaction for
which advice was given and each occurrence or reoccurrence after
notification being given by the department shall be a separate
offense and punishable by a separate penalty. Any such fine shall
be deposited in the penalty and interest account established under
Section 71-5-114.

(ii) For purposes of this paragraph (c), the term
"knowingly" means having actual knowledge of or acting with
deliberate ignorance or reckless disregard for the prohibition
involved.

(iii) For purposes of this paragraph (c), the term
"violates or attempts to violate" includes, but is not limited to,
intent to evade, misrepresentation or willful nondisclosure.

(iv) In addition to the penalty imposed by
subparagraph (i) of this paragraph (c), any violation of this
subsection may be punishable by a fine of not more than Ten
Thousand Dollars ($10,000.00) or by imprisonment for not more than
five (5) years, or by both such fine and imprisonment. This
subsection shall prohibit prosecution under any other criminal
statute of this state.

(d) The department shall establish procedures to
identify the transfer or acquisition of a business for purposes of
this subsection.

(e) For purposes of this subsection:

(i) "Person" has the meaning given such term by
Section 7701(a)(1) of the Internal Revenue Code of 1986; and
(ii) "Employing unit" has the meaning as set forth
in Section 71-5-11.

(f) This subsection shall be interpreted and applied in
such a manner as to meet the minimum requirements contained in any
guidance or regulations issued by the United States Department of
Labor.

SECTION 6. The provisions of Sections 6 through 12 of this
act shall be known as the "Comprehensive Career and Technical
Education Reform" or "CCATER" Act.

SECTION 7. Section 37-15-38, Mississippi Code of 1972, is
brought forward as follows:

37-15-38. (1) The following phrases have the meanings
ascribed in this section unless the context clearly requires
otherwise:

(a) A dual enrolled student is a student who is
enrolled in a community or junior college or state institution of
higher learning while enrolled in high school.
(b) A dual credit student is a student who is enrolled in a community or junior college or state institution of higher learning while enrolled in high school and who is receiving high school and college credit for postsecondary coursework.

(2) A local school board, the Board of Trustees of State Institutions of Higher Learning and the Mississippi Community College Board shall establish a dual enrollment system under which students in the school district who meet the prescribed criteria of this section may be enrolled in a postsecondary institution in Mississippi while they are still in school.

(3) **Dual credit eligibility.** Before credits earned by a qualified high school student from a community or junior college or state institution of higher learning may be transferred to the student's home school district, the student must be properly enrolled in a dual enrollment program.

(4) **Admission criteria for dual enrollment in community and junior college or university programs.** The Mississippi Community College Board and the Board of Trustees of State Institutions of Higher Learning may recommend to the State Board of Education admission criteria for dual enrollment programs under which high school students may enroll at a community or junior college or university while they are still attending high school and enrolled in high school courses. Students may be admitted to enroll in community or junior college courses under the dual enrollment
programs if they meet that individual institution's stated dual enrollment admission requirements.

(5) **Tuition and cost responsibility.** Tuition and costs for university-level courses and community and junior college courses offered under a dual enrollment program may be paid for by the postsecondary institution, the local school district, the parents or legal guardians of the student, or by grants, foundations or other private or public sources. Payment for tuition and any other costs must be made directly to the credit-granting institution.

(6) **Transportation responsibility.** Any transportation required by a student to participate in the dual enrollment program is the responsibility of the parent, custodian or legal guardian of the student. Transportation costs may be paid from any available public or private sources, including the local school district.

(7) **School district average daily attendance credit.** When dually enrolled, the student may be counted, for adequate education program funding purposes, in the average daily attendance of the public school district in which the student attends high school.

(8) **High school student transcript transfer requirements.** Grades and college credits earned by a student admitted to a dual credit program must be recorded on the high school student record and on the college transcript at the university or community or
junior college where the student attends classes. The transcript of the university or community or junior college coursework may be released to another institution or applied toward college graduation requirements.

(9) **Determining factor of prerequisites for dual enrollment courses.** Each university and community or junior college participating in a dual enrollment program shall determine course prerequisites. Course prerequisites shall be the same for dual enrolled students as for regularly enrolled students at that university or community or junior college.

(10) **Process for determining articulation of curriculum between high school, university, and community and junior college courses.** All dual credit courses must meet the standards established at the postsecondary level. Postsecondary level developmental courses may not be considered as meeting the requirements of the dual credit program. Dual credit memorandum of understandings must be established between each postsecondary institution and the school district implementing a dual credit program.

(11) [Deleted]

(12) **Eligible courses for dual credit programs.** Courses eligible for dual credit include, but are not necessarily limited to, foreign languages, advanced math courses, advanced science courses, performing arts, advanced business and technology, and career and technical courses. Distance Learning Collaborative
Program courses approved under Section 37-67-1 shall be fully eligible for dual credit. All courses being considered for dual credit must receive unconditional approval from the superintendent of the local school district and the chief instructional officer at the participating community or junior college or university in order for college credit to be awarded. A university or community or junior college shall make the final decision on what courses are eligible for semester hour credits.

(13) **High school Carnegie unit equivalency.** One (1) three-hour university or community or junior college course is equal to one (1) high school Carnegie unit.

(14) **Course alignment.** The universities, community and junior colleges and the State Department of Education shall periodically review their respective policies and assess the place of dual credit courses within the context of their traditional offerings.

(15) **Maximum dual credits allowed.** It is the intent of the dual enrollment program to make it possible for every eligible student who desires to earn a semester's worth of college credit in high school to do so. A qualified dually enrolled high school student must be allowed to earn an unlimited number of college or university credits for dual credit.

(16) **Dual credit program allowances.** A student may be granted credit delivered through the following means:
(a) Examination preparation taught at a high school by a qualified teacher. A student may receive credit at the secondary level after completion of an approved course and passing the standard examination, such as an Advanced Placement or International Baccalaureate course through which a high school student is allowed CLEP credit by making a three (3) or higher on the end-of-course examination.

(b) College or university courses taught at a high school or designated postsecondary site by a qualified teacher who is an employee of the school district and approved as an instructor by the collaborating college or university.

(c) College or university courses taught at a college, university or high school by an instructor employed by the college or university and approved by the collaborating school district.

(d) Online courses of any public university, community or junior college in Mississippi.

(17) **Qualifications of dual credit instructors.** A dual credit academic instructor must meet the requirements set forth by the regional accrediting association (Southern Association of College and Schools). University and community and junior college personnel have the sole authority in the selection of dual credit instructors.

A dual credit career and technical education instructor must meet the requirements set forth by the Mississippi Community
College Board in the qualifications manual for postsecondary career and technical personnel.

