

**Replaced by Substitute
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 813

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

17 SECTION 1. (1) The Department of Human Services is
18 Mississippi's lead agency in the federal Child Care and
19 Development Fund (CCDF) program. CCDF is comprised of the
20 following funding streams: discretionary, mandatory, federal
21 matching, and state matching. In addition, as allowed by federal
22 regulation, Mississippi currently transfers twenty percent (20%)
23 of the Temporary Assistance to Needy Families (TANF) grant into
24 CCDF. The CCDF/TANF program helps eligible working parents pay
25 for early care and education services for their children.

26 (2) In the operation of the CCDF/TANF program, the
27 Department of Human Services shall comply with the following
28 requirements:

29 (a) The department shall maintain records and post
30 quarterly on a publicly accessible web site for each county the
31 information required for the federal report known as the Child
32 Care Aggregate Report, ACF-800, and for the state as a whole, the
33 information required for the financial report known as ACF-696
34 related to CCDF (42 USCS, Chapter 105, Subchapter II-B).

35 (b) The department shall establish performance level
36 standards including the following requirements in CCDF/TANF
37 certificate subgrants: measurable outcome-based contract
38 measures, clear statements of expectations, evaluation criteria,
39 documentation, and the explicit descriptions of reporting
40 requirements. The State Department of Audit shall annually audit
41 the expenditures by the department, subject to the availability of
42 funds specifically appropriated therefor. The State Department of
43 Audit shall immediately audit expenditures by
44 subrecipients/subgrantees including those currently known as
45 "Designated Agents" and those to whom Quality Improvement funds
46 were awarded by the department during the five (5) years next
47 preceding the effective date of this act. In addition, the State
48 Department of Audit shall periodically, but not less than once
49 every three (3) years, conduct performance audits on the
50 department for the purposes of assessing program impact,
51 contingent upon funds being appropriated therefor. The State
52 Department of Audit shall provide copies of each of the audits to
53 the Chairmen of the House Public Health and Human Services
54 Committee and the Senate Public Health and Welfare Committee.

55 (c) The department shall provide to the custodial
56 parents a plain-language explanation of all program criteria to
57 qualify for a CCDF/TANF certificate to obtain early care and
58 education for a child from birth up to the 13th birthday if not
59 disabled, but if disabled, then up to eighteen (18) years of age.

60 (d) The department shall require licensed child care
61 providers participating in the CCDF/TANF certificate program to
62 provide developmentally appropriate early childhood educational
63 activities, including reading and writing where developmentally
64 appropriate.

65 **SECTION 2.** Section 43-20-5, Mississippi Code of 1972, is
66 amended as follows:

67 43-20-5. (1) From and after July 1, 2005, the powers and
68 duties of the State Department of Health relating to the licensure
69 of child care facilities under this chapter shall be transferred
70 to the State Department of Human Services. All records, property,
71 funds, other assets and personnel of the Child Care Licensure Unit
72 and the Child Care Licensure Program shall be transferred to the
73 Department of Human Services. The Executive Director of the
74 Department of Human Services may assign to the appropriate offices
75 such powers and duties deemed appropriate to carry out the lawful
76 functions of the department under this chapter.

77 (2) When used in this chapter, the following words shall
78 have the following meanings:

79 (a) "Child care facility" means a place that provides
80 shelter and personal care for six (6) or more children who are not
81 related within the third degree computed according to the civil
82 law to the operator and who are under thirteen (13) years of age,
83 for any part of the twenty-four-hour day, whether that place is
84 organized or operated for profit or not. The term "child care
85 facility" includes day nurseries, day care centers and any other
86 facility that falls within the scope of the definitions set forth
87 in this paragraph, regardless of auspices. Exemptions from the
88 provisions of this chapter include:

89 (i) Child care facilities that operate for no more
90 than two (2) days a week, whose primary purpose is to provide
91 respite for the caregiver or temporary care during other scheduled
92 or related activities and organized programs that operate for
93 three (3) or fewer weeks per year such as, but not limited to,
94 vacation bible schools and scout day camps.

95 (ii) Any child residential home as defined in, and
96 in compliance with the provisions of, Section 43-16-3(b) et seq.

