

By: Representative Bell (21st)

To: Workforce Development

HOUSE BILL NO. 536  
(As Passed the House)

1 AN ACT TO AMEND SECTION 71-5-11, MISSISSIPPI CODE OF 1972, TO  
2 AMEND THE DEFINITION OF "UNEMPLOYMENT" TO EXCLUDE INDIVIDUALS  
3 RECEIVING VOLUNTARY PAYMENTS FROM EMPLOYERS IF THOSE PAYMENTS  
4 EQUAL THEIR REGULAR SALARY AND INDIVIDUALS ON ADMINISTRATIVE  
5 LEAVE; TO AMEND THE DEFINITION OF "WAGES" TO INCLUDE PAYMENTS FROM  
6 EMPLOYERS THAT ARE IN LIEU OF THE EMPLOYEE'S REGULAR WAGES; TO  
7 AMEND SECTION 71-5-365, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
8 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF EMPLOYMENT SECURITY TO  
9 DESIGNATE A DEPARTMENT EMPLOYEE TO DETERMINE WHETHER AN EMPLOYER  
10 REPORT ON CONTRIBUTIONS DUE IS INCORRECT OR SUFFICIENT, MAKE AN  
11 ASSESSMENT ON BEST INFORMATION AVAILABLE, ASSESS THE CONTRIBUTIONS  
12 DUE, AND ASSESS A PENALTY IF ONE IS NEEDED FOR NONCOMPLIANT  
13 EMPLOYERS; TO AMEND SECTION 71-5-363, MISSISSIPPI CODE OF 1972, TO  
14 AUTHORIZE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF EMPLOYMENT  
15 SECURITY TO ABATE INTEREST ACCRUED ON PAST DUE CONTRIBUTIONS OR  
16 OVERPAYMENTS WHEN NEGOTIATING THE SETTLEMENTS OF SUCH PAST DUE  
17 AMOUNTS; TO AMEND SECTION 71-5-389, MISSISSIPPI CODE OF 1972, TO  
18 CLARIFY THAT TAX OFFSETS ARE FROM BOTH THE MISSISSIPPI DEPARTMENT  
19 OF REVENUE AND THE UNITED STATES DEPARTMENT OF TREASURY; TO AMEND  
20 SECTION 71-5-355, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT A  
21 PERSON WHO ACQUIRES A BUSINESS SOLELY TO OBTAIN A LOWER RATE OF  
22 UNEMPLOYMENT INSURANCE CONTRIBUTIONS SHALL HAVE A TWO PERCENT  
23 INCREASE IN THE TAX RATE; TO CREATE THE "COMPREHENSIVE CAREER AND  
24 TECHNICAL EDUCATION REFORM (CCATER) ACT"; TO BRING FORWARD SECTION  
25 37-15-38, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE  
26 AMENDMENT; TO AMEND SECTION 37-16-17, MISSISSIPPI CODE OF 1972, TO  
27 REQUIRE THE STATE BOARD OF EDUCATION TO PROVIDE NOTICE TO ALL  
28 INCOMING MIDDLE SCHOOL AND JUNIOR HIGH STUDENTS OF THE CAREER AND  
29 TECHNICAL EDUCATION PROGRAMS OFFERED BY LOCAL SCHOOL BOARDS; TO  
30 REQUIRE ALL STUDENTS TO TAKE THE ACT WORKKEYS ASSESSMENT; TO  
31 PROVIDE THAT EACH INDIVIDUAL SCHOOL DISTRICT SHALL DETERMINE  
32 WHETHER THE ACT WORKKEYS ASSESSMENT IS ADMINISTERED IN THE NINTH,  
33 TENTH OR ELEVENTH GRADE; TO REVISE THE CURRICULUM IN THE CAREER  
34 AND TECHNICAL EDUCATION PROGRAM; TO AMEND SECTION 37-3-2,



35 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT LOCAL BUSINESS OR OTHER  
36 PROFESSIONAL PERSONNEL SHALL NOT BE REQUIRED TO HOLD AN ASSOCIATE  
37 OR BACHELOR'S DEGREE IN ORDER TO BE GRANTED AN EXPERT  
38 CITIZEN-TEACHER LICENSE; TO EXPAND THE EXPERT CITIZEN-TEACHER  
39 LICENSE FROM ONE YEAR TO FIVE YEARS; TO PROVIDE THAT CERTAIN  
40 INSTRUCTIONAL STAFF EMPLOYED BY A PUBLIC SCHOOL DISTRICT OR  
41 NONPUBLIC SCHOOL ACCREDITED OR APPROVED BY THE STATE FOR A MINIMUM  
42 OF FIVE YEARS SHALL BE GRANTED A STANDARD TEACHER LICENSE; TO  
43 REQUIRE SUCH TEACHERS TO COMPLY WITH ANY ADDITIONAL REQUIREMENTS  
44 FOR EXISTING TEACHERS, INCLUDING PROFESSIONAL DEVELOPMENT TRAINING  
45 AND COMPLETION OF THE REQUIRED CONTINUING EDUCATION UNITS; TO  
46 AMEND SECTION 37-16-3, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE  
47 PRECEDING SECTIONS; TO AMEND SECTION 37-17-6, MISSISSIPPI CODE OF  
48 1972, TO PROVIDE THAT THE ACCREDITATION SYSTEM SHALL INCLUDE  
49 STUDENT PERFORMANCE ON THE ADMINISTRATION OF THE ACT WORKKEYS  
50 ASSESSMENT, WHICH SHALL BE WEIGHTED IN THE SAME PERCENTAGE AS THE  
51 STANDARD ACT ASSESSMENT; TO REQUIRE THE STATE BOARD OF EDUCATION,  
52 ACTING THROUGH THE COMMISSION ON TEACHER AND ADMINISTRATOR  
53 EDUCATION, CERTIFICATION AND LICENSURE AND DEVELOPMENT, AND IN  
54 CONJUNCTION WITH THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF  
55 HIGHER LEARNING, TO REQUIRE EACH EDUCATOR PREPARATION PROGRAM IN  
56 THE STATE TO INCLUDE A PRAXIS CORE ACADEMIC SKILLS FOR EDUCATORS  
57 EXAMINATION AND A PRAXIS II EXAMINATION PREPARATORY REVIEW COURSE,  
58 AS PART OF ITS CURRICULUM; AND FOR RELATED PURPOSES.

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

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

62 71-5-11. As used in this chapter, unless the context clearly  
63 requires otherwise:

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

67 B. "Benefit year" with respect to any individual means the  
68 period beginning with the first day of the first week with respect  
69 to which he or she first files a valid claim for benefits, and  
70 ending with the day preceding the same day of the same month in  
71 the next calendar year; and, thereafter, the period beginning with



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

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

81 D. "Calendar quarter" means the period of three (3)  
82 consecutive calendar months ending on March 31, June 30, September  
83 30, or December 31.

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

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

89 G. "Employing unit" means this state or another state or any  
90 instrumentalities or any political subdivisions thereof or any of  
91 their instrumentalities or any instrumentality of more than one  
92 (1) of the foregoing or any instrumentality of any of the  
93 foregoing and one or more other states or political subdivisions,  
94 any Indian tribe as defined in Section 3306(u) of the Federal  
95 Unemployment Tax Act (FUTA), which includes any subdivision,  
96 subsidiary or business enterprise wholly owned by such Indian



97 tribe, any individual or type of organization, including any  
98 partnership, association, trust, estate, joint-stock company,  
99 insurance company, or corporation, whether domestic or foreign, or  
100 the receiver, trustee in bankruptcy, trustee or successor thereof,  
101 or the legal representative of a deceased person, which has or had  
102 in its employ one or more individuals performing services for it  
103 within this state. All individuals performing services within  
104 this state for any employing unit which maintains two (2) or more  
105 separate establishments within this state shall be deemed to be  
106 employed by a single employing unit for all the purposes of this  
107 chapter. Each individual employed to perform or to assist in  
108 performing the work of any agent or employee of an employing unit  
109 shall be deemed to be employed by such employing unit for all  
110 purposes of this chapter, whether such individual was hired or  
111 paid directly by such employing unit or by such agent or employee,  
112 provided the employing unit had actual or constructive knowledge  
113 of the work. All individuals performing services in the employ of  
114 an elected fee-paid county official, other than those related by  
115 blood or marriage within the third degree computed by the rule of  
116 the civil law to such fee-paid county official, shall be deemed to  
117 be employed by such county as the employing unit for all the  
118 purposes of this chapter. For purposes of defining an "employing  
119 unit" which shall pay contributions on remuneration paid to  
120 individuals, if two (2) or more related corporations concurrently  
121 employ the same individual and compensate such individual through



122 a common paymaster which is one (1) of such corporations, then  
123 each such corporation shall be considered to have paid as  
124 remuneration to such individual only the amounts actually  
125 disbursed by it to such individual and shall not be considered to  
126 have paid as remuneration to such individual such amounts actually  
127 disbursed to such individual by another of such corporations.

128 H. "Employer" means:

129 (1) Any employing unit which,

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

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

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

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

144 (4) (a) Any employing unit for which agricultural  
145 labor, as defined in subsection I(6) of this section, is  
146 performed;



147 (b) Any employing unit for which domestic service  
148 in employment, as defined in subsection I(7) of this section, is  
149 performed;

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

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

163 (7) Any employing unit which, having become an employer  
164 under paragraph (1), (3), (5) or (6) of this subsection or under  
165 any other provisions of this chapter, has not, under Section  
166 71-5-361, ceased to be an employer subject to this chapter;

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

170 (9) (a) In determining whether or not an employing  
171 unit for which service other than domestic service is also



172 performed is an employer under paragraph (1) or (4)(a) of this  
173 subsection, the wages earned or the employment of an employee  
174 performing domestic service, shall not be taken into account;

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

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

189 I. "Employment" means and includes:

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

195 (2) Services performed for remuneration for a  
196 principal:



197 (a) As an agent-driver or commission-driver  
198 engaged in distributing meat products, vegetable products, fruit  
199 products, bakery products, beverages (other than milk), or laundry  
200 or dry-cleaning services;

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

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

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

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

219 (iii) The services are not in the nature of a  
220 single transaction that is not part of a continuing relationship  
221 with the person for whom the services are performed.





222           (3) Service performed in the employ of this state or  
223 any of its instrumentalities or any political subdivision thereof  
224 or any of its instrumentalities or any instrumentality of more  
225 than one (1) of the foregoing or any instrumentality of any of the  
226 foregoing and one or more other states or political subdivisions  
227 or any Indian tribe as defined in Section 3306(u) of the Federal  
228 Unemployment Tax Act (FUTA), which includes any subdivision,  
229 subsidiary or business enterprise wholly owned by such Indian  
230 tribe; however, such service is excluded from "employment" as  
231 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)  
232 of that act and is not excluded from "employment" under subsection  
233 I(5) of this section.

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

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

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



247 (a) In the employ of:  
248 (i) A church or convention or association of  
249 churches; or  
250 (ii) An organization which is operated  
251 primarily for religious purposes and which is operated,  
252 supervised, controlled, or principally supported by a church or  
253 convention or association of churches; or  
254 (b) By a duly ordained, commissioned, or licensed  
255 minister of a church in the exercise of his or her ministry, or by  
256 a member of a religious order in the exercise of duties required  
257 by such order; or  
258 (c) In the employ of a governmental entity  
259 referred to in subsection I(3), if such service is performed by an  
260 individual in the exercise of duties:  
261 (i) As an elected official;  
262 (ii) As a member of a legislative body, or a  
263 member of the judiciary, of a state or political subdivision or a  
264 member of an Indian tribal council;  
265 (iii) As a member of the State National Guard  
266 or Air National Guard;  
267 (iv) As an employee serving on a temporary  
268 basis in case of fire, storm, snow, earthquake, flood or similar  
269 emergency;



270 (v) In a position which, under or pursuant to  
271 the laws of this state or laws of an Indian tribe, is designated  
272 as:

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

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

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

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

288 (f) As part of an unemployment work-relief or  
289 work-training program assisted or financed, in whole or in part,  
290 by any federal agency or agency of a state or political  
291 subdivision thereof or of an Indian tribe, by an individual  
292 receiving such work relief or work training, unless coverage of  
293 such service is required by federal law or regulation.



294 (6) Service performed by an individual in agricultural  
295 labor as defined in paragraph (15) (a) of this subsection when:

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

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

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

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

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

317 (ii) If such individual is not an employee of  
318 such other person within the meaning of subsection I(1).



319 (c) For the purpose of subsection I(6), in the  
320 case of any individual who is furnished by a crew leader to  
321 perform service in agricultural labor for any other person and who  
322 is not treated as an employee of such crew leader under paragraph  
323 (6)(b) of this subsection:

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

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

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

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

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

340 (iii) Has not entered into a written  
341 agreement with such other person under which such individual is  
342 designated as an employee of such other person.