(18) **Guidance on local agreements.** The Chief Academic Officer of the State Board of Trustees of State Institutions of Higher Learning and the Chief Instructional Officers of the Mississippi Community College Board and the State Department of Education, working collaboratively, shall develop a template to be used by the individual community and junior colleges and institutions of higher learning for consistent implementation of the dual enrollment program throughout the State of Mississippi.

(19) **Mississippi Works Dual Enrollment-Dual Credit Option.** A local school board and the local community colleges board shall establish a Mississippi Works Dual Enrollment-Dual Credit Option Program under which potential or recent student dropouts may dually enroll in their home school and a local community college in a dual credit program consisting of high school completion coursework and a community college credential, certificate or degree program. Students completing the dual enrollment-credit option may obtain their high school diploma while obtaining a community college credential, certificate or degree. The Mississippi Department of Employment Security shall assist students who have successfully completed the Mississippi Works Dual Enrollment-Dual Credit Option in securing a job upon the application of the student or the participating school or community college. The Mississippi Works Dual Enrollment-Dual
Credit Option Program will be implemented statewide in the 2012-2013 school year and thereafter. The State Board of Education, local school board and the local community college board shall establish criteria for the Dual Enrollment-Dual Credit Program. Students enrolled in the program will not be eligible to participate in interscholastic sports or other extracurricular activities at the home school district. Tuition and costs for community college courses offered under the Dual Enrollment-Dual Credit Program shall not be charged to the student, parents or legal guardians. When dually enrolled, the student shall be counted for adequate education program funding purposes, in the average daily attendance of the public school district in which the student attends high school, as provided in Section 37-151-7(1)(a). Any transportation required by the student to participate in the Dual Enrollment-Dual Credit Program is the responsibility of the parent or legal guardian of the student, and transportation costs may be paid from any available public or private sources, including the local school district. Grades and college credits earned by a student admitted to this Dual Enrollment-Dual Credit Program shall be recorded on the high school student record and on the college transcript at the community college and high school where the student attends classes. The transcript of the community college coursework may be released to another institution or applied toward college graduation requirements. Any course that is required for subject
area testing as a requirement for graduation from a public school in Mississippi is eligible for dual credit, and courses eligible for dual credit shall also include career, technical and degree program courses. All courses eligible for dual credit shall be approved by the superintendent of the local school district and the chief instructional officer at the participating community college in order for college credit to be awarded. A community college shall make the final decision on what courses are eligible for semester hour credits and the local school superintendent, subject to approval by the Mississippi Department of Education, shall make the final decision on the transfer of college courses credited to the student's high school transcript.

SECTION 8. Section 37-16-17, Mississippi Code of 1972, is amended as follows:

37-16-17. (1) Purpose. (a) The purpose of this section is to create a quality option in Mississippi's high schools for students not wishing to pursue a baccalaureate degree, which shall consist of challenging academic courses and modern career-technical studies. The goal for students pursuing the career technical education pathways is to graduate from high school with a standard diploma and credit toward a community college certification in a career-technical field. These students also shall be encouraged to take the national assessment in the career-technical field in which they become certified.
(b) The State Board of Education shall develop and adopt course and curriculum requirements for career technical education pathways offered by local public school boards in accordance with this section. The Mississippi Community College Board and the State Board of Education jointly shall determine course and curriculum requirements for the career technical education pathways. The State Board of Education shall require school districts to provide notice to all incoming middle school students and junior high students of the career technical education pathways offered by local school boards. Such notice shall include the career technical education pathways available, the course requirements of each pathways, how to enroll in the pathway and any other necessary information as determined by the State Board of Education.

(2) Career technical education pathway; description; curriculum. (a) A career technical education pathway shall provide a student with greater technical skill and a strong academic core and shall be offered to each high school student enrolled in a public school district. The career technical education pathway shall be linked to postsecondary options and shall prepare students to pursue either a degree or certification from a postsecondary institution, an industry-based training or certification, an apprenticeship, the military, or immediate entrance into a career field. The career technical education pathway shall be designed primarily for those students...
who are not college bound and shall provide them with alternatives
to entrance into a four-year university or college after high
school graduation.

(b) Students pursuing a career technical education pathway shall be afforded the opportunity to dually enroll in a community or technical college or to participate in a business internship or work-study program, when such opportunities are available and appropriate.

(c) Each public school district shall offer a career technical education pathway approved by the State Board of Education.

(d) Students in a career technical education pathway shall complete an academic core of courses and a career and technical sequence of courses.

(e) Students pursuing a career technical education pathway must complete the twenty-four (24) course unit requirements for a regular high school diploma, which may include, but not be limited to the following course content:

   (i) English I;
   (ii) English II;
   (iii) Technical writing;
   (iv) Computer programming;
   (v) Algebra I;
   (vi) Personal Finance;
(vii) Advanced technical mathematics;
(viii) Computer science;
(ix) Biology;
(x) Earth and Space Science;
(xi) U.S. History;
(xii) Mississippi Studies/U.S. Government;
(xiii) Health;
(xiv) Physical Education;
(xv) Soft skills, which include, but are not limited to, social graces, communication abilities, language skills, personal habits, cognitive or emotional empathy, time management, teamwork and leadership traits;
(xvi) Career technical education pathway courses;
(xvii) Integrated technology.

Academic courses within the career technical education pathway of the standard diploma shall provide the knowledge and skill necessary for proficiency on the state subject area tests.

The courses provided in paragraph (e) of this subsection may be tailored to the individual needs of the school district as long as the amendments align with the basic course requirements of paragraph (e).

(3) Nothing in this section shall disallow the development of a dual enrollment program with a technical college so long as an individual school district, with approval from the State
Department of Education, agrees to implement such a program in connection with a technical college and the agreement is also approved by the proprietary school's commission.

* * *

**SECTION 9.** Section 37-3-2, Mississippi Code of 1972, is amended as follows:

37-3-2. (1) There is established within the State Department of Education the Commission on Teacher and Administrator Education, Certification and Licensure and Development. It shall be the purpose and duty of the commission to make recommendations to the State Board of Education regarding standards for the certification and licensure and continuing professional development of those who teach or perform tasks of an educational nature in the public schools of Mississippi.

(2) (a) The commission shall be composed of fifteen (15) qualified members. The membership of the commission shall be composed of the following members to be appointed, three (3) from each of the four (4) congressional districts, as such districts existed on January 1, 2011, in accordance with the population calculations determined by the 2010 federal decennial census, including: four (4) classroom teachers; three (3) school administrators; one (1) representative of schools of education of public institutions of higher learning located within the state to be recommended by the Board of Trustees of State Institutions of Higher Learning; one (1) representative from the schools of
education of independent institutions of higher learning to be recommended by the Board of the Mississippi Association of Independent Colleges; one (1) representative from public community and junior colleges located within the state to be recommended by the Mississippi Community College Board; one (1) local school board member; and four (4) laypersons. Three (3) members of the commission, at the sole discretion of the State Board of Education, shall be appointed from the state at large.