97 (iii) 1. Any elementary, including kindergarten,
98 and/or secondary school system, accredited by the Mississippi

99 State Department of Education, the Southern Association of
100 Colleges and Schools, the Mississippi Private School Education
101 Association, the American Association of Christian Schools, the
102 Association of Christian Schools International, and any Head Start
103 program operating in conjunction with an elementary school system,
104 whether it is public, private or parochial, whose primary purpose
105 is a structured school or school readiness program.

106 2. Accreditation, for the purpose of
107 exemption from the provisions of this chapter, means: a. receipt
108 by any school or school system of full accreditation from an
109 accrediting entity listed in item 1 of this subparagraph (iii), or
110 b. proof of application by the school or school system for
111 accreditation status from the accrediting entity. Proof of
112 application for accreditation status shall include, but not be
113 limited to, a copy of the applicant's completed application for
114 accreditation filed with the licensing agency and a letter or
115 other authenticating documentation from a signatory authority with
116 the accrediting entity that the application for accreditation has
117 been received and that the applicant is currently under
118 consideration or review for full accreditation status by the
119 accrediting entity. An exemption for a nonaccredited applicant
120 under this item 2 shall be for a maximum of one (1) year from the
121 receipt date by the licensing agency of the completed
122 documentation for proof of application for accreditation status.
123 Failure to receive full accreditation by the end of the one-year
124 exemption period for a nonaccredited applicant shall result in the
125 nonaccredited applicant no longer remaining exempt from the
126 provisions of this chapter at the end of the one-year period.
127 However, if full accreditation is not received by the end of the
128 one-year exemption period, the State Department of Human Services,
129 in its discretion, may extend the exemption period for any
130 nonaccredited applicant for periods of six (6) months, with the

131 total extension not to exceed one (1) year. During any such
132 extension periods, the department shall have the authority to
133 enforce child care facility licensure provisions relating to the
134 health and safety of the children in the school or school system.
135 If a nonaccredited applicant fails to receive full accreditation
136 by the end of all extended exemption periods, the applicant shall
137 no longer remain exempt from the provisions of this chapter at the
138 end of the extended exemption periods. This item 2 shall stand
139 repealed on July 1, 2006.

140 (iv) Any membership organization affiliated with a
141 national organization that charges only a nominal annual
142 membership fee, does not receive monthly, weekly or daily payments
143 for services, and is certified by its national association as
144 being in compliance with the association's minimum standards and
145 procedures including, but not limited to, the Boys and Girls Club
146 of America, and the YMCA.

147 (v) Any family child care home as defined in
148 Section 43-20-53(a) et seq.

149 All other preschool child care programs and/or extended day
150 school programs must meet requirements set forth in this chapter.

151 (b) "Health" means that condition of being sound in
152 mind and body and encompasses an individual's physical, mental and
153 emotional welfare.

154 (c) "Safety" means that condition of being protected
155 from hurt, injury or loss.

156 (d) "Person" means any person, firm, partnership,
157 corporation or association.

158 (e) "Operator" means any person, acting individually or
159 jointly with another person or persons, who establishes, owns,
160 operates, conducts or maintains a child care facility. The child
161 care facility license shall be issued in the name of the operator,
162 or, if there is more than one (1) operator, in the name of one (1)

163 of the operators. If there is more than one (1) operator, all
164 statutory and regulatory provisions concerning the background
165 checks of operators shall be equally applied to all operators of a
166 facility including, but not limited to, a spouse who jointly owns,
167 operates or maintains the child care facility regardless of which
168 particular person is named on the license.

169 (f) "Personal care" means assistance rendered by
170 personnel of the child care facility in performing one or more of
171 the activities of daily living which includes, but is not limited
172 to, the feeding, personal grooming, supervising and dressing of
173 children placed in the child care facility.

174 (g) "Licensing agency" means the Mississippi Department
175 of Human Services.

176 (h) "Caregiver" means any person who provides direct
177 care, supervision or guidance to children in a child care
178 facility, regardless of title or occupation.

179 **SECTION 3.** Section 43-20-7, Mississippi Code of 1972, is
180 amended as follows:

181 43-20-7. (1) There is hereby created an advisory council
182 which shall be appointed by the executive director of the
183 licensing agency, who shall serve at the pleasure of the executive
184 director.