343           (7) The term "employment" shall include domestic  
344 service in a private home, local college club or local chapter of  
345 a college fraternity or sorority performed for an employing unit  
346 which paid cash remuneration of One Thousand Dollars (\$1,000.00)  
347 or more in any calendar quarter in the current or the preceding  
348 calendar year to individuals employed in such domestic service.  
349 For the purpose of this subsection, the term "employment" does not  
350 apply to service performed as a "sitter" at a hospital in the  
351 employ of an individual.

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

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

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

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

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

364           (9) Services not covered under paragraph (8) of this  
365 subsection and performed entirely without this state, with respect  
366 to no part of which contributions are required and paid under an  
367 unemployment compensation law of any other state or of the federal



368 government, shall be deemed to be employment subject to this  
369 chapter if the individual performing such services is a resident  
370 of this state and the department approves the election of the  
371 employing unit for whom such services are performed that the  
372 entire service of such individual shall be deemed to be employment  
373 subject to this chapter.

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

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

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

383 (11) The services of an individual who is a citizen of  
384 the United States, performed outside the United States (except in  
385 Canada), in the employ of an American employer (other than service  
386 which is deemed "employment" under the provisions of paragraph  
387 (8), (9) or (10) of this subsection or the parallel provisions of  
388 another state's law), if:

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

391 (b) The employer has no place of business in the  
392 United States; but



393 (i) The employer is an individual who is a  
394 resident of this state; or

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

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

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

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

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

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

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

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

416 (12) All services performed by an officer or member of  
417 the crew of an American vessel on or in connection with such





418 vessel, if the operating office from which the operations of such  
419 vessel operating on navigable waters within, or within and  
420 without, the United States are ordinarily and regularly  
421 supervised, managed, directed and controlled, is within this  
422 state, notwithstanding the provisions of subsection I(8).

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

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

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

440 (a) Agricultural labor, except as provided in  
441 subsection I(6) of this section. The term "agricultural labor"  
442 includes all services performed:



443 (i) On a farm or in a forest in the employ of  
444 any employing unit in connection with cultivating the soil, in  
445 connection with cutting, planting, deadening, marking or otherwise  
446 improving timber, or in connection with raising or harvesting any  
447 agricultural or horticultural commodity, including the raising,  
448 shearing, feeding, caring for, training, and management of  
449 livestock, bees, poultry, fur-bearing animals and wildlife;

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

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

464 (iv) (A) In the employ of the operator of a  
465 farm in handling, planting, drying, packing, packaging,  
466 processing, freezing, grading, storing or delivering to storage or  
467 to market or to a carrier for transportation to market, in its



468 unmanufactured state, any agricultural or horticultural commodity;  
469 but only if such operator produced more than one-half (1/2) of the  
470 commodity with respect to which such service is performed;

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

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

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

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

491 (b) Domestic service in a private home, local  
492 college club, or local chapter of a college fraternity or



493 sorority, except as provided in subsection I(7) of this section,  
494 or service performed as a "sitter" at a hospital in the employ of  
495 an individual.

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

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

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



517 collected and shall be refunded by the department from the fund in  
518 accordance with the provisions of Section 71-5-383.

519 (f) Service performed in the employ of an  
520 "employer" as defined by the Railroad Unemployment Insurance Act,  
521 45 USCS Section 351(a), or as an "employee representative" as  
522 defined by the Railroad Unemployment Insurance Act, 45 USCS  
523 Section 351(f), and service with respect to which unemployment  
524 compensation is payable under an unemployment compensation system  
525 for maritime employees, or under any other unemployment  
526 compensation system established by an act of Congress; however,  
527 the department is authorized and directed to enter into agreements  
528 with the proper agencies under such act or acts of Congress, which  
529 agreements shall become effective ten (10) days after publication  
530 thereof in the manner provided in Section 71-5-117 for general  
531 rules, to provide reciprocal treatment to individuals who have,  
532 after acquiring potential rights to benefits under this chapter,  
533 acquired rights to unemployment compensation under such act or  
534 acts of Congress or who have, after acquiring potential rights to  
535 unemployment compensation under such act or acts of Congress,  
536 acquired rights to benefits under this chapter.

537 (g) Service performed in any calendar quarter in  
538 the employ of any organization exempt from income tax under the  
539 Internal Revenue Code, 26 USCS Section 501(a) (other than an  
540 organization described in 26 USCS Section 401(a)), or exempt from



541 income tax under 26 USCS Section 521 if the remuneration for such  
542 service is less than Fifty Dollars (\$50.00).

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

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

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

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

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

557 (i) Service performed by an individual under the  
558 age of twenty-two (22) who is enrolled at a nonprofit or public  
559 educational institution which normally maintains a regular faculty  
560 and curriculum and normally has a regularly organized body of  
561 students in attendance at the place where its educational  
562 activities are carried on, as a student in a full-time program  
563 taken for credit at such institution, which combines academic  
564 instruction with work experience, if such service is an integral  
565 part of such program and such institution has so certified to the



566 employer, except that this subparagraph shall not apply to service  
567 performed in a program established for or on behalf of an employer  
568 or group of employers.

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

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

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

583 (m) Service performed by an individual in the  
584 delivery or distribution of newspapers or shopping news, not  
585 including delivery or distribution to any point for subsequent  
586 delivery or distribution, except those employed by political  
587 subdivisions, state and local governments, nonprofit organizations  
588 and Indian tribes, as defined by this chapter, or any other  
589 entities for which coverage is required by federal statute and  
590 regulation.



591 (n) If the services performed during one-half  
592 (1/2) or more of any pay period by an employee for the employing  
593 unit employing him or her constitute employment, all the services  
594 of such employee for such period shall be deemed to be employment;  
595 but if the services performed during more than one-half (1/2) of  
596 any such pay period by an employee for the employing unit  
597 employing him or her do not constitute employment, then none of  
598 the services of such employee for such period shall be deemed to  
599 be employment. As used in this subsection, the term "pay period"  
600 means a period (of not more than thirty-one (31) consecutive days)  
601 for which a payment of remuneration is ordinarily made to the  
602 employee by the employing unit employing him or her.

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

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

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





616 sale of) consumer products in the home or otherwise than in a  
617 permanent retail establishment;

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

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

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

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

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

638 M. "Hospital" means an institution which has been licensed,  
639 certified, or approved by the State Department of Health as a  
640 hospital.



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

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

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

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

654 (4) Is a public or other nonprofit institution;

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

658 O. "Re-employment assistance" means money payments payable  
659 to an individual as provided in this chapter and in accordance  
660 with Section 3304(a)(4) and 3306(h) of the Federal Unemployment  
661 Tax Act and Section 303(a)(5) of the Social Security Act, with  
662 respect to his or her unemployment through no fault of his or her  
663 own. Wherever the terms "benefits" or "unemployment benefits"  
664 appear in this chapter, they shall mean re-employment assistance.



665 P. (1) "State" includes, in addition to the states of the  
666 United States of America, the District of Columbia, Commonwealth  
667 of Puerto Rico and the Virgin Islands.

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

671 (3) The provisions of paragraphs (1) and (2) of  
672 subsection P, as including the Virgin Islands, shall become  
673 effective on the day after the day on which the United States  
674 Secretary of Labor approves for the first time under Section  
675 3304(a) of the Internal Revenue Code of 1954 an unemployment  
676 compensation law submitted to the secretary by the Virgin Islands  
677 for such approval.

678 Q. "Unemployment."

679 (1) An individual shall be deemed "unemployed" in any  
680 week during which he or she performs no services and with respect  
681 to which no wages are payable to him or her, or in any week of  
682 less than full-time work if the wages payable to him or her with  
683 respect to such week are less than his or her weekly benefit  
684 amount as computed and adjusted in Section 71-5-505. This  
685 definition shall exclude individuals receiving voluntary payments  
686 from employers, from any source, that are in lieu of the worker's  
687 regular wages. However, individuals receiving voluntary payments  
688 of less than their set full weekly wage, as well as individuals  
689 who do not work a specified number of hours each week resulting in



690 inconsistent weekly wages, and who are receiving voluntary  
691 payments for partial wage substitution, may be considered  
692 "unemployed," but would be required to report the gross amount of  
693 the voluntary payments to be treated as wages so the appropriate  
694 deductions to the weekly benefit amount can be made. The  
695 department shall prescribe regulations applicable to unemployed  
696 individuals, making such distinctions in the procedure as to total  
697 unemployment, part-total unemployment, partial unemployment of  
698 individuals attached to their regular jobs, and other forms of  
699 short-time work, as the department deems necessary.

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

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

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

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

710 (c) There is no apparent permanent job separation;  
711 and

712 (d) The employee has received compensation equal  
713 to their standard compensation.



714           (4) If the individual, on official administrative  
715 leave, as designated by the employer, does not receive full  
716 compensation in line with his or her standard hours or salary, the  
717 individual may be eligible for unemployment insurance benefits as  
718 partially unemployed for the wages they are missing.

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

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

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

738                                   (i) Retirement, or



739 (ii) Sickness or accident disability, or  
740 (iii) Medical or hospitalization expenses in  
741 connection with sickness or actual disability, or  
742 (iv) Death, provided the employee:  
743 (A) Has not the option to receive,  
744 instead of provision for such death benefit, any part of such  
745 payment or, if such death benefit is insured, any part of the  
746 premiums (or contributions to premiums) paid by his or her  
747 employer, and  
748 (B) Has not the right, under the  
749 provisions of the plan or system or policy of insurance providing  
750 for such death benefit, to assign such benefit or to receive a  
751 cash consideration in lieu of such benefit, either upon his or her  
752 withdrawal from the plan or system providing for such benefit or  
753 upon termination of such plan or system or policy of insurance or  
754 of his or her employment with such employer;  
755 (b) Dismissal payments which the employer is not  
756 legally required to make;  
757 (c) Payment by an employer (without deduction from  
758 the remuneration of an employee) of the tax imposed by the  
759 Internal Revenue Code, 26 USCS Section 3101;  
760 (d) From and after January 1, 1992, the amount of  
761 any payment made to or on behalf of an employee for a "cafeteria"  
762 plan, which meets the following requirements:



763 (i) Qualifies under Section 125 of the  
764 Internal Revenue Code;  
765 (ii) Covers only employees;  
766 (iii) Covers only noncash benefits;  
767 (iv) Does not include deferred compensation  
768 plans.

769 (2) [Not enacted].

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

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

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

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

786 W. "Employee leasing firm" means any entity which provides  
787 specified duties for a client company such as payment of wages,



788 reporting of wages for unemployment insurance purposes, payment of  
789 unemployment insurance contributions and other administrative  
790 duties, in connection with the client's employees, that are  
791 directed and controlled by the client and that are providing  
792 ongoing services for the client.

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

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

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

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

811 71-5-365. If any employer fails to make and file any report  
812 as and when required by the terms and provisions of this chapter





813 or by any rule or regulation of the commission for the purpose of  
814 determining the amount of contributions due by him or her under  
815 this chapter, or if any report which has been filed is deemed by  
816 the executive director or his or her designee within the  
817 department to be incorrect or insufficient, and such employer,  
818 after having been given notice by the executive director or his or  
819 her designee within the department to file such report, or a  
820 corrected or sufficient report, as the case may be, shall fail to  
821 file such report within fifteen (15) days after the date of such  
822 notice, the executive director or his or her designee within the  
823 department may (a) determine the amount of contributions due from  
824 such noncompliant employer on the basis of \* \* \* the best  
825 information \* \* \* that may be readily available to \* \* \* the  
826 department, which \* \* \* determination shall be prima facie  
827 correct, (b) assess such noncompliant employer with the amount of  
828 contribution so determined as due, to which amount may be added  
829 and assessed by the executive director or his or her designee  
830 within the department in his or her discretion, as damages, in an  
831 amount equal to ten percent (10%) of \* \* \* the assessed amount,  
832 and (c) immediately give notice to such noncompliant employer of  
833 such determination, assessment, and \* \* \* penalties, if any, added  
834 and assessed, demanding payment of same together with interest, as  
835 herein provided, on the amount of contributions owed from the date  
836 when same were due and payable. Such determination and assessment  
837 by the executive director or his or her designee within the



838 department shall be final at the expiration of fifteen (15) days  
839 from the date of such notice thereof demanding payment, unless:

840 (a) Such employer shall have filed with the department  
841 a written protest and petition for a hearing, specifying his or  
842 her objections thereto. Upon receipt of such petition within the  
843 fifteen (15) days allowed, the department shall fix the time and  
844 place for a hearing and shall notify the petitioner thereof. At  
845 any hearing held before the department as herein provided,  
846 evidence may be offered to support such determination and  
847 assessment or to prove that it is incorrect, and the commission  
848 shall have all the power provided in Sections 71-5-137 and  
849 71-5-139. Immediately after such hearing a final decision in the  
850 matter shall be made by the commission, and any contributions or  
851 deficiencies in contributions found and determined by the  
852 commission to be due shall be assessed and paid, together with  
853 interest, within fifteen (15) days after notice of such final  
854 decision and assessment, and demand for payment thereof by the  
855 department shall have been sent to such employer.