(b) All appointments shall be made by the State Board of Education after consultation with the State Superintendent of Public Education. The first appointments by the State Board of Education shall be made as follows: five (5) members shall be appointed for a term of one (1) year; five (5) members shall be appointed for a term of two (2) years; and five (5) members shall be appointed for a term of three (3) years. Thereafter, all members shall be appointed for a term of four (4) years.

(3) The State Board of Education when making appointments shall designate a chairman. The commission shall meet at least once every two (2) months or more often if needed. Members of the commission shall be compensated at a rate of per diem as authorized by Section 25-3-69 and be reimbursed for actual and necessary expenses as authorized by Section 25-3-41.

(4) (a) An appropriate staff member of the State Department of Education shall be designated and assigned by the State Superintendent of Public Education to serve as executive secretary.
and coordinator for the commission. No less than two (2) other
appropriate staff members of the State Department of Education
shall be designated and assigned by the State Superintendent of
Public Education to serve on the staff of the commission.

(b) An Office of Educator Misconduct Evaluations shall
be established within the State Department of Education to assist
the commission in responding to infractions and violations, and in
conducting hearings and enforcing the provisions of subsections
(11), (12), (13), (14) and (15) of this section, and violations of
the Mississippi Educator Code of Ethics.

(5) It shall be the duty of the commission to:

(a) Set standards and criteria, subject to the approval
of the State Board of Education, for all educator preparation
programs in the state;

(b) Recommend to the State Board of Education each year
approval or disapproval of each educator preparation program in
the state, subject to a process and schedule determined by the
State Board of Education;

(c) Establish, subject to the approval of the State
Board of Education, standards for initial teacher certification
and licensure in all fields;

(d) Establish, subject to the approval of the State
Board of Education, standards for the renewal of teacher licenses
in all fields;
(e) Review and evaluate objective measures of teacher performance, such as test scores, which may form part of the licensure process, and to make recommendations for their use;

(f) Review all existing requirements for certification and licensure;

(g) Consult with groups whose work may be affected by the commission's decisions;

(h) Prepare reports from time to time on current practices and issues in the general area of teacher education and certification and licensure;

(i) Hold hearings concerning standards for teachers' and administrators' education and certification and licensure with approval of the State Board of Education;

(j) Hire expert consultants with approval of the State Board of Education;

(k) Set up ad hoc committees to advise on specific areas; and

(l) Perform such other functions as may fall within their general charge and which may be delegated to them by the State Board of Education.

(6) (a) **Standard License - Approved Program Route.** An educator entering the school system of Mississippi for the first time and meeting all requirements as established by the State Board of Education shall be granted a standard five-year license. Persons who possess two (2) years of classroom experience as an
assistant teacher or who have taught for one (1) year in an accredited public or private school shall be allowed to fulfill student teaching requirements under the supervision of a qualified participating teacher approved by an accredited college of education. The local school district in which the assistant teacher is employed shall compensate such assistant teachers at the required salary level during the period of time such individual is completing student teaching requirements.

Applicants for a standard license shall submit to the department:

(i) An application on a department form;

(ii) An official transcript of completion of a teacher education program approved by the department or a nationally accredited program, subject to the following:

Licensure to teach in Mississippi prekindergarten through kindergarten classrooms shall require completion of a teacher education program or a Bachelor of Science degree with child development emphasis from a program accredited by the American Association of Family and Consumer Sciences (AAFCS) or by the National Association for Education of Young Children (NAEYC) or by the National Council for Accreditation of Teacher Education (NCATE). Licensure to teach in Mississippi kindergarten, for those applicants who have completed a teacher education program, and in Grade 1 through Grade 4 shall require the completion of an interdisciplinary program of studies. Licenses for Grades 4 through 8 shall require the completion of an interdisciplinary
program of studies with two (2) or more areas of concentration.
Licensure to teach in Mississippi Grades 7 through 12 shall require a major in an academic field other than education, or a combination of disciplines other than education. Students preparing to teach a subject shall complete a major in the respective subject discipline. All applicants for standard licensure shall demonstrate that such person's college preparation in those fields was in accordance with the standards set forth by the National Council for Accreditation of Teacher Education (NCATE) or the National Association of State Directors of Teacher Education and Certification (NASDTEC) or, for those applicants who have a Bachelor of Science degree with child development emphasis, the American Association of Family and Consumer Sciences (AAFCS).

Effective July 1, 2016, for initial elementary education licensure, a teacher candidate must earn a passing score on a rigorous test of scientifically research-based reading instruction and intervention and data-based decision-making principles as approved by the State Board of Education;

(iii) A copy of test scores evidencing satisfactory completion of nationally administered examinations of achievement, such as the Educational Testing Service's teacher testing examinations;

(iv) Any other document required by the State Board of Education; and
From and after July 1, 2020, no teacher candidate shall be licensed to teach in Mississippi who did not meet the following criteria for entrance into an approved teacher education program:

1. An ACT Score of twenty-one (21) (or SAT equivalent); or

2. Achieve a qualifying passing score on the Praxis Core Academic Skills for Educators examination as established by the State Board of Education; or

3. A minimum GPA of 3.0 on coursework prior to admission to an approved teacher education program.

Standard License - Nontraditional Teaching Route. From and after July 1, 2020, no teacher candidate shall be licensed to teach in Mississippi under the alternate route who did not meet the following criteria:

* * *1. An ACT Score of twenty-one (21) (or SAT equivalent); or

* * *2. Achieve a qualifying passing score on the Praxis Core Academic Skills for Educators examination as established by the State Board of Education; or

* * *3. A minimum GPA of 3.0 on coursework prior to admission to an approved teacher education program.

(ii) Beginning July 1, 2020, an individual who has attained a passing score on the Praxis Core Academic Skills for Educators or an ACT Score of twenty-one (21) (or SAT equivalent)
or a minimum GPA of 3.0 on coursework prior to admission to an approved teacher education program and a passing score on the Praxis Subject Assessment in the requested area of endorsement may apply for admission to the Teach Mississippi Institute (TMI) program to teach students in Grades 7 through 12 if the individual meets the requirements of this paragraph (b). The State Board of Education shall adopt rules requiring that teacher preparation institutions which provide the Teach Mississippi Institute (TMI) program for the preparation of nontraditional teachers shall meet the standards and comply with the provisions of this paragraph.