185 (2) The advisory council shall consist of eleven (11)
186 persons, six (6) of whom shall be * * * child care providers, and
187 five (5) of whom shall represent child care professional
188 organizations, child advocacy groups, and/or state agencies which
189 provide child care funding or services. No more than four (4)
190 members shall be appointed from any one (1) state Supreme Court
191 district.

192 (3) It shall be the duty of the advisory council to assist
193 and advise the licensing agency in the development of regulations
194 governing the licensure and regulation of child care facilities.

195 (4) Members of the advisory council who are not public
196 employees shall be reimbursed for mileage and expenses as is
197 authorized by law.

198 **SECTION 4.** Section 43-20-8, Mississippi Code of 1972, is
199 amended as follows:

200 43-20-8. (1) The licensing agency shall have powers and
201 duties as set forth below, in addition to other duties prescribed
202 under this chapter:

203 (a) Promulgate rules and regulations concerning the
204 licensing and regulation of child care facilities as defined in
205 Section 43-20-5;

206 (b) Have the authority to issue, deny, suspend, revoke,
207 restrict or otherwise take disciplinary action against licensees
208 as provided for in this chapter;

209 (c) Set and collect fees and penalties as provided for
210 in this chapter; and

211 (d) Have such other powers as may be required to carry
212 out the provisions of this chapter.

213 (2) Child care facilities shall assure that parents have
214 welcome access to the child care facility at all times.

215 (3) Each child care facility shall develop and maintain a
216 current list of contact persons for each child provided care by
217 that facility. An agreement may be made between the child care
218 facility and the child's parent, guardian or contact person at the
219 time of registration to inform the parent, guardian or contact
220 person if the child does not arrive at the facility within a
221 reasonable time.

222 (4) Child care facilities shall require that, for any
223 current or prospective caregiver, current criminal records,
224 background checks and current child abuse registry checks are
225 obtained. In order to determine the applicant's suitability for
226 employment, the applicant shall be fingerprinted. If no

227 disqualifying record is identified at the state level, the
228 fingerprints shall be forwarded by the Department of Public Safety
229 to the FBI for a national criminal history record check.

230 (5) The licensing agency shall require to be performed a
231 criminal records background check and a child abuse registry check
232 for all operators of a child care facility and any person living
233 in a residence used for child care. The Department of Human
234 Services shall have the authority to disclose * * * any potential
235 applicant whose name is listed on the Child Abuse Central Registry
236 or has a pending administrative review. That information shall
237 remain confidential by all parties. In order to determine the
238 applicant's suitability for employment, the applicant shall be
239 fingerprinted. If no disqualifying record is identified at the
240 state level, the fingerprints shall be forwarded by the Department
241 of Public Safety to the FBI for a national criminal history record
242 check.

243 (6) The licensing agency shall have the authority to exclude
244 a particular crime or crimes or a substantiated finding of child
245 abuse and/or neglect as disqualifying individuals or entities for
246 prospective or current employment or licensure.

247 (7) The licensing agency and its agents, officers,
248 employees, attorneys and representatives shall not be held civilly
249 liable for any findings, recommendations or actions taken under
250 this section.

251 (8) All fees incurred in compliance with this section shall
252 be borne by the child care facility. The licensing agency is
253 authorized to charge a fee that includes the amount required by
254 the Federal Bureau of Investigation for the national criminal
255 history record check in compliance with the Child Protection Act
256 of 1993, as amended, and any necessary costs incurred by the
257 licensing agency for the handling and administration of the
258 criminal history background checks.