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

860 Sixty (60) days after the due date of the contributions,  
861 together with interest and damages, or upon issuance of a warrant,  
862 whichever occurs first, the department, in its discretion, may



863 assess an additional sum not exceeding one hundred percent (100%)  
864 of the amount of the unpaid contributions due as \* \* \* penalties  
865 for failure to pay.

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

868 71-5-363. (1) Contributions unpaid on the date on which  
869 they are due and payable shall bear interest at the rate of one  
870 percent (1%) per month from and after such date until payment plus  
871 accrued interest is received by the \* \* \* department, provided  
872 that the \* \* \* department may prescribe fair and reasonable  
873 general rules pursuant to which such interest shall not accrue  
874 during the first calendar year that any employer is subject to  
875 this chapter. Interest collected pursuant to this section shall be  
876 paid into the Special Employment Security Administration Fund  
877 established by Section 71-5-114.

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

885 **SECTION 4.** Section 71-5-389, Mississippi Code of 1972, is  
886 amended as follows:



887           71-5-389. (1) For the purposes of this section, the  
888 following terms shall have the respective meanings ascribed by  
889 this section:

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

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

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

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

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

910           (f) "Treasury" means the United States Department of  
911 the Treasury.



912 (2) The collection remedy authorized by this section is in  
913 addition to and is not substitution for any other remedy available  
914 by law.

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

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

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

931 (b) If a debtor identified by a claimant agency is  
932 determined by the department and/or Treasury to be entitled to a  
933 refund of at least Twenty-five Dollars (\$25.00), the department  
934 and/or Treasury, if applicable, shall transfer an amount equal to  
935 the refund owed, not to exceed the amount of the claimed debt  
936 certified, to the claimant agency. The Department of Revenue



937 and/or Treasury, if applicable, shall send the excess amount to  
938 the debtor within a reasonable time after such excess is  
939 determined. At the time of the transfer of funds to a claimant  
940 agency pursuant to this paragraph (b), the Department of Revenue  
941 and/or Treasury, if applicable, shall notify the taxpayer or  
942 taxpayers whose refund is sought to be set off that the transfer  
943 has been made. Such notice shall clearly set forth the name of  
944 the debtor, the manner in which the debt arose, the amount of the  
945 claimed debt, the transfer of funds to the claimant agency  
946 pursuant to this paragraph (b) and the intention to set off the  
947 refund against the debt, the amount of the refund in excess of the  
948 claimed debt, the taxpayer's opportunity to give written notice to  
949 contest the setoff within thirty (30) days of the date of mailing  
950 of the notice, the name and mailing address of the claimant agency  
951 to which the application for such a hearing must be sent, and the  
952 fact that the failure to apply for such a hearing, in writing,  
953 within the thirty-day period will be deemed a waiver of the  
954 opportunity to contest the setoff. In the case of a joint return  
955 or a joint refund, the notice shall also state the name of the  
956 taxpayer named in the return, if any, against whom no debt is  
957 claimed, the fact that a debt is not claimed against such  
958 taxpayer, the fact that such taxpayer is entitled to receive a  
959 refund if it is due him or her regardless of the debt asserted  
960 against his or her spouse, and that in order to obtain a refund  
961 due him or her such taxpayer must apply in writing for a hearing



962 with the claimant agency named in the notice within thirty (30)  
963 days of the date of the mailing of the notice. If a taxpayer  
964 fails to apply in writing for such a hearing within thirty (30)  
965 days of the mailing of such notice, he or she will have waived his  
966 or her opportunity to contest the setoff.

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

972 (d) The claimant agency shall pay the Department of  
973 Revenue and/or Treasury a fee, not to exceed Seventeen Dollars  
974 (\$17.00) in each case in which a tax refund is identified as being  
975 available for offset. Such fees shall be deposited by the  
976 Department of Revenue into a special fund hereby created in the  
977 State Treasury, out of which the Legislature shall appropriate  
978 monies to defray expenses of the Department of Revenue in  
979 employing personnel to administer the provisions of this section.

980 (5) (a) When the claimant agency receives a protest or an  
981 application in writing from a taxpayer within thirty (30) days of  
982 the notice issued by the Department of Revenue and/or Treasury,  
983 the claimant agency shall set a date to hear the protest and give  
984 notice to the taxpayer through the United States Postal Service or  
985 electronic digital transfer of the date so set. The time and  
986 place of such hearing shall be designated in such notice and the



987 date set shall not be less than fifteen (15) days from the date of  
988 such notice. If, at the hearing, the sum asserted as due and  
989 owing is found not to be correct, an adjustment to the claim may  
990 be made. The claimant agency shall give notice to the debtor of  
991 its final determination as provided in paragraph (c) of this  
992 subsection.

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

995 (c) If any debtor is dissatisfied with the final  
996 determination made at the hearing by the claimant agency, he or  
997 she may appeal the final determination to the circuit court of the  
998 county in which the main office of the claimant agency is located  
999 by filing notice of appeal with the administrative head of the  
1000 claimant agency and with the clerk of the circuit court of the  
1001 county in which the appeal shall be taken within thirty (30) days  
1002 from the date the notice of final determination was given by the  
1003 claimant agency.

1004 (6) (a) Upon final determination of the amount of the debt  
1005 due and owing by means of hearing or by the taxpayer's default  
1006 through failure to comply with timely request for review, the  
1007 claimant agency shall remove the amount of the debt due and owing  
1008 from the escrow account and credit such amount to the debtor's  
1009 obligation.

1010 (b) Upon transfer of the debt due and owing from the  
1011 escrow account to the credit of the debtor's account, the claimant





1012 agency shall notify the debtor in writing of the finalization of  
1013 the setoff. Such notice shall include a final accounting if the  
1014 refund which was set off, including the amount of the refund to  
1015 which the debtor was entitled \* \* \* before the setoff, the amount  
1016 of the debt due and owing, the amount of the collection fee paid  
1017 to the Department of Revenue and/or Treasury, the amount of the  
1018 refund in excess of the debt which was returned to the debtor by  
1019 the Department of Revenue and/or Treasury, and the amount of the  
1020 funds transferred to the claimant agency in excess of the debt  
1021 determined to be due and owing at a hearing, if such a hearing was  
1022 held. At such time, the claimant agency shall refund to the  
1023 debtor the amount of the claimed debt originally certified and  
1024 transferred to it by the Department of Revenue in excess of the  
1025 amount of debt finally found to be due and owing.

1026 (7) (a) Notwithstanding the provision that prohibits  
1027 disclosure by the Department of Revenue and/or Treasury of the  
1028 contents of taxpayer records or information and notwithstanding  
1029 any other confidentiality statute, the Department of Revenue  
1030 and/or Treasury may provide to a claimant agency all information  
1031 necessary to accomplish and effectuate the intent of the section.

1032 (b) The information obtained by claimant agency from  
1033 the Department of Revenue and/or Treasury in accordance with the  
1034 provisions of this section shall retain its confidentiality and  
1035 shall only be used by a claimant agency in the pursuit of its debt  
1036 collection duties and practices; and any employee or prior



1037 employee of any claimant agency who unlawfully discloses any such  
1038 information for any other purpose, except as specifically  
1039 authorized by law, shall be subject to the same penalties  
1040 specified by law for unauthorized confidential information by an  
1041 agent or employee of the Department of Revenue and/or Treasury.

1042 **SECTION 5.** Section 71-5-355, Mississippi Code of 1972, is  
1043 amended as follows:

1044 71-5-355. (1) As used in this section, the following words  
1045 and phrases shall have the following meanings, unless the context  
1046 clearly requires otherwise:

1047 (a) "Tax year" means any period beginning on January 1  
1048 and ending on December 31 of a year.

1049 (b) "Computation date" means June 30 of any calendar  
1050 year immediately preceding the tax year during which the  
1051 particular contribution rates are effective.

1052 (c) "Effective date" means January 1 of the tax year.

1053 (d) Except as hereinafter provided, "payroll" means the  
1054 total of all wages paid for employment by an employer as defined  
1055 in Section 71-5-11, subsection H, plus the total of all  
1056 remuneration paid by such employer excluded from the definition of  
1057 wages by Section 71-5-351. For the computation of modified rates,  
1058 "payroll" means the total of all wages paid for employment by an  
1059 employer as defined in Section 71-5-11, subsection H.

1060 (e) For the computation of modified rates, "eligible  
1061 employer" means an employer whose experience-rating record has



1062 been chargeable with benefits throughout the thirty-six (36)  
1063 consecutive calendar-month period ending on the computation date,  
1064 except that any employer who has not been subject to the  
1065 Mississippi Employment Security Law for a period of time  
1066 sufficient to meet the thirty-six (36) consecutive calendar-month  
1067 requirement shall be an eligible employer if his or her  
1068 experience-rating record has been chargeable throughout not less  
1069 than the twelve (12) consecutive calendar-month period ending on  
1070 the computation date. No employer shall be considered eligible  
1071 for a contribution rate less than five and four-tenths percent  
1072 (5.4%) with respect to any tax year, who has failed to file any  
1073 two (2) quarterly reports within the qualifying period by  
1074 September 30 following the computation date. No employer or  
1075 employing unit shall be eligible for a contribution rate of less  
1076 than five and four-tenths percent (5.4%) for the tax year in which  
1077 the employing unit is found by the department to be in violation  
1078 of Section 71-5-19(2) or (3) and for the next two (2) succeeding  
1079 tax years. No representative of such employing unit who was a  
1080 party to a violation as described in Section 71-5-19(2) or (3), if  
1081 such representative was or is an employing unit in this state,  
1082 shall be eligible for a contribution rate of less than five and  
1083 four-tenths percent (5.4%) for the tax year in which such  
1084 violation was detected by the department and for the next two (2)  
1085 succeeding tax years.



1086 (f) With respect to any tax year, "reserve ratio" means  
1087 the ratio which the total amount available for the payment of  
1088 benefits in the Unemployment Compensation Fund, excluding any  
1089 amount which has been credited to the account of this state under  
1090 Section 903 of the Social Security Act, as amended, and which has  
1091 been appropriated for the expenses of administration pursuant to  
1092 Section 71-5-457 whether or not withdrawn from such account, on  
1093 October 31 (close of business) of each calendar year bears to the  
1094 aggregate of the taxable payrolls of all employers for the twelve  
1095 (12) calendar months ending on June 30 next preceding.

1096 (g) "Modified rates" means the rates of employer  
1097 unemployment insurance contributions determined under the  
1098 provisions of this chapter and the rates of newly subject  
1099 employers, as provided in Section 71-5-353.

1100 (h) For the computation of modified rates, "qualifying  
1101 period" means a period of not less than the thirty-six (36)  
1102 consecutive calendar months ending on the computation date  
1103 throughout which an employer's experience-rating record has been  
1104 chargeable with benefits; except that with respect to any eligible  
1105 employer who has not been subject to this article for a period of  
1106 time sufficient to meet the thirty-six (36) consecutive  
1107 calendar-month requirement, "qualifying period" means the period  
1108 ending on the computation date throughout which his or her  
1109 experience-rating record has been chargeable with benefits, but in  
1110 no event less than the twelve (12) consecutive calendar-month



1111 period ending on the computation date throughout which his or her  
1112 experience-rating record has been so chargeable.

1113 (i) The "exposure criterion" (EC) is defined as the  
1114 cash balance of the Unemployment Compensation Fund which is  
1115 available for the payment of benefits as of November 16 of each  
1116 calendar year or the next working day if November 16 falls on a  
1117 holiday or a weekend, divided by the total wages, exclusive of  
1118 wages paid by all state agencies, all political subdivisions,  
1119 reimbursable nonprofit corporations, and tax-exempt public service  
1120 employment, for the twelve-month period ending June 30 immediately  
1121 preceding such date. The EC shall be computed to four (4) decimal  
1122 places and rounded up if any fraction remains.

1123 (j) The "cost rate criterion" (CRC) is defined as  
1124 follows: Beginning with January 1974, the benefits paid for the  
1125 twelve-month period ending December 1974 are summed and divided by  
1126 the total wages for the twelve-month period ending on June 30,  
1127 1975. Similar ratios are computed by subtracting the earliest  
1128 month's benefit payments and adding the benefits of the next month  
1129 in the sequence and dividing each sum of twelve (12) months'  
1130 benefits by the total wages for the twelve-month period ending on  
1131 the June 30 which is nearest to the final month of the period used  
1132 to compute the numerator. If December is the final month of the  
1133 period used to compute the numerator, then the twelve-month period  
1134 ending the following June 30 will be used for the denominator.  
1135 Benefits and total wages used in the computation of the cost rate



1136 criterion shall exclude all benefits and total wages applicable to  
1137 state agencies, political subdivisions, reimbursable nonprofit  
1138 corporations, and tax-exempt PSE employment.

1139         The CRC shall be computed as the average for the highest  
1140 monthly value of the cost rate criterion computations during each  
1141 of the economic cycles since the calendar year 1974 as defined by  
1142 the National Bureau of Economic Research. The CRC shall be  
1143 computed to four (4) decimal places and any remainder shall be  
1144 rounded up.