1. The Teach Mississippi Institute (TMI) shall include an intensive eight-week, nine-semester-hour summer program or a curriculum of study in which the student matriculates in the fall or spring semester, which shall include, but not be limited to, instruction in education, effective teaching strategies, classroom management, state curriculum requirements, planning and instruction, instructional methods and pedagogy, using test results to improve instruction, and a one (1) semester three-hour supervised internship to be completed while the teacher is employed as a full-time teacher intern in a local school district. The TMI shall be implemented on a pilot program basis, with courses to be offered at up to four (4) locations in the state, with one (1) TMI site to be located in each of the three (3) Mississippi Supreme Court districts.
2049  * * *2. The school sponsoring the teacher intern shall enter into a written agreement with the institution providing the Teach Mississippi Institute (TMI) program, under terms and conditions as agreed upon by the contracting parties, providing that the school district shall provide teacher interns seeking a nontraditional provisional teaching license with a one-year classroom teaching experience. The teacher intern shall successfully complete the one (1) semester three-hour intensive internship in the school district during the semester immediately following successful completion of the TMI and prior to the end of the one-year classroom teaching experience.

2060  * * *3. Upon completion of the nine-semester-hour TMI or the fall or spring semester option, the individual shall submit his transcript to the commission for provisional licensure of the intern teacher, and the intern teacher shall be issued a provisional teaching license by the commission, which will allow the individual to legally serve as a teacher while the person completes a nontraditional teacher preparation internship program.

2068  * * *4. During the semester of internship in the school district, the teacher preparation institution shall monitor the performance of the intern teacher. The school district that employs the provisional teacher shall supervise the provisional teacher during the teacher's intern year of employment under a nontraditional provisional license, and shall, in
consultation with the teacher intern's mentor at the school district of employment, submit to the commission a comprehensive evaluation of the teacher's performance sixty (60) days prior to the expiration of the nontraditional provisional license. If the comprehensive evaluation establishes that the provisional teacher intern's performance fails to meet the standards of the approved nontraditional teacher preparation internship program, the individual shall not be approved for a standard license.

5. An individual issued a provisional teaching license under this nontraditional route shall successfully complete, at a minimum, a one-year beginning teacher mentoring and induction program administered by the employing school district with the assistance of the State Department of Education.

6. Upon successful completion of the TMI and the internship provisional license period, applicants for a Standard License - Nontraditional Route shall submit to the commission a transcript of successful completion of the twelve (12) semester hours required in the internship program, and the employing school district shall submit to the commission a recommendation for standard licensure of the intern. If the school district recommends licensure, the applicant shall be issued a Standard License - Nontraditional Route which shall be valid for a five-year period and be renewable.
* * * 7. At the discretion of the teacher preparation institution, the individual shall be allowed to credit the twelve (12) semester hours earned in the nontraditional teacher internship program toward the graduate hours required for a Master of Arts in Teacher (MAT) Degree.

* * * 8. The local school district in which the nontraditional teacher intern or provisional licensee is employed shall compensate such teacher interns at Step 1 of the required salary level during the period of time such individual is completing teacher internship requirements and shall compensate such Standard License - Nontraditional Route teachers at Step 3 of the required salary level when they complete license requirements.

(iii) Implementation of the TMI program provided for under this paragraph (b) shall be contingent upon the availability of funds appropriated specifically for such purpose by the Legislature. Such implementation of the TMI program may not be deemed to prohibit the State Board of Education from developing and implementing additional alternative route teacher licensure programs, as deemed appropriate by the board. The emergency certification program in effect prior to July 1, 2002, shall remain in effect.

(iv) A Standard License - Approved Program Route shall be issued for a five-year period, and may be renewed.

Recognizing teaching as a profession, a hiring preference shall be granted to persons holding a Standard License - Approved Program
Route or Standard License - Nontraditional Teaching Route over persons holding any other license.

(c) **Special License - Expert Citizen.** In order to allow a school district to offer specialized or technical courses, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may grant a five-year expert citizen-teacher license to local business or other professional personnel to teach in a public school or nonpublic school accredited or approved by the state. Such person shall be required to have a high school diploma, an industry-recognized certification related to the subject area in which they are teaching and a minimum of five (5) years of relevant experience but shall not be required to hold an associate or bachelor's degree, provided that he or she possesses the minimum qualifications required for his or her profession, and may begin teaching upon his employment by the local school board and licensure by the Mississippi Department of Education. If a school board hires a career technical education pathway instructor who does not have an industry certification in his or her area of expertise but does have the required experience, the school board shall spread their decision on the minutes at their next meeting and provide a detailed explanation for why they hired the instructor. Such instructor shall present the minutes of the school board to the State Department of Education when he or she applies for an expert citizen license. The board shall adopt
rules and regulations to administer the expert citizen-teacher license. A Special License - Expert Citizen may be renewed in accordance with the established rules and regulations of the State Department of Education.

(d) **Special License - Nonrenewable.** The State Board of Education is authorized to establish rules and regulations to allow those educators not meeting requirements in paragraph (a), (b) or (c) of this subsection (6) to be licensed for a period of not more than three (3) years, except by special approval of the State Board of Education.

(e) **Nonlicensed Teaching Personnel.** A nonlicensed person may teach for a maximum of three (3) periods per teaching day in a public school district or a nonpublic school accredited/approved by the state. Such person shall submit to the department a transcript or record of his education and experience which substantiates his preparation for the subject to be taught and shall meet other qualifications specified by the commission and approved by the State Board of Education. In no case shall any local school board hire nonlicensed personnel as authorized under this paragraph in excess of five percent (5%) of the total number of licensed personnel in any single school.

(f) **Special License - Transitional Bilingual Education.** Beginning July 1, 2003, the commission shall grant special licenses to teachers of transitional bilingual education who possess such qualifications as are prescribed in this section.
Teachers of transitional bilingual education shall be compensated by local school boards at not less than one (1) step on the regular salary schedule applicable to permanent teachers licensed under this section. The commission shall grant special licenses to teachers of transitional bilingual education who present the commission with satisfactory evidence that they (i) possess a speaking and reading ability in a language, other than English, in which bilingual education is offered and communicative skills in English; (ii) are in good health and sound moral character; (iii) possess a bachelor's degree or an associate's degree in teacher education from an accredited institution of higher education; (iv) meet such requirements as to courses of study, semester hours therein, experience and training as may be required by the commission; and (v) are legally present in the United States and possess legal authorization for employment. A teacher of transitional bilingual education serving under a special license shall be under an exemption from standard licensure if he achieves the requisite qualifications therefor. Two (2) years of service by a teacher of transitional bilingual education under such an exemption shall be credited to the teacher in acquiring a Standard Educator License. Nothing in this paragraph shall be deemed to prohibit a local school board from employing a teacher licensed in an appropriate field as approved by the State Department of Education to teach in a program in transitional bilingual education.
(g) In the event any school district meets the highest accreditation standards as defined by the State Board of Education in the accountability system, the State Board of Education, in its discretion, may exempt such school district from any restrictions in paragraph (e) relating to the employment of nonlicensed teaching personnel.