259 **SECTION 5.** Section 43-20-11, Mississippi Code of 1972, is
260 amended as follows:

261 43-20-11. An application for a license under this chapter
262 shall be made to the licensing agency upon forms provided by it,
263 and shall contain such information as the licensing agency may
264 reasonably require. Each application for a license shall be
265 accompanied by a license fee not to exceed Two Hundred Dollars
266 (\$200.00), which shall be paid to the licensing agency. Licenses
267 shall be granted to applicants upon the filing of properly
268 completed application forms, accompanied by payment of the said
269 license fee, and a certificate of inspection and approval by the
270 fire department of the municipality or other political subdivision
271 in which the facility is located, and by a certificate of
272 inspection and approval by the health department of the county in
273 which the facility is located, and approval by the licensing
274 agency; except that if no fire department exists where the
275 facility is located, the State Fire Marshal shall certify as to
276 the inspection for safety from fire hazards. Said fire, county
277 health department and licensing agency inspections and approvals
278 shall be based upon regulations promulgated by the licensing
279 agency * * *.

280 Each license shall be issued only for the premises and person
281 or persons named in the application and shall not be transferable
282 or assignable except with the written approval of the licensing
283 agency. Licenses shall be posted in a conspicuous place on the
284 licensed premises.

285 No governmental entity or agency shall be required to pay the
286 fee or fees set forth in this section.

287 **SECTION 6.** Section 43-20-12, Mississippi Code of 1972, is
288 amended as follows:

289 43-20-12. All fees collected by the Mississippi Department
290 of Human Services under this chapter and any penalties collected

291 by the board for violations of this chapter shall be deposited in
292 the State General Fund * * * and shall be appropriated to the
293 department in addition to all other funds appropriated from the
294 State General Fund to the department. Said fees and penalties
295 shall be expended to implement and administer this chapter.

296 **SECTION 7.** Section 43-20-14, Mississippi Code of 1972, is
297 amended as follows:

298 43-20-14. (1) The licensing agency may deny a license or
299 refuse to renew a license for any of the reasons set forth in
300 subsection (3) of this section.

301 (2) Before the licensing agency may deny or refuse to renew,
302 the applicant or person named on the license shall be entitled to
303 a hearing in order to show cause why the license should not be
304 denied or should be renewed.

305 (3) The licensing agency may suspend, revoke or restrict the
306 license of any child care facility upon one or more of the
307 following grounds:

308 (a) Fraud, misrepresentation or concealment of material
309 facts;

310 (b) Conviction of an operator for any crime if the
311 licensing agency finds that the act or acts for which the operator
312 was convicted could have a detrimental effect on children cared
313 for by any child care facility;

314 (c) Violation of any of the provisions of this act or
315 of the regulations governing the licensing and regulation of child
316 care facilities promulgated by the licensing agency;

317 (d) Any conduct, or failure to act, that is found or
318 determined by the licensing agency to threaten the health or
319 safety of children at the facility;

320 (e) Failure by the child care facility to comply with
321 the provisions of Section 43-20-8(3) regarding background checks
322 of caregivers; and

323 (f) Information received by the licensing agency as a
324 result of the criminal records background check and the child
325 abuse registry check on all operators under Section 43-20-8.

326 (4) Before the licensing agency may suspend, revoke or
327 restrict the license of any facility, any licensee affected by
328 that decision of the licensing agency shall be entitled to a
329 hearing in which the licensee may show cause why the license
330 should not be suspended, revoked or restricted.

331 (5) Any licensee who disagrees with or is aggrieved by a
332 decision of the Mississippi State Department of Human Services in
333 regard to the denial, refusal to renew, suspension, revocation or
334 restriction of the license of the licensee, may appeal to the
335 chancery court of the county in which the facility is located.
336 The appeal shall be filed no later than thirty (30) days after the
337 licensee receives written notice of the final administrative
338 action by the Mississippi State Department of Human Services as to
339 the suspension, revocation or restriction of the license of the
340 licensee.

341 **SECTION 8.** Section 43-20-53, Mississippi Code of 1972, is
342 amended as follows:

343 43-20-53. As used in Sections 43-20-51 through 43-20-65:

344 (a) "Family child care home" means any residential
345 facility occupied by the operator where five (5) or fewer children
346 who are not related within the third degree computed according to
347 the civil law to the provider and who are under the age of
348 thirteen (13) years of age are provided care for any part of the
349 twenty-four-hour day.

350 (b) "Registering agency" means the Mississippi State
351 Department of Human Services.

352 (c) "Provider" means the person responsible for the
353 care of children.