1145         The CRC shall be adjusted only through annual computations  
1146 and additions of future economic cycles.

1147         (k) "Size of fund index" (SOFI) is defined as the ratio  
1148 of the exposure criterion (EC) to the cost rate criterion (CRC).  
1149 The target size of fund index will be fixed at 1.0. If the  
1150 insured unemployment rate (IUR) exceeds a four and five-tenths  
1151 percent (4.5%) average for the most recent completed July to June  
1152 period, the target SOFI will be .8 and will remain at that level  
1153 until the computed SOFI (the average exposure criterion of the  
1154 current year and the preceding year divided by the average cost  
1155 rate criterion) equals 1.0 or the average IUR falls to four and  
1156 five-tenths percent (4.5%) or less for any period July to June.  
1157 However, if the IUR falls below two and five-tenths percent (2.5%)  
1158 for any period July to June the target SOFI shall be 1.2 until  
1159 such time as the computed SOFI is equal to or greater than 1.0 or



1160 the IUR is equal to or greater than two and five-tenths percent  
1161 (2.5%), at which point the target SOFI shall return to 1.0.

1162 (1) No employer's unemployment contribution general  
1163 experience rate plus individual unemployment experience rate shall  
1164 exceed five and four-tenths percent (5.4%). Accrual rules shall  
1165 apply for purposes of computing contribution rates including  
1166 associated functions.

1167 (m) The term "general experience rate" has the same  
1168 meaning as the minimum tax rate.

1169 (2) Modified rates:

1170 (a) For any tax year, when the reserve ratio on the  
1171 preceding November 16, in the case of any tax year, equals or  
1172 exceeds three percent (3%), the modified rates, as hereinafter  
1173 prescribed, shall be in effect. In computation of this reserve  
1174 ratio, any remainder shall be rounded down.

1175 (b) Modified rates shall be determined for the tax year  
1176 for each eligible employer on the basis of his or her  
1177 experience-rating record in the following manner:

1178 (i) The department shall maintain an  
1179 experience-rating record for each employer. Nothing in this  
1180 chapter shall be construed to grant any employer or individuals  
1181 performing services for him or her any prior claim or rights to  
1182 the amounts paid by the employer into the fund.

1183 (ii) Benefits paid to an eligible individual shall  
1184 be charged against the experience-rating record of his or her base



1185 period employers in the proportion to which the wages paid by each  
1186 base period employer bears to the total wages paid to the  
1187 individual by all the base period employers, provided that  
1188 benefits shall not be charged to an employer's experience-rating  
1189 record if the department finds that the individual:

1190                   1. Voluntarily left the employ of such  
1191 employer without good cause attributable to the employer or to  
1192 accept other work;

1193                   2. Was discharged by such employer for  
1194 misconduct connected with his or her work;

1195                   3. Refused an offer of suitable work by such  
1196 employer without good cause, and the department further finds that  
1197 such benefits are based on wages for employment for such employer  
1198 prior to such voluntary leaving, discharge or refusal of suitable  
1199 work, as the case may be;

1200                   4. Had base period wages which included wages  
1201 for previously uncovered services as defined in Section  
1202 71-5-511(e) to the extent that the Unemployment Compensation Fund  
1203 is reimbursed for such benefits pursuant to Section 121 of Public  
1204 Law 94-566;

1205                   5. Extended benefits paid under the  
1206 provisions of Section 71-5-541 which are not reimbursable from  
1207 federal funds shall be charged to the experience-rating record of  
1208 base period employers;





1209                   6. Is still working for such employer on a  
1210 regular part-time basis under the same employment conditions as  
1211 hired. Provided, however, that benefits shall be charged against  
1212 an employer if an eligible individual is paid benefits who is  
1213 still working for such employer on a part-time "as-needed" basis;

1214                   7. Was hired to replace a United States  
1215 serviceman or servicewoman called into active duty and was laid  
1216 off upon the return to work by that serviceman or servicewoman,  
1217 unless such employer is a state agency or other political  
1218 subdivision or instrumentality of the state;

1219                   8. Was paid benefits during any week while in  
1220 training with the approval of the department, under the provisions  
1221 of Section 71-5-513B, or for any week while in training approved  
1222 under Section 236(a)(1) of the Trade Act of 1974, under the  
1223 provisions of Section 71-5-513C;

1224                   9. Is not required to serve the one-week  
1225 waiting period as described in Section 71-5-505(2). In that  
1226 event, only the benefits paid in lieu of the waiting period week  
1227 may be noncharged; or

1228                   10. Was paid benefits as a result of a  
1229 fraudulent claim, provided notification was made to the  
1230 Mississippi Department of Employment Security in writing or by  
1231 email by the employer, within ten (10) days of the mailing of the  
1232 notice of claim filed to the employer's last-known address.



1233 (iii) Notwithstanding any other provision  
1234 contained herein, an employer shall not be noncharged when the  
1235 department finds that the employer or the employer's agent of  
1236 record was at fault for failing to respond timely or adequately to  
1237 the request of the department for information relating to an  
1238 unemployment claim that was subsequently determined to be  
1239 improperly paid, unless the employer or the employer's agent of  
1240 record shows good cause for having failed to respond timely or  
1241 adequately to the request of the department for information. For  
1242 purposes of this subparagraph "good cause" means an event that  
1243 prevents the employer or employer's agent of record from timely  
1244 responding, and includes a natural disaster, emergency or similar  
1245 event, or an illness on the part of the employer, the employer's  
1246 agent of record, or their staff charged with responding to such  
1247 inquiries when there is no other individual who has the knowledge  
1248 or ability to respond. Any agency error that resulted in a delay  
1249 in, or the failure to deliver notice to, the employer or the  
1250 employer's agent of record shall also be considered good cause for  
1251 purposes of this subparagraph.

1252 (iv) The department shall compute a benefit ratio  
1253 for each eligible employer, which shall be the quotient obtained  
1254 by dividing the total benefits charged to his or her  
1255 experience-rating record during the period his or her  
1256 experience-rating record has been chargeable, but not less than  
1257 the twelve (12) consecutive calendar-month period nor more than



1258 the thirty-six (36) consecutive calendar-month period ending on  
1259 the computation date, by his or her total taxable payroll for the  
1260 same period on which all unemployment insurance contributions due  
1261 have been paid on or before the September 30 immediately following  
1262 the computation date. Such benefit ratio shall be computed to the  
1263 tenth of a percent (.1%), rounding any remainder to the next  
1264 higher tenth.

1265 (v) 1. The unemployment insurance contribution  
1266 rate for each eligible employer shall be the sum of two (2) rates:  
1267 his or her individual experience rate in the range from zero  
1268 percent (0%) to five and four-tenths percent (5.4%), plus a  
1269 general experience rate. In no event shall the resulting  
1270 unemployment insurance rate be in excess of five and four-tenths  
1271 percent (5.4%), however, it is the intent of this section to  
1272 provide the ability for employers to have a tax rate, the general  
1273 experience rate plus the individual experience rate, of up to five  
1274 and four-tenths percent (5.4%).

1275 2. The employer's individual experience rate  
1276 shall be equal to his or her benefit ratio as computed under  
1277 subsection (2) (b) (iv) above.

1278 3. The general experience rate shall be  
1279 determined in the following manner: The department shall  
1280 determine annually, for the thirty-six (36) consecutive  
1281 calendar-month period ending on the computation date, the amount  
1282 of benefits which were not charged to the record of any employer



1283 and of benefits which were ineffectively charged to the employer's  
1284 experience-rating record. For the purposes of this item 3, the  
1285 term "ineffectively charged benefits" shall include:

1286           a. The total of the amounts of benefits  
1287 charged to the experience-rating records of all eligible employers  
1288 which caused their benefit ratios to exceed five and four-tenths  
1289 percent (5.4%);

1290           b. The total of the amounts of benefits  
1291 charged to the experience-rating records of all ineligible  
1292 employers which would cause their benefit ratios to exceed five  
1293 and four-tenths percent (5.4%) if they were eligible employers;  
1294 and

1295           c. The total of the amounts of benefits  
1296 charged or chargeable to the experience-rating record of any  
1297 employer who has discontinued his or her business or whose  
1298 coverage has been terminated within such period; provided, that  
1299 solely for the purposes of determining the amounts of  
1300 ineffectively charged benefits as herein defined, a "benefit  
1301 ratio" shall be computed for each ineligible employer, which shall  
1302 be the quotient obtained by dividing the total benefits charged to  
1303 his or her experience-rating record throughout the period ending  
1304 on the computation date, during which his or her experience-rating  
1305 record has been chargeable with benefits, by his or her total  
1306 taxable payroll for the same period on which all unemployment  
1307 insurance contributions due have been paid on or before the



1308 September 30 immediately following the computation date; and  
1309 provided further, that such benefit ratio shall be computed to the  
1310 tenth of one percent (.1%) and any remainder shall be rounded to  
1311 the next higher tenth.

1312 The ratio of the sum of these amounts (subsection  
1313 (2) (b) (v) 3a, b and c) to the taxable wages paid during the same  
1314 period divided by all eligible employers whose benefit ratio did  
1315 not exceed five and four-tenths percent (5.4%), computed to the  
1316 next higher tenth of one percent (.1%), shall be the general  
1317 experience rate; however, the general experience rate for rate  
1318 year 2014 shall be two tenths of one percent (.2%) and to that  
1319 will be added the employer's individual experience rate for the  
1320 total unemployment insurance rate.

1321 4. a. Except as otherwise provided in this  
1322 item 4, the general experience rate shall be adjusted by use of  
1323 the size of fund index factor. This factor may be positive or  
1324 negative, and shall be determined as follows: From the target  
1325 SOFI, as defined in subsection (1) (k) of this section, subtract  
1326 the simple average of the current and preceding years' exposure  
1327 criteria divided by the cost rate criterion, as defined in  
1328 subsection (1) (j) of this section. The result is then multiplied  
1329 by the product of the CRC, as defined in subsection (1) (j) of this  
1330 section, and total wages for the twelve-month period ending June  
1331 30 divided by the taxable wages for the twelve-month period ending  
1332 June 30. This is the percentage positive or negative added to the



1333 general experience rate. The sum of the general experience rate  
1334 and the trust fund adjustment factor shall be multiplied by fifty  
1335 percent (50%) and this product shall be computed to one (1)  
1336 decimal place, and rounded to the next higher tenth.

1337                   b. Notwithstanding the minimum rate  
1338 provisions as set forth in subsection (1)(1) of this section, the  
1339 general experience rate of all employers shall be reduced by seven  
1340 one-hundredths of one percent (.07%) for calendar year 2013 only.

1341                   5. The general experience rate shall be zero  
1342 percent (0%) unless the general experience ratio for any tax year  
1343 as computed and adjusted on the basis of the trust fund adjustment  
1344 factor and reduced by fifty percent (50%) is an amount equal to or  
1345 greater than two-tenths of one percent (.2%), then the general  
1346 experience rate shall be the computed general experience ratio and  
1347 adjusted on the basis of the trust fund adjustment factor and  
1348 reduced by fifty percent (50%); however, in no case shall the sum  
1349 of the general experience plus the individual experience  
1350 unemployment insurance rate exceed five and four-tenths percent  
1351 (5.4%). For rate years subsequent to 2014, Mississippi Workforce  
1352 Enhancement Training contribution rate, and/or State Workforce  
1353 Investment contribution rate, and/or Mississippi Works  
1354 contribution rate, when in effect, shall be added to the  
1355 unemployment contribution rate, regardless of whether the addition  
1356 of this contribution rate causes the total contribution rate for  
1357 the employer to exceed five and four-tenths percent (5.4%).



1358                   6. The department shall include in its annual  
1359 rate notice to employers a brief explanation of the elements of  
1360 the general experience rate, and shall include in its regular  
1361 publications an annual analysis of benefits not charged to the  
1362 record of any employer, and of the benefit experience of employers  
1363 by industry group whose benefit ratio exceeds four percent (4%),  
1364 and of any other factors which may affect the size of the general  
1365 experience rate.

1366                   7. Notwithstanding any other provision  
1367 contained herein, the general experience rate for calendar year  
1368 2021 shall be zero percent (0%). Charges attributed to each  
1369 employer's individual experience rate for the period March 8,  
1370 2020, through June 30, 2020, will not impact the employer's  
1371 individual experience rate calculations for purposes of  
1372 calculating the total unemployment insurance rate for 2021 and the  
1373 two (2) subsequent tax rate years. Moreover, charges attributed  
1374 to each employer's individual experience rate for the period July  
1375 1, 2020, through December 31, 2020, will not impact the employer's  
1376 individual experience rate calculations for purposes of  
1377 calculating the total unemployment insurance rate for 2022 and the  
1378 two (2) subsequent tax rate years.

1379                   (vi) When any employing unit in any manner  
1380 succeeds to or acquires the organization, trade, business or  
1381 substantially all the assets thereof of an employer, excepting any  
1382 assets retained by such employer incident to the liquidation of



1383 his or her obligations, whether or not such acquiring employing  
1384 unit was an employer within the meaning of Section 71-5-11,  
1385 subsection H, prior to such acquisition, and continues such  
1386 organization, trade or business, the experience-rating and payroll  
1387 records of the predecessor employer shall be transferred as of the  
1388 date of acquisition to the successor employer for the purpose of  
1389 rate determination.