(h) **Highly Qualified Teachers.** Beginning July 1, 2006, any teacher from any state meeting the federal definition of highly qualified, as described in the No Child Left Behind Act, must be granted a standard five-year license by the State Department of Education.

(7) **Administrator License.** The State Board of Education is authorized to establish rules and regulations and to administer the licensure process of the school administrators in the State of Mississippi. There will be four (4) categories of administrator licensure with exceptions only through special approval of the State Board of Education.

(a) **Administrator License - Nonpracticing.** Those educators holding administrative endorsement but having no administrative experience or not serving in an administrative position on January 15, 1997.

(b) **Administrator License - Entry Level.** Those educators holding administrative endorsement and having met the department's qualifications to be eligible for employment in a
Mississippi school district. Administrator License - Entry Level shall be issued for a five-year period and shall be nonrenewable.

(c) **Standard Administrator License - Career Level.** An administrator who has met all the requirements of the department for standard administrator licensure.

(d) **Administrator License - Nontraditional Route.** The board may establish a nontraditional route for licensing administrative personnel. Such nontraditional route for administrative licensure shall be available for persons holding, but not limited to, a master of business administration degree, a master of public administration degree, a master of public planning and policy degree or a doctor of jurisprudence degree from an accredited college or university, with five (5) years of administrative or supervisory experience. Successful completion of the requirements of alternate route licensure for administrators shall qualify the person for a standard administrator license.

Individuals seeking school administrator licensure under paragraph (b), (c) or (d) shall successfully complete a training program and an assessment process prescribed by the State Board of Education. All applicants for school administrator licensure shall meet all requirements prescribed by the department under paragraph (b), (c) or (d), and the cost of the assessment process required shall be paid by the applicant.
(8) **Reciprocity.** (a) The department shall grant a standard license to any individual who possesses a valid standard license from another state and meets minimum Mississippi license requirements or equivalent requirements as determined by the State Board of Education. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

(b) The department shall grant a nonrenewable special license to any individual who possesses a credential which is less than a standard license or certification from another state. Such special license shall be valid for the current school year plus one (1) additional school year to expire on June 30 of the second year, not to exceed a total period of twenty-four (24) months, during which time the applicant shall be required to complete the requirements for a standard license in Mississippi.

(9) **Renewal and Reinstatement of Licenses.** The State Board of Education is authorized to establish rules and regulations for the renewal and reinstatement of educator and administrator licenses. Effective May 15, 1997, the valid standard license held by an educator shall be extended five (5) years beyond the expiration date of the license in order to afford the educator adequate time to fulfill new renewal requirements established pursuant to this subsection. An educator completing a master of education, educational specialist or doctor of education degree in May 1997 for the purpose of upgrading the educator's license to a
higher class shall be given this extension of five (5) years plus five (5) additional years for completion of a higher degree.

(10) All controversies involving the issuance, revocation, suspension or any change whatsoever in the licensure of an educator required to hold a license shall be initially heard in a hearing de novo, by the commission or by a subcommittee established by the commission and composed of commission members, or by a hearing officer retained and appointed by the commission, for the purpose of holding hearings. Any complaint seeking the denial of issuance, revocation or suspension of a license shall be by sworn affidavit filed with the Commission on Teacher and Administrator Education, Certification and Licensure and Development. The decision thereon by the commission, its subcommittee or hearing officer, shall be final, unless the aggrieved party shall appeal to the State Board of Education, within ten (10) days, of the decision of the commission, its subcommittee or hearing officer. An appeal to the State Board of Education shall be perfected upon filing a notice of the appeal and by the prepayment of the costs of the preparation of the record of proceedings by the commission, its subcommittee or hearing officer. An appeal shall be on the record previously made before the commission, its subcommittee or hearing officer, unless otherwise provided by rules and regulations adopted by the board. The decision of the commission, its subcommittee or hearing officer shall not be disturbed on appeal if supported by
substantial evidence, was not arbitrary or capricious, within the
authority of the commission, and did not violate some statutory or
constitutional right. The State Board of Education in its
authority may reverse, or remand with instructions, the decision
of the commission, its subcommittee or hearing officer. The
decision of the State Board of Education shall be final.

(11) (a) The State Board of Education, acting through the
commission, may deny an application for any teacher or
administrator license for one or more of the following:

(i) Lack of qualifications which are prescribed by
law or regulations adopted by the State Board of Education;

(ii) The applicant has a physical, emotional or
mental disability that renders the applicant unfit to perform the
duties authorized by the license, as certified by a licensed
psychologist or psychiatrist;

(iii) The applicant is actively addicted to or
actively dependent on alcohol or other habit-forming drugs or is a
habitual user of narcotics, barbiturates, amphetamines,
hallucinogens or other drugs having similar effect, at the time of
application for a license;

(iv) Fraud or deceit committed by the applicant in
securing or attempting to secure such certification and license;

(v) Failing or refusing to furnish reasonable
evidence of identification;
(vi) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law. For purposes of this subparagraph (vi) of this paragraph (a), a "guilty plea" includes a plea of guilty, entry of a plea of nolo contendere, or entry of an order granting pretrial or judicial diversion;

(vii) The applicant or licensee is on probation or post-release supervision for a felony or conviction, as defined by federal or state law. However, this disqualification expires upon the end of the probationary or post-release supervision period.

(b) The State Board of Education, acting through the commission, shall deny an application for any teacher or administrator license, or immediately revoke the current teacher or administrator license, for one or more of the following:

(i) If the applicant or licensee has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense as defined by federal or state law. For purposes of this subparagraph (i) of this paragraph (b), a "guilty plea" includes a plea of guilty, entry of a plea of nolo contendere, or entry of an order granting pretrial or judicial diversion;

(ii) The applicant or licensee is on probation or post-release supervision for a sex offense conviction, as defined by federal or state law;
(iii) The license holder has fondled a student as described in Section 97-5-23, or had any type of sexual involvement with a student as described in Section 97-3-95; or

(iv) The license holder has failed to report sexual involvement of a school employee with a student as required by Section 97-5-24.