354 **SECTION 9.** Section 43-20-57, Mississippi Code of 1972, is
355 amended as follows:

356 43-20-57. (1) No person shall knowingly maintain a family
357 child care home if, in such family child care home, there resides,
358 works or regularly volunteers any person who:

359 (a) (i) Has a felony conviction for a crime against
360 persons;

361 (ii) Has a felony conviction under the Uniform
362 Controlled Substances Act;

363 (iii) Has a conviction for a crime of child abuse
364 or neglect;

365 (iv) Has a conviction for any sex offense as
366 defined in Section 45-33-23, Mississippi Code of 1972; or

367 (v) Any other offense committed in another
368 jurisdiction or any federal offense which, if committed in this
369 state, would be deemed to be such a crime without regard to its
370 designation elsewhere;

371 (b) Has been adjudicated a juvenile offender because of
372 having committed an act which if done by an adult would constitute
373 the commission of a felony and which is a crime against persons;

374 (c) Has had a child declared in a court order in this
375 or any other state to be deprived or a child in need of care based
376 on an allegation of physical, mental or emotional abuse or neglect
377 or sexual abuse;

378 (d) Has had parental rights terminated pursuant to
379 Section 93-15-101 et seq., Mississippi Code of 1972; or

380 (e) Has an infectious or contagious disease, as defined
381 by the State Department of Health pursuant to Section 41-23-1,
382 Mississippi Code of 1972.

383 (2) No person shall maintain a family child care home if
384 such person has been found to be a disabled person in need of a
385 guardian or conservator, or both.

386 (3) Any person who resides in the home and who has been
387 found to be a disabled person in need of a guardian or
388 conservator, or both, shall be included in the total number of
389 children allowed in care.

390 (4) In accordance with the provision of this subsection (4),
391 the State Department of Human Services shall have access to any
392 court orders or adjudications of any court of record, any records
393 of such orders or adjudications, criminal history record
394 information in the possession of the Mississippi Highway Safety
395 Patrol or court of this state concerning persons working,
396 regularly volunteering or residing in a family child care home.
397 The department shall have access to these records for the purpose
398 of determining whether or not the home meets the requirements of
399 Sections 43-20-51 through 43-20-65.

400 (5) No family child care home or its employees shall be
401 liable for civil damages to any person refused employment or
402 discharged from employment by reason of such home's compliance
403 with the provisions of this section if such home acts in good
404 faith to comply with this section.

405 **SECTION 10.** Section 43-20-59, Mississippi Code of 1972, is
406 amended as follows:

407 43-20-59. (1) Any person maintaining a family child care
408 home may register such home with the State Department of Human
409 Services on forms provided by the department.

410 (2) A certificate of registration shall be issued to the
411 applicant for registration who (a) attests to the safety of the
412 home for the care of children, (b) submits a fee of Five Dollars
413 (\$5.00) payable to the department, and (c) certifies that no
414 person described in paragraph (a), (b), (c), (d) or (e) of Section
415 43-20-57(1) resides, works or volunteers in the family child care
416 home.

417 (3) The department shall furnish each applicant for
418 registration a family child care home safety evaluation form to be
419 completed by the applicant and submitted with the registration
420 application.

421 (4) The certificate of registration shall be renewed
422 annually in the same manner provided for in this section.

423 (5) A certificate of registration shall be in force for one
424 (1) year after the date of issuance unless revoked pursuant to
425 Sections 43-20-51 through 43-20-65. The certificate shall specify
426 that the registrant may operate a family child care home for five
427 (5) or fewer children. This section shall not be construed to
428 limit the right of the department to enter a registered family
429 child care home for the purpose of assessing compliance with
430 Sections 43-20-51 through 43-20-65 after receiving a complaint
431 against the registrant of such home or in conducting a periodic
432 routine inspection.

433 (6) The department shall adopt rules and regulations to
434 implement the registration provisions.