1390 (vii) When any employing unit succeeds to or  
1391 acquires a distinct and severable portion of an organization,  
1392 trade or business, the experience-rating and payroll records of  
1393 such portion, if separately identifiable, shall be transferred to  
1394 the successor upon:

1395 1. The mutual consent of the predecessor and  
1396 the successor;

1397 2. Approval of the department;

1398 3. Continued operation of the transferred  
1399 portion by the successor after transfer; and

1400 4. The execution and the filing with the  
1401 department by the predecessor employer of a waiver relinquishing  
1402 all rights to have the experience-rating and payroll records of  
1403 the transferred portion used for the purpose of determining  
1404 modified rates of contribution for such predecessor.

1405 (viii) If the successor was an employer subject to  
1406 this chapter prior to the date of acquisition, it shall continue  
1407 to pay unemployment insurance contributions at the rate applicable





1408 to it from the date the acquisition occurred until the end of the  
1409 then current tax year. If the successor was not an employer prior  
1410 to the date of acquisition, it shall pay unemployment insurance  
1411 contributions at the rate applicable to the predecessor or, if  
1412 more than one (1) predecessor and the same rate is applicable to  
1413 both, the rate applicable to the predecessor or predecessors, from  
1414 the date the acquisition occurred until the end of the then  
1415 current tax year. If the successor was not an employer prior to  
1416 the date the acquisition occurred and simultaneously acquires the  
1417 businesses of two (2) or more employers to whom different rates of  
1418 unemployment insurance contributions are applicable, it shall pay  
1419 unemployment insurance contributions from the date of the  
1420 acquisition until the end of the current tax year at a rate  
1421 computed on the basis of the combined experience-rating and  
1422 payroll records of the predecessors as of the computation date for  
1423 such tax year. In all cases the rate of unemployment insurance  
1424 contributions applicable to such successor for each succeeding tax  
1425 year shall be computed on the basis of the combined  
1426 experience-rating and payroll records of the successor and the  
1427 predecessor or predecessors.

1428 (ix) The department shall notify each employer  
1429 quarterly of the benefits paid and charged to his or her  
1430 experience-rating record; and such notification, in the absence of  
1431 an application for redetermination filed within thirty (30) days  
1432 after the date of such notice, shall be final, conclusive and



1433 binding upon the employer for all purposes. A redetermination,  
1434 made after notice and opportunity for a fair hearing, by a hearing  
1435 officer designated by the department who shall consider and decide  
1436 these and related applications and protests; and the finding of  
1437 fact in connection therewith may be introduced into any subsequent  
1438 administrative or judicial proceedings involving the determination  
1439 of the rate of unemployment insurance contributions of any  
1440 employer for any tax year, and shall be entitled to the same  
1441 finality as is provided in this subsection with respect to the  
1442 findings of fact in proceedings to redetermine the contribution  
1443 rate of an employer.

1444 (x) The department shall notify each employer of  
1445 his or her rate of contribution as determined for any tax year as  
1446 soon as reasonably possible after September 1 of the preceding  
1447 year. Such determination shall be final, conclusive and binding  
1448 upon such employer unless, within thirty (30) days after the date  
1449 of such notice to his or her last-known address, the employer  
1450 files with the department an application for review and  
1451 redetermination of his or her contribution rate, setting forth his  
1452 or her reasons therefor. If the department grants such review,  
1453 the employer shall be promptly notified thereof and shall be  
1454 afforded an opportunity for a fair hearing by a hearing officer  
1455 designated by the department who shall consider and decide these  
1456 and related applications and protests; but no employer shall be  
1457 allowed, in any proceeding involving his or her rate of



1458 unemployment insurance contributions or contribution liability, to  
1459 contest the chargeability to his or her account of any benefits  
1460 paid in accordance with a determination, redetermination or  
1461 decision pursuant to Sections 71-5-515 through 71-5-533 except  
1462 upon the ground that the services on the basis of which such  
1463 benefits were found to be chargeable did not constitute services  
1464 performed in employment for him or her, and then only in the event  
1465 that he or she was not a party to such determination,  
1466 redetermination, decision or to any other proceedings provided in  
1467 this chapter in which the character of such services was  
1468 determined. The employer shall be promptly notified of the denial  
1469 of this application or of the redetermination, both of which shall  
1470 become final unless, within ten (10) days after the date of notice  
1471 thereof, there shall be an appeal to the department itself. Any  
1472 such appeal shall be on the record before said designated hearing  
1473 officer, and the decision of said department shall become final  
1474 unless, within thirty (30) days after the date of notice thereof  
1475 to the employer's last-known address, there shall be an appeal to  
1476 the Circuit Court of the First Judicial District of Hinds County,  
1477 Mississippi, in accordance with the provisions of law with respect  
1478 to review of civil causes by certiorari.

1479 (3) Notwithstanding any other provision of law, the  
1480 following shall apply regarding assignment of rates and transfers  
1481 of experience:



1482           (a) (i) If an employer transfers its trade or  
1483 business, or a portion thereof, to another employer and, at the  
1484 time of the transfer, there is substantially common ownership,  
1485 management or control of the two (2) employers, then the  
1486 unemployment experience attributable to the transferred trade or  
1487 business shall be transferred to the employer to whom such  
1488 business is so transferred. The rates of both employers shall be  
1489 recalculated and made effective on January 1 of the year following  
1490 the year the transfer occurred.

1491           (ii) If, following a transfer of experience under  
1492 subparagraph (i) of this paragraph (a), the department determines  
1493 that a substantial purpose of the transfer of trade or business  
1494 was to obtain a reduced liability of unemployment insurance  
1495 contributions, then the experience-rating accounts of the  
1496 employers involved shall be combined into a single account and a  
1497 single rate assigned to such account.

1498           (b) Whenever a person who is not an employer or an  
1499 employing unit under this chapter at the time it acquires the  
1500 trade or business of an employer, the unemployment experience of  
1501 the acquired business shall not be transferred to such person if  
1502 the department finds that such person acquired the business solely  
1503 or primarily for the purpose of obtaining a lower rate of  
1504 unemployment insurance contributions. Instead, such person shall  
1505 be assigned the new employer rate under Section 71-5-353; unless  
1506 assignment of the new employer rate results in an increase of less



1507 than two percent (2%) in which case such person would be assigned  
1508 the new employer rate plus an additional two percent (2%) penalty  
1509 for the rate year. In determining whether the business was  
1510 acquired solely or primarily for the purpose of obtaining a lower  
1511 rate of unemployment insurance contributions, the department shall  
1512 use objective factors which may include the cost of acquiring the  
1513 business, whether the person continued the business enterprise of  
1514 the acquired business, how long such business enterprise was  
1515 continued, or whether a substantial number of new employees were  
1516 hired for performance of duties unrelated to the business activity  
1517 conducted prior to acquisition.

1518 (c) (i) If a person knowingly violates or attempts to  
1519 violate paragraph (a) or (b) of this subsection or any other  
1520 provision of this chapter related to determining the assignment of  
1521 a contribution rate, or if a person knowingly advises another  
1522 person in a way that results in a violation of such provision, the  
1523 person shall be subject to the following penalties:

1524 1. If the person is an employer, then such  
1525 employer shall be assigned the highest rate assignable under this  
1526 chapter for the rate year during which such violation or attempted  
1527 violation occurred and the three (3) rate years immediately  
1528 following this rate year. However, if the person's business is  
1529 already at such highest rate for any year, or if the amount of  
1530 increase in the person's rate would be less than two percent (2%)  
1531 for such year, then \* \* \* the person's tax rate shall be increased



1532 by two percent (2%) for such year. The penalty rate will apply to  
1533 the successor business as well as the related entity from which  
1534 the employees were transferred in an effort to obtain a lower rate  
1535 of unemployment insurance contributions.

1536                   2. If the person is not an employer, such  
1537 person shall be subject to a civil money penalty of not more than  
1538 Five Thousand Dollars (\$5,000.00). Each such transaction for  
1539 which advice was given and each occurrence or reoccurrence after  
1540 notification being given by the department shall be a separate  
1541 offense and punishable by a separate penalty. Any such fine shall  
1542 be deposited in the penalty and interest account established under  
1543 Section 71-5-114.

1544                   (ii) For purposes of this paragraph (c), the term  
1545 "knowingly" means having actual knowledge of or acting with  
1546 deliberate ignorance or reckless disregard for the prohibition  
1547 involved.

1548                   (iii) For purposes of this paragraph (c), the term  
1549 "violates or attempts to violate" includes, but is not limited to,  
1550 intent to evade, misrepresentation or willful nondisclosure.

1551                   (iv) In addition to the penalty imposed by  
1552 subparagraph (i) of this paragraph (c), any violation of this  
1553 subsection may be punishable by a fine of not more than Ten  
1554 Thousand Dollars (\$10,000.00) or by imprisonment for not more than  
1555 five (5) years, or by both such fine and imprisonment. This



1556 subsection shall prohibit prosecution under any other criminal  
1557 statute of this state.

1558 (d) The department shall establish procedures to  
1559 identify the transfer or acquisition of a business for purposes of  
1560 this subsection.

1561 (e) For purposes of this subsection:

1562 (i) "Person" has the meaning given such term by  
1563 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

1564 (ii) "Employing unit" has the meaning as set forth  
1565 in Section 71-5-11.

1566 (f) This subsection shall be interpreted and applied in  
1567 such a manner as to meet the minimum requirements contained in any  
1568 guidance or regulations issued by the United States Department of  
1569 Labor.

1570 **SECTION 6.** The provisions of Sections 6 through 12 of this  
1571 act shall be known as the "Comprehensive Career and Technical  
1572 Education Reform" or "CCATER" Act.

1573 **SECTION 7.** Section 37-15-38, Mississippi Code of 1972, is  
1574 brought forward as follows:

1575 37-15-38. (1) The following phrases have the meanings  
1576 ascribed in this section unless the context clearly requires  
1577 otherwise:

1578 (a) A dual enrolled student is a student who is  
1579 enrolled in a community or junior college or state institution of  
1580 higher learning while enrolled in high school.



1581           (b) A dual credit student is a student who is enrolled  
1582 in a community or junior college or state institution of higher  
1583 learning while enrolled in high school and who is receiving high  
1584 school and college credit for postsecondary coursework.

1585           (2) A local school board, the Board of Trustees of State  
1586 Institutions of Higher Learning and the Mississippi Community  
1587 College Board shall establish a dual enrollment system under which  
1588 students in the school district who meet the prescribed criteria  
1589 of this section may be enrolled in a postsecondary institution in  
1590 Mississippi while they are still in school.

1591           (3) **Dual credit eligibility.** Before credits earned by a  
1592 qualified high school student from a community or junior college  
1593 or state institution of higher learning may be transferred to the  
1594 student's home school district, the student must be properly  
1595 enrolled in a dual enrollment program.

1596           (4) **Admission criteria for dual enrollment in community and  
1597 junior college or university programs.** The Mississippi Community  
1598 College Board and the Board of Trustees of State Institutions of  
1599 Higher Learning may recommend to the State Board of Education  
1600 admission criteria for dual enrollment programs under which high  
1601 school students may enroll at a community or junior college or  
1602 university while they are still attending high school and enrolled  
1603 in high school courses. Students may be admitted to enroll in  
1604 community or junior college courses under the dual enrollment





1605 programs if they meet that individual institution's stated dual  
1606 enrollment admission requirements.

1607       (5) **Tuition and cost responsibility.** Tuition and costs for  
1608 university-level courses and community and junior college courses  
1609 offered under a dual enrollment program may be paid for by the  
1610 postsecondary institution, the local school district, the parents  
1611 or legal guardians of the student, or by grants, foundations or  
1612 other private or public sources. Payment for tuition and any  
1613 other costs must be made directly to the credit-granting  
1614 institution.

1615       (6) **Transportation responsibility.** Any transportation  
1616 required by a student to participate in the dual enrollment  
1617 program is the responsibility of the parent, custodian or legal  
1618 guardian of the student. Transportation costs may be paid from  
1619 any available public or private sources, including the local  
1620 school district.

1621       (7) **School district average daily attendance credit.** When  
1622 dually enrolled, the student may be counted, for adequate  
1623 education program funding purposes, in the average daily  
1624 attendance of the public school district in which the student  
1625 attends high school.

1626       (8) **High school student transcript transfer requirements.**  
1627 Grades and college credits earned by a student admitted to a dual  
1628 credit program must be recorded on the high school student record  
1629 and on the college transcript at the university or community or



1630 junior college where the student attends classes. The transcript  
1631 of the university or community or junior college coursework may be  
1632 released to another institution or applied toward college  
1633 graduation requirements.

1634 (9) **Determining factor of prerequisites for dual enrollment**  
1635 **courses.** Each university and community or junior college  
1636 participating in a dual enrollment program shall determine course  
1637 prerequisites. Course prerequisites shall be the same for dual  
1638 enrolled students as for regularly enrolled students at that  
1639 university or community or junior college.