(12) The State Board of Education, acting through the commission, may revoke, suspend or refuse to renew any teacher or administrator license for specified periods of time or may place on probation, reprimand a licensee, or take other disciplinary action with regard to any license issued under this chapter for one or more of the following:

(a) Breach of contract or abandonment of employment may result in the suspension of the license for one (1) school year as provided in Section 37-9-57;

(b) Obtaining a license by fraudulent means shall result in immediate suspension and continued suspension for one (1) year after correction is made;

(c) Suspension or revocation of a certificate or license by another state shall result in immediate suspension or revocation and shall continue until records in the prior state have been cleared;

(d) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law. For purposes of this paragraph,
a "guilty plea" includes a plea of guilty, entry of a plea of nolo contendere, or entry of an order granting pretrial or judicial diversion;

(e) The license holder knowingly and willfully committing any of the acts affecting validity of mandatory uniform test results as provided in Section 37-16-4(1);

(f) The license holder has engaged in unethical conduct relating to an educator/student relationship as identified by the State Board of Education in its rules;

(g) The license holder served as superintendent or principal in a school district during the time preceding and/or that resulted in the Governor declaring a state of emergency and the State Board of Education appointing a conservator;

(h) The license holder submitted a false certification to the State Department of Education that a statewide test was administered in strict accordance with the Requirements of the Mississippi Statewide Assessment System; or

(i) The license holder has failed to comply with the Procedures for Reporting Infractions as promulgated by the commission and approved by the State Board of Education pursuant to subsection (15) of this section.

For purposes of this subsection, probation shall be defined as a length of time determined by the commission, its subcommittee or hearing officer, and based on the severity of the offense in which the license holder shall meet certain requirements as
prescribed by the commission, its subcommittee or hearing officer.

Failure to complete the requirements in the time specified shall
result in immediate suspension of the license for one (1) year.

(13) (a) Dismissal or suspension of a licensed employee by
a local school board pursuant to Section 37-9-59 may result in the
suspension or revocation of a license for a length of time which
shall be determined by the commission and based upon the severity
of the offense.

(b) Any offense committed or attempted in any other
state shall result in the same penalty as if committed or
attempted in this state.

(c) A person may voluntarily surrender a license. The
surrender of such license may result in the commission
recommending any of the above penalties without the necessity of a
hearing. However, any such license which has voluntarily been
surrendered by a licensed employee may only be reinstated by a
majority vote of all members of the commission present at the
meeting called for such purpose.

(14) (a) A person whose license has been suspended or
surrendered on any grounds except criminal grounds may petition
for reinstatement of the license after one (1) year from the date
of suspension or surrender, or after one-half (1/2) of the
suspended or surrendered time has lapsed, whichever is greater. A
person whose license has been suspended or revoked on any grounds
or violations under subsection (12) of this section may be
reinstated automatically or approved for a reinstatement hearing, upon submission of a written request to the commission. A license suspended, revoked or surrendered on criminal grounds may be reinstated upon petition to the commission filed after expiration of the sentence and parole or probationary period imposed upon conviction. A revoked, suspended or surrendered license may be reinstated upon satisfactory showing of evidence of rehabilitation. The commission shall require all who petition for reinstatement to furnish evidence satisfactory to the commission of good character, good mental, emotional and physical health and such other evidence as the commission may deem necessary to establish the petitioner's rehabilitation and fitness to perform the duties authorized by the license.

(b) A person whose license expires while under investigation by the Office of Educator Misconduct for an alleged violation may not be reinstated without a hearing before the commission if required based on the results of the investigation.

(15) Reporting procedures and hearing procedures for dealing with infractions under this section shall be promulgated by the commission, subject to the approval of the State Board of Education. The revocation or suspension of a license shall be effected at the time indicated on the notice of suspension or revocation. The commission shall immediately notify the superintendent of the school district or school board where the teacher or administrator is employed of any disciplinary action.
and also notify the teacher or administrator of such revocation or suspension and shall maintain records of action taken. The State Board of Education may reverse or remand with instructions any decision of the commission, its subcommittee or hearing officer regarding a petition for reinstatement of a license, and any such decision of the State Board of Education shall be final.

(16) An appeal from the action of the State Board of Education in denying an application, revoking or suspending a license or otherwise disciplining any person under the provisions of this section shall be filed in the Chancery Court of the First Judicial District of Hinds County, Mississippi, on the record made, including a verbatim transcript of the testimony at the hearing. The appeal shall be filed within thirty (30) days after notification of the action of the board is mailed or served and the proceedings in chancery court shall be conducted as other matters coming before the court. The appeal shall be perfected upon filing notice of the appeal and by the prepayment of all costs, including the cost of preparation of the record of the proceedings by the State Board of Education, and the filing of a bond in the sum of Two Hundred Dollars ($200.00) conditioned that if the action of the board be affirmed by the chancery court, the applicant or license holder shall pay the costs of the appeal and the action of the chancery court.

(17) All such programs, rules, regulations, standards and criteria recommended or authorized by the commission shall become
(18) The granting of a license shall not be deemed a property right nor a guarantee of employment in any public school district. A license is a privilege indicating minimal eligibility for teaching in the public school districts of Mississippi. This section shall in no way alter or abridge the authority of local school districts to require greater qualifications or standards of performance as a prerequisite of initial or continued employment in such districts.

(19) In addition to the reasons specified in subsections (12) and (13) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section
93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

**SECTION 10.** Section 37-16-3, Mississippi Code of 1972, is amended as follows:

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

(a) Establish, with the approval of the State Board of Education, minimum performance standards related to the goals for education contained in the state's plan including, but not limited to, basic skills in reading, writing and mathematics. The minimum performance standards shall be approved by April 1 in each year they are established.

(b) Conduct a uniform statewide testing program in grades deemed appropriate in the public schools, including charter schools, which shall provide for the administration of the ACT WorkKeys Assessment to any students electing to take the assessment. Each individual school district shall determine whether the ACT WorkKeys Assessment is administered in the ninth,
tenth or eleventh grade. The program may test skill areas, basic
skills and high school course content.

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

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

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

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

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

(3) Within five (5) days of completing the administration of
a statewide test, the principal of the school where the test was
administered shall certify under oath to the State Department of
Education that the statewide test was administered in strict
accordance with the Requirements of the Mississippi Statewide
ST: Mississippi Department of Employment Security; revise various provisions regarding authority of.

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

SECTION 11. Section 37-17-6, Mississippi Code of 1972, is amended as follows:

37-17-6. (1) The State Board of Education, acting through the Commission on School Accreditation, shall establish and implement a permanent performance-based accreditation system, and all noncharter public elementary and secondary schools shall be accredited under this system.

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

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

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

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

(c) The assignment of certified school librarians to the particular schools shall be at the discretion of the local school district. No individual shall be employed as a certified school librarian without appropriate training and certification as a school librarian by the State Department of Education.

(d) School librarians in the district shall spend at least fifty percent (50%) of direct work time in a school library and shall devote no more than one-fourth (1/4) of the workday to administrative activities that are library related.
(e) Nothing in this subsection shall prohibit any school district from employing more certified school librarians than are provided for in this section.