435 **SECTION 11.** Section 7-7-211, Mississippi Code of 1972, is
436 amended as follows:

437 7-7-211. The department shall have the power and it shall be
438 its duty:

439 (a) To identify and define for all public offices of
440 the state and its subdivisions generally accepted accounting
441 principles as promulgated by nationally recognized professional
442 organizations and to consult with the State Fiscal Officer in the
443 prescription and implementation of accounting rules and
444 regulations;

445 (b) To prescribe, for all public offices of regional
446 and local subdivisions of the state, systems of accounting,
447 budgeting and reporting financial facts relating to said offices
448 in conformity with legal requirements and with generally accepted

449 accounting principles as promulgated by nationally recognized
450 professional organizations; to assist such subdivisions in need of
451 assistance in the installation of such systems; to revise such
452 systems when deemed necessary, and to report to the Legislature at
453 periodic times the extent to which each office is maintaining such
454 systems, along with such recommendations to the Legislature for
455 improvement as seem desirable;

456 (c) To study and analyze existing managerial policies,
457 methods, procedures, duties and services of the various state
458 departments and institutions upon written request of the Governor,
459 the Legislature or any committee or other body empowered by the
460 Legislature to make such request to determine whether and where
461 operations can be eliminated, combined, simplified and improved;

462 (d) To postaudit each year and, when deemed necessary,
463 preaudit and investigate the financial affairs of the departments,
464 institutions, boards, commissions or other agencies of state
465 government, as part of the publication of a comprehensive annual
466 financial report for the State of Mississippi. In complying with
467 the requirements of this subsection, the department shall have the
468 authority to conduct all necessary audit procedures on an interim
469 and year-end basis;

470 (e) To postaudit and, when deemed necessary, preaudit
471 and investigate separately the financial affairs of (i) the
472 offices, boards and commissions of county governments and any
473 departments and institutions thereof and therein; (ii) public
474 school districts, departments of education and junior college
475 districts; and (iii) any other local offices or agencies which
476 share revenues derived from taxes or fees imposed by the State
477 Legislature or receive grants from revenues collected by
478 governmental divisions of the state; the cost of such audits,
479 investigations or other services to be paid as follows: Such part
480 shall be paid by the state from appropriations made by the

481 Legislature for the operation of the State Department of Audit as
482 may exceed the sum of One Hundred Dollars (\$100.00) per day for
483 the services of each staff person engaged in performing the audit
484 or other service, which sum shall be paid by the county, district,
485 department, institution or other agency audited out of its general
486 fund or any other available funds from which such payment is not
487 prohibited by law;

488 (f) To postaudit and, when deemed necessary, preaudit
489 and investigate the financial affairs of the levee boards;
490 agencies created by the Legislature or by executive order of the
491 Governor; profit or nonprofit business entities administering
492 programs financed by funds flowing through the State Treasury or
493 through any of the agencies of the state, or its subdivisions; and
494 all other public bodies supported by funds derived in part or
495 wholly from public funds, except municipalities which annually
496 submit an audit prepared by a qualified certified public
497 accountant using methods and procedures prescribed by the
498 department;

499 (g) To make written demand, when necessary, for the
500 recovery of any amounts representing public funds improperly
501 withheld, misappropriated and/or otherwise illegally expended by
502 an officer, employee or administrative body of any state, county
503 or other public office, and/or for the recovery of the value of
504 any public property disposed of in an unlawful manner by a public
505 officer, employee or administrative body, such demands to be made
506 (i) upon the person or persons liable for such amounts and upon
507 the surety on official bond thereof, and/or (ii) upon any
508 individual, partnership, corporation or association to whom the
509 illegal expenditure was made or with whom the unlawful disposition
510 of public property was made, if such individual, partnership,
511 corporation or association knew or had reason to know through the
512 exercising of reasonable diligence that the expenditure was