1640 (10) **Process for determining articulation of curriculum**  
1641 **between high school, university, and community and junior college**  
1642 **courses.** All dual credit courses must meet the standards  
1643 established at the postsecondary level. Postsecondary level  
1644 developmental courses may not be considered as meeting the  
1645 requirements of the dual credit program. Dual credit memorandum  
1646 of understandings must be established between each postsecondary  
1647 institution and the school district implementing a dual credit  
1648 program.

1649 (11) [Deleted]

1650 (12) **Eligible courses for dual credit programs.** Courses  
1651 eligible for dual credit include, but are not necessarily limited  
1652 to, foreign languages, advanced math courses, advanced science  
1653 courses, performing arts, advanced business and technology, and  
1654 career and technical courses. Distance Learning Collaborative



1655 Program courses approved under Section 37-67-1 shall be fully  
1656 eligible for dual credit. All courses being considered for dual  
1657 credit must receive unconditional approval from the superintendent  
1658 of the local school district and the chief instructional officer  
1659 at the participating community or junior college or university in  
1660 order for college credit to be awarded. A university or community  
1661 or junior college shall make the final decision on what courses  
1662 are eligible for semester hour credits.

1663 (13) **High school Carnegie unit equivalency.** One (1)  
1664 three-hour university or community or junior college course is  
1665 equal to one (1) high school Carnegie unit.

1666 (14) **Course alignment.** The universities, community and  
1667 junior colleges and the State Department of Education shall  
1668 periodically review their respective policies and assess the place  
1669 of dual credit courses within the context of their traditional  
1670 offerings.

1671 (15) **Maximum dual credits allowed.** It is the intent of the  
1672 dual enrollment program to make it possible for every eligible  
1673 student who desires to earn a semester's worth of college credit  
1674 in high school to do so. A qualified dually enrolled high school  
1675 student must be allowed to earn an unlimited number of college or  
1676 university credits for dual credit.

1677 (16) **Dual credit program allowances.** A student may be  
1678 granted credit delivered through the following means:



1679           (a) Examination preparation taught at a high school by  
1680 a qualified teacher. A student may receive credit at the  
1681 secondary level after completion of an approved course and passing  
1682 the standard examination, such as an Advanced Placement or  
1683 International Baccalaureate course through which a high school  
1684 student is allowed CLEP credit by making a three (3) or higher on  
1685 the end-of-course examination.

1686           (b) College or university courses taught at a high  
1687 school or designated postsecondary site by a qualified teacher who  
1688 is an employee of the school district and approved as an  
1689 instructor by the collaborating college or university.

1690           (c) College or university courses taught at a college,  
1691 university or high school by an instructor employed by the college  
1692 or university and approved by the collaborating school district.

1693           (d) Online courses of any public university, community  
1694 or junior college in Mississippi.

1695           (17) **Qualifications of dual credit instructors.** A dual  
1696 credit academic instructor must meet the requirements set forth by  
1697 the regional accrediting association (Southern Association of  
1698 College and Schools). University and community and junior college  
1699 personnel have the sole authority in the selection of dual credit  
1700 instructors.

1701           A dual credit career and technical education instructor must  
1702 meet the requirements set forth by the Mississippi Community



1703 College Board in the qualifications manual for postsecondary  
1704 career and technical personnel.

1705           (18) **Guidance on local agreements.** The Chief Academic  
1706 Officer of the State Board of Trustees of State Institutions of  
1707 Higher Learning and the Chief Instructional Officers of the  
1708 Mississippi Community College Board and the State Department of  
1709 Education, working collaboratively, shall develop a template to be  
1710 used by the individual community and junior colleges and  
1711 institutions of higher learning for consistent implementation of  
1712 the dual enrollment program throughout the State of Mississippi.

1713           (19) **Mississippi Works Dual Enrollment-Dual Credit Option.**  
1714 A local school board and the local community colleges board shall  
1715 establish a Mississippi Works Dual Enrollment-Dual Credit Option  
1716 Program under which potential or recent student dropouts may  
1717 dually enroll in their home school and a local community college  
1718 in a dual credit program consisting of high school completion  
1719 coursework and a community college credential, certificate or  
1720 degree program. Students completing the dual enrollment-credit  
1721 option may obtain their high school diploma while obtaining a  
1722 community college credential, certificate or degree. The  
1723 Mississippi Department of Employment Security shall assist  
1724 students who have successfully completed the Mississippi Works  
1725 Dual Enrollment-Dual Credit Option in securing a job upon the  
1726 application of the student or the participating school or  
1727 community college. The Mississippi Works Dual Enrollment-Dual



1728 Credit Option Program will be implemented statewide in the  
1729 2012-2013 school year and thereafter. The State Board of  
1730 Education, local school board and the local community college  
1731 board shall establish criteria for the Dual Enrollment-Dual Credit  
1732 Program. Students enrolled in the program will not be eligible to  
1733 participate in interscholastic sports or other extracurricular  
1734 activities at the home school district. Tuition and costs for  
1735 community college courses offered under the Dual Enrollment-Dual  
1736 Credit Program shall not be charged to the student, parents or  
1737 legal guardians. When dually enrolled, the student shall be  
1738 counted for adequate education program funding purposes, in the  
1739 average daily attendance of the public school district in which  
1740 the student attends high school, as provided in Section  
1741 37-151-7(1)(a). Any transportation required by the student to  
1742 participate in the Dual Enrollment-Dual Credit Program is the  
1743 responsibility of the parent or legal guardian of the student, and  
1744 transportation costs may be paid from any available public or  
1745 private sources, including the local school district. Grades and  
1746 college credits earned by a student admitted to this Dual  
1747 Enrollment-Dual Credit Program shall be recorded on the high  
1748 school student record and on the college transcript at the  
1749 community college and high school where the student attends  
1750 classes. The transcript of the community college coursework may  
1751 be released to another institution or applied toward college  
1752 graduation requirements. Any course that is required for subject



1753 area testing as a requirement for graduation from a public school  
1754 in Mississippi is eligible for dual credit, and courses eligible  
1755 for dual credit shall also include career, technical and degree  
1756 program courses. All courses eligible for dual credit shall be  
1757 approved by the superintendent of the local school district and  
1758 the chief instructional officer at the participating community  
1759 college in order for college credit to be awarded. A community  
1760 college shall make the final decision on what courses are eligible  
1761 for semester hour credits and the local school superintendent,  
1762 subject to approval by the Mississippi Department of Education,  
1763 shall make the final decision on the transfer of college courses  
1764 credited to the student's high school transcript.

1765 **SECTION 8.** Section 37-16-17, Mississippi Code of 1972, is  
1766 amended as follows:

1767 37-16-17. (1) Purpose. (a) The purpose of this section is  
1768 to create a quality option in Mississippi's high schools for  
1769 students not wishing to pursue a baccalaureate degree, which shall  
1770 consist of challenging academic courses and modern  
1771 career-technical studies. The goal for students pursuing the  
1772 career \* \* \* technical education pathways is to graduate from high  
1773 school with a standard diploma and credit toward a community  
1774 college certification in a career-technical field. These students  
1775 also shall be encouraged to take the national assessment in the  
1776 career-technical field in which they become certified.



1777 (b) The State Board of Education shall develop and  
1778 adopt course and curriculum requirements for career \* \* \*  
1779 technical education pathways offered by local public school boards  
1780 in accordance with this section. The Mississippi Community  
1781 College Board and the State Board of Education jointly shall  
1782 determine course and curriculum requirements for the career \* \* \*  
1783 technical education pathways. The State Board of Education shall  
1784 require school districts to provide notice to all incoming middle  
1785 school students and junior high students of the career technical  
1786 education pathways offered by local school boards. Such notice  
1787 shall include the career technical education pathways available,  
1788 the course requirements of each pathways, how to enroll in the  
1789 pathway and any other necessary information as determined by the  
1790 State Board of Education.

1791 (2) \* \* \* Career technical education pathway; description;  
1792 curriculum. (a) A career \* \* \* technical education pathway shall  
1793 provide a student with greater technical skill and a strong  
1794 academic core and shall be offered to each high school student  
1795 enrolled in a public school district. The career \* \* \* technical  
1796 education pathway shall be linked to postsecondary options and  
1797 shall prepare students to pursue either a degree or certification  
1798 from a postsecondary institution, an industry-based training or  
1799 certification, an apprenticeship, the military, or immediate  
1800 entrance into a career field. The career \* \* \* technical  
1801 education pathway shall be designed primarily for those students





1802 who are not college bound and shall provide them with alternatives  
1803 to entrance into a four-year university or college after high  
1804 school graduation.

1805 (b) Students pursuing a career \* \* \* technical  
1806 education pathway shall be afforded the opportunity to dually  
1807 enroll in a community or technical college or to participate in a  
1808 business internship or work-study program, when such opportunities  
1809 are available and appropriate.

1810 (c) Each public school district shall offer a  
1811 career \* \* \* technical education pathway approved by the State  
1812 Board of Education.

1813 (d) Students in a career \* \* \* technical education  
1814 pathway shall complete an academic core of courses and a career  
1815 and technical sequence of courses.

1816 (e) Students pursuing a career technical education  
1817 pathway must complete the \* \* \* twenty-four (24) course unit  
1818 requirements for \* \* \* a regular high school diploma, which may  
1819 include, but not be limited to \* \* \* the following course content:

1820 \* \* \*

- 1821 (i) English I;
- 1822 (ii) English II;
- 1823 (iii) Technical writing;
- 1824 (iv) Computer programming;
- 1825 (v) Algebra I;
- 1826 (vi) Personal Finance;



- 1827                    (vii) Advanced technical mathematics;  
1828                    (viii) Computer science;  
1829                    (ix) Biology;  
1830                    (x) Earth and Space Science;  
1831                    (xi) U.S. History;  
1832                    (xii) Mississippi Studies/U.S. Government;  
1833                    (xiii) Health;  
1834                    (xiv) Physical Education;  
1835                    (xv) Soft skills, which include, but are not  
1836 limited to, social graces, communication abilities, language  
1837 skills, personal habits, cognitive or emotional empathy, time  
1838 management, teamwork and leadership traits;  
1839                    (xvi) Career technical education pathway courses;  
1840 and  
1841                    (xvii) Integrated technology.

1842                    Academic courses within the career \* \* \* technical education  
1843 pathway of the standard diploma shall provide the knowledge and  
1844 skill necessary for proficiency on the state subject area tests.

1845                    (f) The courses provided in paragraph (e) of this  
1846 subsection may be tailored to the individual needs of the school  
1847 district as long as the amendments align with the basic course  
1848 requirements of paragraph (e).

1849                    (3) Nothing in this section shall disallow the development  
1850 of a dual enrollment program with a technical college so long as  
1851 an individual school district, with approval from the State



1852 Department of Education, agrees to implement such a program in  
1853 connection with a technical college and the agreement is also  
1854 approved by the proprietary school's commission.

1855 \* \* \*

1856 SECTION 9. Section 37-3-2, Mississippi Code of 1972, is  
1857 amended as follows:

1858 37-3-2. (1) There is established within the State  
1859 Department of Education the Commission on Teacher and  
1860 Administrator Education, Certification and Licensure and  
1861 Development. It shall be the purpose and duty of the commission  
1862 to make recommendations to the State Board of Education regarding  
1863 standards for the certification and licensure and continuing  
1864 professional development of those who teach or perform tasks of an  
1865 educational nature in the public schools of Mississippi.

1866 (2) (a) The commission shall be composed of fifteen (15)  
1867 qualified members. The membership of the commission shall be  
1868 composed of the following members to be appointed, three (3) from  
1869 each of the four (4) congressional districts, as such districts  
1870 existed on January 1, 2011, in accordance with the population  
1871 calculations determined by the 2010 federal decennial census,  
1872 including: four (4) classroom teachers; three (3) school  
1873 administrators; one (1) representative of schools of education of  
1874 public institutions of higher learning located within the state to  
1875 be recommended by the Board of Trustees of State Institutions of  
1876 Higher Learning; one (1) representative from the schools of



1877 education of independent institutions of higher learning to be  
1878 recommended by the Board of the Mississippi Association of  
1879 Independent Colleges; one (1) representative from public community  
1880 and junior colleges located within the state to be recommended by  
1881 the Mississippi Community College Board; one (1) local school  
1882 board member; and four (4) laypersons. Three (3) members of the  
1883 commission, at the sole discretion of the State Board of  
1884 Education, shall be appointed from the state at large.

1885 (b) All appointments shall be made by the State Board  
1886 of Education after consultation with the State Superintendent of  
1887 Public Education. The first appointments by the State Board of  
1888 Education shall be made as follows: five (5) members shall be  
1889 appointed for a term of one (1) year; five (5) members shall be  
1890 appointed for a term of two (2) years; and five (5) members shall  
1891 be appointed for a term of three (3) years. Thereafter, all  
1892 members shall be appointed for a term of four (4) years.