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

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

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

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

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

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

(e) Set annual performance standards for each of the schools of the state and measure the performance of each school against itself through the standard that has been set for it;
(f) A determination of which schools exceed their standards and a plan for providing recognition and rewards to those schools;

(g) A determination of which schools are failing to meet their standards and a determination of the appropriate role of the State Board of Education and the State Department of Education in providing assistance and initiating possible intervention. A failing district is a district that fails to meet both the absolute student achievement standards and the rate of annual growth expectation standards as set by the State Board of Education for two (2) consecutive years. The State Board of Education shall establish the level of benchmarks by which absolute student achievement and growth expectations shall be assessed. In setting the benchmarks for school districts, the State Board of Education may also take into account such factors as graduation rates, dropout rates, completion rates, the extent to which the school or district employs qualified teachers in every classroom, and any other factors deemed appropriate by the State Board of Education. The State Board of Education, acting through the State Department of Education, shall apply a simple "A," "B," "C," "D" and "F" designation to the current school and school district statewide accountability performance classification labels beginning with the State Accountability Results for the 2011-2012 school year and following, and in the school, district and state report cards required under state and
federal law. Under the new designations, a school or school district that has earned a "Star" rating shall be designated an "A" school or school district; a school or school district that has earned a "High-Performing" rating shall be designated a "B" school or school district; a school or school district that has earned a "Successful" rating shall be designated a "C" school or school district; a school or school district that has earned an "Academic Watch" rating shall be designated a "D" school or school district; a school or school district that has earned a "Low-Performing," "At-Risk of Failing" or "Failing" rating shall be designated an "F" school or school district. Effective with the implementation of any new curriculum and assessment standards, the State Board of Education, acting through the State Department of Education, is further authorized and directed to change the school and school district accreditation rating system to a simple "A," "B," "C," "D," and "F" designation based on a combination of student achievement scores and student growth as measured by the statewide testing programs developed by the State Board of Education pursuant to Chapter 16, Title 37, Mississippi Code of 1972. In any statute or regulation containing the former accreditation designations, the new designations shall be applicable;

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

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

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

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

(iii) To have sixty percent (60%) of students scoring proficient and advanced on the assessments of the Common Core State Standards by 2016 with incremental increases of three percent (3%) each year thereafter.
(b) The State Department of Education shall combine the state school and school district accountability system with the federal system in order to have a single system.

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

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

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

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

(iv) Categories shall identify schools as Reward ("A" schools), Focus ("D" schools) and Priority ("F" schools). If at least five percent (5%) of schools in the state are not graded as "F" schools, the lowest five percent (5%) of school grade point designees will be identified as Priority schools. If at least ten percent (10%) of schools in the state are not graded as "D" schools, the lowest ten percent (10%) of school grade point designees will be identified as Focus schools;
(v) The State Department of Education shall discontinue the use of Star School, High-Performing, Successful, Academic Watch, Low-Performing, At-Risk of Failing and Failing school accountability designations;

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

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

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

(ix) The State Department of Education shall determine feeder patterns of schools that do not earn a school grade because the grades and subjects taught at the school do not have statewide standardized assessments needed to calculate a school grade. Upon determination of the feeder pattern, the department shall notify schools and school districts prior to the release of the school grades beginning in 2013. Feeder schools will be assigned the accountability designation of the school to which they provide students;
Standards for student, school and school district performance will be increased when student proficiency is at a seventy-five percent (75%) and/or when sixty-five percent (65%) of the schools and/or school districts are earning a grade of "B" or higher, in order to raise the standard on performance after targets are met ** **; and

The system shall include student performance on the administration of the ACT WorkKeys Assessment, which shall be weighted in the same percentage as the standard ACT Assessment as administered to students in Grade 11, for inclusion in the college and career readiness portion of the accountability rating system. The State Department of Education shall ensure equitable distribution of points under the accountability rating, in comparison to the ACT Assessment, for a Silver Status on the ACT WorkKeys Assessment. A student shall not be required to complete all of the courses within his or her career pathway for his or her performance on the ACT WorkKeys Assessment to be included in the system.

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

The State Board of Education shall create an accreditation audit unit under the Commission on School Accreditation to determine whether schools are complying with accreditation standards.
(8) The State Board of Education shall be specifically authorized and empowered to withhold adequate education program fund allocations, whichever is applicable, to any public school district for failure to timely report student, school personnel and fiscal data necessary to meet state and/or federal requirements.

(9) [Deleted]

(10) The State Board of Education shall establish, for those school districts failing to meet accreditation standards, a program of development to be complied with in order to receive state funds, except as otherwise provided in subsection (15) of this section when the Governor has declared a state of emergency in a school district or as otherwise provided in Section 206, Mississippi Constitution of 1890. The state board, in establishing these standards, shall provide for notice to schools and sufficient time and aid to enable schools to attempt to meet these standards, unless procedures under subsection (15) of this section have been invoked.

(11) Beginning July 1, 1998, the State Board of Education shall be charged with the implementation of the program of development in each applicable school district as follows:

(a) Develop an impairment report for each district failing to meet accreditation standards in conjunction with school district officials;
(b) Notify any applicable school district failing to meet accreditation standards that it is on probation until corrective actions are taken or until the deficiencies have been removed. The local school district shall develop a corrective action plan to improve its deficiencies. For district academic deficiencies, the corrective action plan for each such school district shall be based upon a complete analysis of the following: student test data, student grades, student attendance reports, student dropout data, existence and other relevant data. The corrective action plan shall describe the specific measures to be taken by the particular school district and school to improve:

(i) instruction; (ii) curriculum; (iii) professional development; (iv) personnel and classroom organization; (v) student incentives for performance; (vi) process deficiencies; and (vii) reporting to the local school board, parents and the community. The corrective action plan shall describe the specific individuals responsible for implementing each component of the recommendation and how each will be evaluated. All corrective action plans shall be provided to the State Board of Education as may be required. The decision of the State Board of Education establishing the probationary period of time shall be final;

(c) Offer, during the probationary period, technical assistance to the school district in making corrective actions. Beginning July 1, 1998, subject to the availability of funds, the State Department of Education shall provide technical and/or
financial assistance to all such school districts in order to implement each measure identified in that district's corrective action plan through professional development and on-site assistance. Each such school district shall apply for and utilize all available federal funding in order to support its corrective action plan in addition to state funds made available under this paragraph;

(d) Assign department personnel or contract, in its discretion, with the institutions of higher learning or other appropriate private entities with experience in the academic, finance and other operational functions of schools to assist school districts;

(e) Provide for publication of public notice at least one time during the probationary period, in a newspaper published within the jurisdiction of the school district failing to meet accreditation standards, or if no newspaper is published therein, then in a newspaper having a general circulation therein. The publication shall include the following: declaration of school system's status as being on probation; all details relating to the impairment report; and other information as the State Board of Education deems appropriate. Public notices issued under this section shall be subject to Section 13-3-31 and not contrary to other laws regarding newspaper publication.