513 illegal or the disposition unlawful. Such demand shall be
514 premised on competent evidence, which shall include at least one
515 (1) of the following: (i) sworn statements, (ii) written
516 documentation, (iii) physical evidence, or (iv) reports and
517 findings of government or other law enforcement agencies. Other
518 provisions notwithstanding, a demand letter issued pursuant to
519 this subsection shall remain confidential by the State Auditor
520 until the individual against whom the demand letter is being filed
521 has been served with a copy of such demand letter. If, however,
522 such individual cannot be notified within fifteen (15) days using
523 reasonable means and due diligence, such notification shall be
524 made to the individual's bonding company, if he or she is bonded.
525 Each such demand shall be paid into the proper treasury of the
526 state, county or other public body through the office of the
527 department in the amount demanded within thirty (30) days from the
528 date thereof, together with interest thereon in the sum of one
529 percent (1%) per month from the date such amount or amounts were
530 improperly withheld, misappropriated and/or otherwise illegally
531 expended. In the event, however, such person or persons or such
532 surety shall refuse, neglect or otherwise fail to pay the amount
533 demanded and the interest due thereon within the allotted thirty
534 (30) days, the State Auditor shall have the authority and it shall
535 be his duty to institute suit, and the Attorney General shall
536 prosecute the same in any court of the state to the end that there
537 shall be recovered the total of such amounts from the person or
538 persons and surety on official bond named therein; and the amounts
539 so recovered shall be paid into the proper treasury of the state,
540 county or other public body through the State Auditor. In any
541 case where written demand is issued to a surety on the official
542 bond of such person or persons and the surety refuses, neglects or
543 otherwise fails within one hundred twenty (120) days to either pay
544 the amount demanded and the interest due thereon or to give the

545 State Auditor a written response with specific reasons for
546 nonpayment, then the surety shall be subject to a civil penalty in
547 an amount of twelve percent (12%) of the bond, not to exceed Ten
548 Thousand Dollars (\$10,000.00), to be deposited into the State
549 General Fund;

550 (h) To investigate any alleged or suspected violation
551 of the laws of the state by any officer or employee of the state,
552 county or other public office in the purchase, sale or the use of
553 any supplies, services, equipment or other property belonging
554 thereto; and in such investigation to do any and all things
555 necessary to procure evidence sufficient either to prove or
556 disprove the existence of such alleged or suspected violations.
557 The Department of Investigation of the State Department of Audit
558 may investigate, for the purpose of prosecution, any suspected
559 criminal violation of the provisions of this chapter. For the
560 purpose of administration and enforcement of this chapter, the
561 enforcement employees of the Department of Investigation of the
562 State Department of Audit have the powers of a law enforcement
563 officer of this state, and shall be empowered to make arrests and
564 to serve and execute search warrants and other valid legal process
565 anywhere within the State of Mississippi. All enforcement
566 employees of the Department of Investigation of the State
567 Department of Audit hired on or after July 1, 1993, shall be
568 required to complete the Law Enforcement Officers Training Program
569 and shall meet the standards of the program;

570 (i) To issue subpoenas, with the approval of, and
571 returnable to, a judge of a chancery or circuit court, in termtime
572 or in vacation, to examine the records, documents or other
573 evidence of persons, firms, corporations or any other entities
574 insofar as such records, documents or other evidence relate to
575 dealings with any state, county or other public entity. The
576 circuit or chancery judge must serve the county in which the

577 records, documents or other evidence is located; or where all or
578 part of the transaction or transactions occurred which are the
579 subject of the subpoena;

580 (j) In any instances in which the State Auditor is or
581 shall be authorized or required to examine or audit, whether
582 preaudit or postaudit, any books, ledgers, accounts or other
583 records of the affairs of any public hospital owned or owned and
584 operated by one or more political subdivisions or parts thereof or
585 any combination thereof, or any school district, including
586 activity funds thereof, it shall be sufficient compliance
587 therewith, in the discretion of the State Auditor, that such
588 examination or audit be made from the report of any audit or other
589 examination certified by a certified public accountant and
590 prepared by or under the supervision of such certified public
591 accountant. Such audits shall be made in accordance with
592 generally accepted standards of auditing, with the use of an audit
593 program prepared by the State Auditor, and final reports of such
594 audits shall conform to the format prescribed by the State
595 Auditor. All files, working papers, notes, correspondence and all
596 other data compiled during the course of the audit shall be
597 available, without cost, to the State Auditor for examination and
598 abstracting during the normal business hours of any business day.
599 The expense of such certified reports shall be borne by the
600 respective hospital, or any available school district funds other
601 than minimum program funds, subject to examination or audit. The
602 State Auditor shall not be bound by such certified reports and
603 may, in his or their discretion, conduct such examination or audit
604 from the books, ledgers, accounts or other records involved as may
605 be appropriate and authorized by law;