1893 (3) The State Board of Education when making appointments  
1894 shall designate a chairman. The commission shall meet at least  
1895 once every two (2) months or more often if needed. Members of the  
1896 commission shall be compensated at a rate of per diem as  
1897 authorized by Section 25-3-69 and be reimbursed for actual and  
1898 necessary expenses as authorized by Section 25-3-41.

1899 (4) (a) An appropriate staff member of the State Department  
1900 of Education shall be designated and assigned by the State  
1901 Superintendent of Public Education to serve as executive secretary



1902 and coordinator for the commission. No less than two (2) other  
1903 appropriate staff members of the State Department of Education  
1904 shall be designated and assigned by the State Superintendent of  
1905 Public Education to serve on the staff of the commission.

1906 (b) An Office of Educator Misconduct Evaluations shall  
1907 be established within the State Department of Education to assist  
1908 the commission in responding to infractions and violations, and in  
1909 conducting hearings and enforcing the provisions of subsections  
1910 (11), (12), (13), (14) and (15) of this section, and violations of  
1911 the Mississippi Educator Code of Ethics.

1912 (5) It shall be the duty of the commission to:

1913 (a) Set standards and criteria, subject to the approval  
1914 of the State Board of Education, for all educator preparation  
1915 programs in the state;

1916 (b) Recommend to the State Board of Education each year  
1917 approval or disapproval of each educator preparation program in  
1918 the state, subject to a process and schedule determined by the  
1919 State Board of Education;

1920 (c) Establish, subject to the approval of the State  
1921 Board of Education, standards for initial teacher certification  
1922 and licensure in all fields;

1923 (d) Establish, subject to the approval of the State  
1924 Board of Education, standards for the renewal of teacher licenses  
1925 in all fields;



1926 (e) Review and evaluate objective measures of teacher  
1927 performance, such as test scores, which may form part of the  
1928 licensure process, and to make recommendations for their use;

1929 (f) Review all existing requirements for certification  
1930 and licensure;

1931 (g) Consult with groups whose work may be affected by  
1932 the commission's decisions;

1933 (h) Prepare reports from time to time on current  
1934 practices and issues in the general area of teacher education and  
1935 certification and licensure;

1936 (i) Hold hearings concerning standards for teachers'  
1937 and administrators' education and certification and licensure with  
1938 approval of the State Board of Education;

1939 (j) Hire expert consultants with approval of the State  
1940 Board of Education;

1941 (k) Set up ad hoc committees to advise on specific  
1942 areas; and

1943 (l) Perform such other functions as may fall within  
1944 their general charge and which may be delegated to them by the  
1945 State Board of Education.

1946 (6) (a) **Standard License - Approved Program Route.** An  
1947 educator entering the school system of Mississippi for the first  
1948 time and meeting all requirements as established by the State  
1949 Board of Education shall be granted a standard five-year license.  
1950 Persons who possess two (2) years of classroom experience as an



1951 assistant teacher or who have taught for one (1) year in an  
1952 accredited public or private school shall be allowed to fulfill  
1953 student teaching requirements under the supervision of a qualified  
1954 participating teacher approved by an accredited college of  
1955 education. The local school district in which the assistant  
1956 teacher is employed shall compensate such assistant teachers at  
1957 the required salary level during the period of time such  
1958 individual is completing student teaching requirements.

1959 Applicants for a standard license shall submit to the department:

1960 (i) An application on a department form;

1961 (ii) An official transcript of completion of a  
1962 teacher education program approved by the department or a  
1963 nationally accredited program, subject to the following:

1964 Licensure to teach in Mississippi prekindergarten through  
1965 kindergarten classrooms shall require completion of a teacher  
1966 education program or a Bachelor of Science degree with child  
1967 development emphasis from a program accredited by the American  
1968 Association of Family and Consumer Sciences (AAFCS) or by the  
1969 National Association for Education of Young Children (NAEYC) or by  
1970 the National Council for Accreditation of Teacher Education  
1971 (NCATE). Licensure to teach in Mississippi kindergarten, for  
1972 those applicants who have completed a teacher education program,  
1973 and in Grade 1 through Grade 4 shall require the completion of an  
1974 interdisciplinary program of studies. Licenses for Grades 4  
1975 through 8 shall require the completion of an interdisciplinary



1976 program of studies with two (2) or more areas of concentration.  
1977 Licensure to teach in Mississippi Grades 7 through 12 shall  
1978 require a major in an academic field other than education, or a  
1979 combination of disciplines other than education. Students  
1980 preparing to teach a subject shall complete a major in the  
1981 respective subject discipline. All applicants for standard  
1982 licensure shall demonstrate that such person's college preparation  
1983 in those fields was in accordance with the standards set forth by  
1984 the National Council for Accreditation of Teacher Education  
1985 (NCATE) or the National Association of State Directors of Teacher  
1986 Education and Certification (NASDTEC) or, for those applicants who  
1987 have a Bachelor of Science degree with child development emphasis,  
1988 the American Association of Family and Consumer Sciences (AAFCS).  
1989 Effective July 1, 2016, for initial elementary education  
1990 licensure, a teacher candidate must earn a passing score on a  
1991 rigorous test of scientifically research-based reading instruction  
1992 and intervention and data-based decision-making principles as  
1993 approved by the State Board of Education;

1994 (iii) A copy of test scores evidencing  
1995 satisfactory completion of nationally administered examinations of  
1996 achievement, such as the Educational Testing Service's teacher  
1997 testing examinations;

1998 (iv) Any other document required by the State  
1999 Board of Education; and





2000 (v) From and after July 1, 2020, no teacher  
2001 candidate shall be licensed to teach in Mississippi who did not  
2002 meet the following criteria for entrance into an approved teacher  
2003 education program:

- 2004 1. An ACT Score of twenty-one (21) (or SAT  
2005 equivalent); or
- 2006 2. Achieve a qualifying passing score on the  
2007 Praxis Core Academic Skills for Educators examination as  
2008 established by the State Board of Education; or
- 2009 3. A minimum GPA of 3.0 on coursework prior  
2010 to admission to an approved teacher education program.

2011 (b) (i) **Standard License - Nontraditional Teaching**  
2012 **Route.** From and after July 1, 2020, no teacher candidate shall be  
2013 licensed to teach in Mississippi under the alternate route who did  
2014 not meet the following criteria:

2015 \* \* \*1. An ACT Score of twenty-one (21) (or  
2016 SAT equivalent); or

2017 \* \* \*2. Achieve a qualifying passing score  
2018 on the Praxis Core Academic Skills for Educators examination as  
2019 established by the State Board of Education; or

2020 \* \* \*3. A minimum GPA of 3.0 on coursework  
2021 prior to admission to an approved teacher education program.

2022 (ii) Beginning July 1, 2020, an individual who has  
2023 attained a passing score on the Praxis Core Academic Skills for  
2024 Educators or an ACT Score of twenty-one (21) (or SAT equivalent)



2025 or a minimum GPA of 3.0 on coursework prior to admission to an  
2026 approved teacher education program and a passing score on the  
2027 Praxis Subject Assessment in the requested area of endorsement may  
2028 apply for admission to the Teach Mississippi Institute (TMI)  
2029 program to teach students in Grades 7 through 12 if the individual  
2030 meets the requirements of this paragraph (b). The State Board of  
2031 Education shall adopt rules requiring that teacher preparation  
2032 institutions which provide the Teach Mississippi Institute (TMI)  
2033 program for the preparation of nontraditional teachers shall meet  
2034 the standards and comply with the provisions of this paragraph.

2035                   \* \* \*1. The Teach Mississippi Institute  
2036 (TMI) shall include an intensive eight-week, nine-semester-hour  
2037 summer program or a curriculum of study in which the student  
2038 matriculates in the fall or spring semester, which shall include,  
2039 but not be limited to, instruction in education, effective  
2040 teaching strategies, classroom management, state curriculum  
2041 requirements, planning and instruction, instructional methods and  
2042 pedagogy, using test results to improve instruction, and a one (1)  
2043 semester three-hour supervised internship to be completed while  
2044 the teacher is employed as a full-time teacher intern in a local  
2045 school district. The TMI shall be implemented on a pilot program  
2046 basis, with courses to be offered at up to four (4) locations in  
2047 the state, with one (1) TMI site to be located in each of the  
2048 three (3) Mississippi Supreme Court districts.



2049                   \* \* \*2. The school sponsoring the teacher  
2050 intern shall enter into a written agreement with the institution  
2051 providing the Teach Mississippi Institute (TMI) program, under  
2052 terms and conditions as agreed upon by the contracting parties,  
2053 providing that the school district shall provide teacher interns  
2054 seeking a nontraditional provisional teaching license with a  
2055 one-year classroom teaching experience. The teacher intern shall  
2056 successfully complete the one (1) semester three-hour intensive  
2057 internship in the school district during the semester immediately  
2058 following successful completion of the TMI and prior to the end of  
2059 the one-year classroom teaching experience.

2060                   \* \* \*3. Upon completion of the  
2061 nine-semester-hour TMI or the fall or spring semester option, the  
2062 individual shall submit his transcript to the commission for  
2063 provisional licensure of the intern teacher, and the intern  
2064 teacher shall be issued a provisional teaching license by the  
2065 commission, which will allow the individual to legally serve as a  
2066 teacher while the person completes a nontraditional teacher  
2067 preparation internship program.

2068                   \* \* \*4. During the semester of internship in  
2069 the school district, the teacher preparation institution shall  
2070 monitor the performance of the intern teacher. The school  
2071 district that employs the provisional teacher shall supervise the  
2072 provisional teacher during the teacher's intern year of employment  
2073 under a nontraditional provisional license, and shall, in



2074 consultation with the teacher intern's mentor at the school  
2075 district of employment, submit to the commission a comprehensive  
2076 evaluation of the teacher's performance sixty (60) days prior to  
2077 the expiration of the nontraditional provisional license. If the  
2078 comprehensive evaluation establishes that the provisional teacher  
2079 intern's performance fails to meet the standards of the approved  
2080 nontraditional teacher preparation internship program, the  
2081 individual shall not be approved for a standard license.

2082                   \* \* \*5. An individual issued a provisional  
2083 teaching license under this nontraditional route shall  
2084 successfully complete, at a minimum, a one-year beginning teacher  
2085 mentoring and induction program administered by the employing  
2086 school district with the assistance of the State Department of  
2087 Education.

2088                   \* \* \*6. Upon successful completion of the  
2089 TMI and the internship provisional license period, applicants for  
2090 a Standard License - Nontraditional Route shall submit to the  
2091 commission a transcript of successful completion of the twelve  
2092 (12) semester hours required in the internship program, and the  
2093 employing school district shall submit to the commission a  
2094 recommendation for standard licensure of the intern. If the  
2095 school district recommends licensure, the applicant shall be  
2096 issued a Standard License - Nontraditional Route which shall be  
2097 valid for a five-year period and be renewable.



2098                   \* \* \*7. At the discretion of the teacher  
2099 preparation institution, the individual shall be allowed to credit  
2100 the twelve (12) semester hours earned in the nontraditional  
2101 teacher internship program toward the graduate hours required for  
2102 a Master of Arts in Teacher (MAT) Degree.

2103                   \* \* \*8. The local school district in which  
2104 the nontraditional teacher intern or provisional licensee is  
2105 employed shall compensate such teacher interns at Step 1 of the  
2106 required salary level during the period of time such individual is  
2107 completing teacher internship requirements and shall compensate  
2108 such Standard License - Nontraditional Route teachers at Step 3 of  
2109 the required salary level when they complete license requirements.

2110                   (iii) Implementation of the TMI program provided  
2111 for under this paragraph (b) shall be contingent upon the  
2112 availability of funds appropriated specifically for such purpose  
2113 by the Legislature. Such implementation of the TMI program may  
2114 not be deemed to prohibit the State Board of Education from  
2115 developing and implementing additional alternative route teacher  
2116 licensure programs, as deemed appropriate by the board. The  
2117 emergency certification program in effect prior to July 1, 2002,  
2118 shall remain in effect.

2119                   (iv) A Standard License - Approved Program Route  
2120 shall be issued for a five-year period, and may be renewed.  
2121 Recognizing teaching as a profession, a hiring preference shall be  
2122 granted to persons holding a Standard License - Approved Program



2123 Route or Standard License - Nontraditional Teaching Route over  
2124 persons holding any other license.

2125 (c) **Special License - Expert Citizen.** In order to  
2126 allow a school district to offer specialized or technical courses,  
2127 the State Department of Education, in accordance with rules and  
2128 regulations established by the State Board of Education, may grant  
2129 a \* \* \* five-year expert citizen-teacher license to local business  
2130 or other professional personnel to teach in a public school or  
2131 nonpublic school accredited or approved by the state. Such person  
2132 shall be required to have a high school diploma, an  
2133 industry-recognized certification related to the subject area in  
2134 which they are teaching and a minimum of five (5) years of  
2135 relevant experience but shall not be required to hold an associate  
2136 or bachelor's degree, provided that he or she possesses the  
2137 minimum qualifications required for his or her profession, and may  
2138 begin teaching upon his employment by the local school board and  
2139 licensure by the Mississippi Department of Education. If a school  
2140 board hires a career technical education pathway instructor who  
2141 does not have an industry certification in his or her area of  
2142 expertise but does have the required experience, the school board  
2143 shall spread their decision on the minutes at their next meeting  
2144 and provide a detailed explanation for why they hired the  
2145 instructor. Such instructor shall present the minutes of the  
2146 school board to the State Department of Education when he or she  
2147 applies for an expert citizen license. The board shall adopt



2148 rules and regulations to administer the expert citizen-teacher  
2149 license. A Special License - Expert Citizen may be renewed in  
2150 accordance with the established rules and regulations of the State  
2151 Department of Education.