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

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

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

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

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

(iii) Assign an interim superintendent, or in its discretion, contract with a private entity with experience in the academic, finance and other operational functions of schools and school districts, who will have those powers and duties prescribed in subsection (15) of this section;

(iv) Grant transfers to students who attend this school district so that they may attend other accredited schools or districts in a manner that is not in violation of state or federal law;

(v) For states of emergency declared under paragraph (a) only, if the accreditation deficiencies are related to the fact that the school district is too small, with too few resources, to meet the required standards and if another school district is willing to accept those students, abolish that district and assign that territory to another school district or districts. If the school district has proposed a voluntary consolidation with another school district or districts, then if the State Board of Education finds that it is in the best interest of the pupils of the district for the consolidation to proceed, the voluntary consolidation shall have priority over any such assignment of territory by the State Board of Education;
(vi) For states of emergency declared under paragraph (b) only, reduce local supplements paid to school district employees, including, but not limited to, instructional personnel, assistant teachers and extracurricular activities personnel, if the district's impairment is related to a lack of financial resources, but only to an extent that will result in the salaries being comparable to districts similarly situated, as determined by the State Board of Education;

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

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

(e) The parent or legal guardian of a school-age child who is enrolled in a school district whose accreditation has been withdrawn by the Commission on School Accreditation and without approval of that school district may file a petition in writing to a school district accredited by the Commission on School Accreditation for a legal transfer. The school district accredited by the Commission on School Accreditation may grant the transfer according to the procedures of Section 37-15-31(1)(b).

In the event the accreditation of the student's home district is...
restored after a transfer has been approved, the student may continue to attend the transferee school district. The per-pupil amount of the adequate education program allotment, including the collective "add-on program" costs for the student's home school district shall be transferred monthly to the school district accredited by the Commission on School Accreditation that has granted the transfer of the school-age child.

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

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

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

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

(iv) Require the school district to develop and implement a district improvement plan with prescriptive guidance and support from the State Department of Education, with the goal of helping the district improve student achievement. Failure of the school board, superintendent and school district staff to implement the plan with fidelity and participate in the activities provided as support by the department shall result in the school district retaining its eligibility for district transformation.

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

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

The notice also shall include, in the discretion of the State
Board of Education, any or all details relating to the school
district's emergency status, including the declaration of a state
of emergency in the school district and a description of the
district's impairment deficiencies, conditions of any district
transformation status and corrective actions recommended and being
taken. Public notices issued under this section shall be subject
to Section 13-3-31 and not contrary to other laws regarding
newspaper publication.

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

(14) The State Board of Education or the Commission on School Accreditation shall have the authority to require school districts to produce the necessary reports, correspondence, financial statements, and any other documents and information necessary to fulfill the requirements of this section.

Nothing in this section shall be construed to grant any individual, corporation, board or interim superintendent the authority to levy taxes except in accordance with presently existing statutory provisions.

(15) (a) Whenever the Governor declares a state of emergency in a school district in response to a request made under subsection (12) of this section, the State Board of Education, in its discretion, may assign an interim superintendent to the school district, or in its discretion, may contract with an appropriate private entity with experience in the academic, finance and other operational functions of schools and school districts, who will be responsible for the administration, management and operation of the school district, including, but not limited to, the following activities:

(i) Approving or disapproving all financial obligations of the district, including, but not limited to, the employment, termination, nonrenewal and reassignment of all licensed and nonlicensed personnel, contractual agreements and
purchase orders, and approving or disapproving all claim dockets and the issuance of checks; in approving or disapproving employment contracts of superintendents, assistant superintendents or principals, the interim superintendent shall not be required to comply with the time limitations prescribed in Sections 37-9-15 and 37-9-105;

(ii) Supervising the day-to-day activities of the district's staff, including reassigning the duties and responsibilities of personnel in a manner which, in the determination of the interim superintendent, will best suit the needs of the district;

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

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

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

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

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

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

The cost of the salary of the interim superintendent and any other actual and necessary costs related to district transformation status paid by the State Department of Education shall be reimbursed by the local school district from funds other than adequate education program funds. The department shall submit an itemized statement to the superintendent of the local school district for reimbursement purposes, and any unpaid balance may be withheld from the district's adequate education program funds.

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

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

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

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

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

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

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

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

If a majority of those voting on the question votes against retaining the superintendent in office, a vacancy shall exist which shall be filled in the manner provided by law; otherwise, the superintendent shall remain in office for the term of that office, and at the expiration of the term shall be eligible for qualification and election to another term or terms.

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

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

   (i) If the members of the local school board are
elected to office, in those years in which the specific member's
office is not up for election, the name of the school board member
shall be submitted by the State Board of Education to the county
election commission, and the county election commission at a
special election shall submit the question to the voters eligible
to vote for the particular member's office within the county or
school district, as the case may be, and the special election
shall be held within sixty (60) days from notification by the
State Board of Education. The ballot shall read substantially as
follows:

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

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

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

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

(18) Beginning with the school district audits conducted for the 1997-1998 fiscal year, the State Board of Education, acting through the Commission on School Accreditation, shall require each school district to comply with standards established by the State Department of Audit for the verification of fixed assets and the auditing of fixed assets records as a minimum requirement for accreditation.

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

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

(20) Before January 1, 2008, the State Board of Education shall evaluate and submit a recommendation to the Education Committees of the House of Representatives and the Senate on inclusion of graduation rate and dropout rate in the school level accountability system.

(21) If a local school district is determined as failing and placed into district transformation status for reasons authorized by the provisions of this section, the interim superintendent appointed to the district shall, within forty-five (45) days after being appointed, present a detailed and structured corrective action plan to move the local school district out of district transformation status to the deputy superintendent. A copy of the interim superintendent's corrective action plan shall also be filed with the State Board of Education.

SECTION 12. Beginning with the 2021-2022 academic year, the State Board of Education, acting through the Commission on Teacher and Administrator Education, Certification and Licensure and Development, and in conjunction with the Board of Trustees of State Institutions of Higher Learning, shall require each educator preparation program in the state to include, as part of its curriculum, a Praxis Core Academic Skills for Educators examination and a Praxis II examination course of study, which shall serve as a preparatory review course with emphasis on the
concepts and exam skills necessary for success on the exam, and reinforces students' knowledge through thought-provoking examples and Praxis exam questions. Upon completion of the course, students shall have mastered concepts as they are tested so that students can excel within the time constraints of the exam.

SECTION 13. This act shall take effect and be in force from and after July 1, 2021.