606 (k) The State Auditor shall have the authority to
607 contract with qualified public accounting firms to perform
608 selected audits required in subsections (d), (e) and (f) of this

609 section, if funds are made available for such contracts by the
610 Legislature, or if funds are available from the governmental
611 entity covered by subsections (d), (e) and (f). Such audits shall
612 be made in accordance with generally accepted standards of
613 auditing, with the use of an audit program prepared by the State
614 Auditor, and final reports of such audits shall conform to the
615 format prescribed by the State Auditor. All files, working
616 papers, notes, correspondence and all other data compiled during
617 the course of the audit shall be available, without cost, to the
618 State Auditor for examination and abstracting during the normal
619 business hours of any business day;

620 (1) The State Auditor shall have the authority to
621 establish training courses and programs for the personnel of the
622 various state and local governmental entities under the
623 jurisdiction of the Office of the State Auditor. The training
624 courses and programs shall include, but not be limited to, topics
625 on internal control of funds, property and equipment control and
626 inventory, governmental accounting and financial reporting, and
627 internal auditing. The State Auditor is authorized to charge a
628 fee from the participants of these courses and programs, which fee
629 shall be deposited into the Department of Audit Special Fund.
630 State and local governmental entities are authorized to pay such
631 fee and any travel expenses out of their general funds or any
632 other available funds from which such payment is not prohibited by
633 law;

634 (m) Upon written request by the Governor or any member
635 of the State Legislature, or on his own motion, the State Auditor
636 may audit any state funds, state and federal funds, or funds, if
637 in excess of One Thousand Dollars (\$1,000.00), of a political
638 subdivision of the state that are received by any nonprofit
639 corporation incorporated under the laws of this state; the
640 authority granted by this paragraph shall be in addition to any

641 other authority granted under this section, including, but not
642 limited to, paragraph (f) of this section;

643 (n) To conduct performance audits of personal or
644 professional service contracts by state agencies on a random
645 sampling basis, or upon request of the State Personal Service
646 Contract Review Board under Section 25-9-120(3);

647 (o) To annually postaudit the Chickasawhay Natural Gas
648 District. The Department of Audit shall charge the Chickasawhay
649 Natural Gas District, audited by the authority of this paragraph,
650 the sum of Thirty Dollars (\$30.00) per hour for each hour of staff
651 time devoted to the auditing of the district. The Chickasawhay
652 Natural Gas District shall pay for the audit fees from any sums
653 available to the district for its general operations.

654 **SECTION 12.** This act shall take effect and be in force from
655 and after July 1, 2005.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO PRESCRIBE CERTAIN REQUIREMENTS FOR THE DEPARTMENT
2 OF HUMAN SERVICES IN THE OPERATION OF THE CHILD CARE AND
3 DEVELOPMENT FUND/TEMPORARY ASSISTANCE TO NEEDY FAMILIES PROGRAM;
4 TO AMEND SECTIONS 43-20-5, 43-20-7, 43-20-8, 43-20-11, 43-20-12,
5 43-20-14, 43-20-53, 43-20-57 AND 43-20-59, MISSISSIPPI CODE OF
6 1972, TO TRANSFER THE POWERS AND DUTIES OF THE STATE DEPARTMENT OF
7 HEALTH RELATING TO THE LICENSURE OF CHILD CARE FACILITIES TO THE
8 STATE DEPARTMENT OF HUMAN SERVICES AND TO PROVIDE THAT THE
9 DEPARTMENT OF HUMAN SERVICES SHALL PERFORM ALL OF THE DUTIES
10 RELATING TO THE ESTABLISHMENT AND ENFORCEMENT OF REGULATIONS
11 GOVERNING THE OPERATION OF LICENSED CHILD CARE FACILITIES THAT
12 WERE FORMERLY PERFORMED BY THE STATE DEPARTMENT OF HEALTH; TO
13 AMEND SECTION 7-7-211, MISSISSIPPI CODE OF 1972, TO CLARIFY THE
14 AUTHORITY OF THE STATE AUDITOR TO AUDIT PUBLIC FUNDS FLOWING INTO
15 NONPROFIT CORPORATIONS; AND FOR RELATED PURPOSES.