2152 (d) **Special License - Nonrenewable.** The State Board of  
2153 Education is authorized to establish rules and regulations to  
2154 allow those educators not meeting requirements in paragraph (a),  
2155 (b) or (c) of this subsection (6) to be licensed for a period of  
2156 not more than three (3) years, except by special approval of the  
2157 State Board of Education.

2158 (e) **Nonlicensed Teaching Personnel.** A nonlicensed  
2159 person may teach for a maximum of three (3) periods per teaching  
2160 day in a public school district or a nonpublic school  
2161 accredited/approved by the state. Such person shall submit to the  
2162 department a transcript or record of his education and experience  
2163 which substantiates his preparation for the subject to be taught  
2164 and shall meet other qualifications specified by the commission  
2165 and approved by the State Board of Education. In no case shall  
2166 any local school board hire nonlicensed personnel as authorized  
2167 under this paragraph in excess of five percent (5%) of the total  
2168 number of licensed personnel in any single school.

2169 (f) **Special License - Transitional Bilingual Education.**  
2170 Beginning July 1, 2003, the commission shall grant special  
2171 licenses to teachers of transitional bilingual education who  
2172 possess such qualifications as are prescribed in this section.



2173 Teachers of transitional bilingual education shall be compensated  
2174 by local school boards at not less than one (1) step on the  
2175 regular salary schedule applicable to permanent teachers licensed  
2176 under this section. The commission shall grant special licenses  
2177 to teachers of transitional bilingual education who present the  
2178 commission with satisfactory evidence that they (i) possess a  
2179 speaking and reading ability in a language, other than English, in  
2180 which bilingual education is offered and communicative skills in  
2181 English; (ii) are in good health and sound moral character; (iii)  
2182 possess a bachelor's degree or an associate's degree in teacher  
2183 education from an accredited institution of higher education; (iv)  
2184 meet such requirements as to courses of study, semester hours  
2185 therein, experience and training as may be required by the  
2186 commission; and (v) are legally present in the United States and  
2187 possess legal authorization for employment. A teacher of  
2188 transitional bilingual education serving under a special license  
2189 shall be under an exemption from standard licensure if he achieves  
2190 the requisite qualifications therefor. Two (2) years of service  
2191 by a teacher of transitional bilingual education under such an  
2192 exemption shall be credited to the teacher in acquiring a Standard  
2193 Educator License. Nothing in this paragraph shall be deemed to  
2194 prohibit a local school board from employing a teacher licensed in  
2195 an appropriate field as approved by the State Department of  
2196 Education to teach in a program in transitional bilingual  
2197 education.





2198 (g) In the event any school district meets the highest  
2199 accreditation standards as defined by the State Board of Education  
2200 in the accountability system, the State Board of Education, in its  
2201 discretion, may exempt such school district from any restrictions  
2202 in paragraph (e) relating to the employment of nonlicensed  
2203 teaching personnel.

2204 (h) **Highly Qualified Teachers.** Beginning July 1, 2006,  
2205 any teacher from any state meeting the federal definition of  
2206 highly qualified, as described in the No Child Left Behind Act,  
2207 must be granted a standard five-year license by the State  
2208 Department of Education.

2209 (7) **Administrator License.** The State Board of Education is  
2210 authorized to establish rules and regulations and to administer  
2211 the licensure process of the school administrators in the State of  
2212 Mississippi. There will be four (4) categories of administrator  
2213 licensure with exceptions only through special approval of the  
2214 State Board of Education.

2215 (a) **Administrator License - Nonpracticing.** Those  
2216 educators holding administrative endorsement but having no  
2217 administrative experience or not serving in an administrative  
2218 position on January 15, 1997.

2219 (b) **Administrator License - Entry Level.** Those  
2220 educators holding administrative endorsement and having met the  
2221 department's qualifications to be eligible for employment in a



2222 Mississippi school district. Administrator License - Entry Level  
2223 shall be issued for a five-year period and shall be nonrenewable.

2224 (c) **Standard Administrator License - Career Level.** An  
2225 administrator who has met all the requirements of the department  
2226 for standard administrator licensure.

2227 (d) **Administrator License - Nontraditional Route.** The  
2228 board may establish a nontraditional route for licensing  
2229 administrative personnel. Such nontraditional route for  
2230 administrative licensure shall be available for persons holding,  
2231 but not limited to, a master of business administration degree, a  
2232 master of public administration degree, a master of public  
2233 planning and policy degree or a doctor of jurisprudence degree  
2234 from an accredited college or university, with five (5) years of  
2235 administrative or supervisory experience. Successful completion  
2236 of the requirements of alternate route licensure for  
2237 administrators shall qualify the person for a standard  
2238 administrator license.

2239 Individuals seeking school administrator licensure under  
2240 paragraph (b), (c) or (d) shall successfully complete a training  
2241 program and an assessment process prescribed by the State Board of  
2242 Education. All applicants for school administrator licensure  
2243 shall meet all requirements prescribed by the department under  
2244 paragraph (b), (c) or (d), and the cost of the assessment process  
2245 required shall be paid by the applicant.



2246           (8) **Reciprocity.** (a) The department shall grant a standard  
2247 license to any individual who possesses a valid standard license  
2248 from another state and meets minimum Mississippi license  
2249 requirements or equivalent requirements as determined by the State  
2250 Board of Education. The issuance of a license by reciprocity to a  
2251 military-trained applicant or military spouse shall be subject to  
2252 the provisions of Section 73-50-1.

2253           (b) The department shall grant a nonrenewable special  
2254 license to any individual who possesses a credential which is less  
2255 than a standard license or certification from another state. Such  
2256 special license shall be valid for the current school year plus  
2257 one (1) additional school year to expire on June 30 of the second  
2258 year, not to exceed a total period of twenty-four (24) months,  
2259 during which time the applicant shall be required to complete the  
2260 requirements for a standard license in Mississippi.

2261           (9) **Renewal and Reinstatement of Licenses.** The State Board  
2262 of Education is authorized to establish rules and regulations for  
2263 the renewal and reinstatement of educator and administrator  
2264 licenses. Effective May 15, 1997, the valid standard license held  
2265 by an educator shall be extended five (5) years beyond the  
2266 expiration date of the license in order to afford the educator  
2267 adequate time to fulfill new renewal requirements established  
2268 pursuant to this subsection. An educator completing a master of  
2269 education, educational specialist or doctor of education degree in  
2270 May 1997 for the purpose of upgrading the educator's license to a



2271 higher class shall be given this extension of five (5) years plus  
2272 five (5) additional years for completion of a higher degree.

2273 (10) All controversies involving the issuance, revocation,  
2274 suspension or any change whatsoever in the licensure of an  
2275 educator required to hold a license shall be initially heard in a  
2276 hearing de novo, by the commission or by a subcommittee  
2277 established by the commission and composed of commission members,  
2278 or by a hearing officer retained and appointed by the commission,  
2279 for the purpose of holding hearings. Any complaint seeking the  
2280 denial of issuance, revocation or suspension of a license shall be  
2281 by sworn affidavit filed with the Commission on Teacher and  
2282 Administrator Education, Certification and Licensure and  
2283 Development. The decision thereon by the commission, its  
2284 subcommittee or hearing officer, shall be final, unless the  
2285 aggrieved party shall appeal to the State Board of Education,  
2286 within ten (10) days, of the decision of the commission, its  
2287 subcommittee or hearing officer. An appeal to the State Board of  
2288 Education shall be perfected upon filing a notice of the appeal  
2289 and by the prepayment of the costs of the preparation of the  
2290 record of proceedings by the commission, its subcommittee or  
2291 hearing officer. An appeal shall be on the record previously made  
2292 before the commission, its subcommittee or hearing officer, unless  
2293 otherwise provided by rules and regulations adopted by the board.  
2294 The decision of the commission, its subcommittee or hearing  
2295 officer shall not be disturbed on appeal if supported by



2296 substantial evidence, was not arbitrary or capricious, within the  
2297 authority of the commission, and did not violate some statutory or  
2298 constitutional right. The State Board of Education in its  
2299 authority may reverse, or remand with instructions, the decision  
2300 of the commission, its subcommittee or hearing officer. The  
2301 decision of the State Board of Education shall be final.

2302 (11) (a) The State Board of Education, acting through the  
2303 commission, may deny an application for any teacher or  
2304 administrator license for one or more of the following:

2305 (i) Lack of qualifications which are prescribed by  
2306 law or regulations adopted by the State Board of Education;

2307 (ii) The applicant has a physical, emotional or  
2308 mental disability that renders the applicant unfit to perform the  
2309 duties authorized by the license, as certified by a licensed  
2310 psychologist or psychiatrist;

2311 (iii) The applicant is actively addicted to or  
2312 actively dependent on alcohol or other habit-forming drugs or is a  
2313 habitual user of narcotics, barbiturates, amphetamines,  
2314 hallucinogens or other drugs having similar effect, at the time of  
2315 application for a license;

2316 (iv) Fraud or deceit committed by the applicant in  
2317 securing or attempting to secure such certification and license;

2318 (v) Failing or refusing to furnish reasonable  
2319 evidence of identification;



2320 (vi) The applicant has been convicted, has pled  
2321 guilty or entered a plea of nolo contendere to a felony, as  
2322 defined by federal or state law. For purposes of this  
2323 subparagraph (vi) of this paragraph (a), a "guilty plea" includes  
2324 a plea of guilty, entry of a plea of nolo contendere, or entry of  
2325 an order granting pretrial or judicial diversion;

2326 (vii) The applicant or licensee is on probation or  
2327 post-release supervision for a felony or conviction, as defined by  
2328 federal or state law. However, this disqualification expires upon  
2329 the end of the probationary or post-release supervision period.

2330 (b) The State Board of Education, acting through the  
2331 commission, shall deny an application for any teacher or  
2332 administrator license, or immediately revoke the current teacher  
2333 or administrator license, for one or more of the following:

2334 (i) If the applicant or licensee has been  
2335 convicted, has pled guilty or entered a plea of nolo contendere to  
2336 a sex offense as defined by federal or state law. For purposes of  
2337 this subparagraph (i) of this paragraph (b), a "guilty plea"  
2338 includes a plea of guilty, entry of a plea of nolo contendere, or  
2339 entry of an order granting pretrial or judicial diversion;

2340 (ii) The applicant or licensee is on probation or  
2341 post-release supervision for a sex offense conviction, as defined  
2342 by federal or state law;



2343 (iii) The license holder has fondled a student as  
2344 described in Section 97-5-23, or had any type of sexual  
2345 involvement with a student as described in Section 97-3-95; or

2346 (iv) The license holder has failed to report  
2347 sexual involvement of a school employee with a student as required  
2348 by Section 97-5-24.

2349 (12) The State Board of Education, acting through the  
2350 commission, may revoke, suspend or refuse to renew any teacher or  
2351 administrator license for specified periods of time or may place  
2352 on probation, reprimand a licensee, or take other disciplinary  
2353 action with regard to any license issued under this chapter for  
2354 one or more of the following:

2355 (a) Breach of contract or abandonment of employment may  
2356 result in the suspension of the license for one (1) school year as  
2357 provided in Section 37-9-57;

2358 (b) Obtaining a license by fraudulent means shall  
2359 result in immediate suspension and continued suspension for one  
2360 (1) year after correction is made;

2361 (c) Suspension or revocation of a certificate or  
2362 license by another state shall result in immediate suspension or  
2363 revocation and shall continue until records in the prior state  
2364 have been cleared;

2365 (d) The license holder has been convicted, has pled  
2366 guilty or entered a plea of nolo contendere to a felony, as  
2367 defined by federal or state law. For purposes of this paragraph,



2368 a "guilty plea" includes a plea of guilty, entry of a plea of nolo  
2369 contendere, or entry of an order granting pretrial or judicial  
2370 diversion;

2371 (e) The license holder knowingly and willfully  
2372 committing any of the acts affecting validity of mandatory uniform  
2373 test results as provided in Section 37-16-4(1);

2374 (f) The license holder has engaged in unethical conduct  
2375 relating to an educator/student relationship as identified by the  
2376 State Board of Education in its rules;

2377 (g) The license holder served as superintendent or  
2378 principal in a school district during the time preceding and/or  
2379 that resulted in the Governor declaring a state of emergency and  
2380 the State Board of Education appointing a conservator;

2381 (h) The license holder submitted a false certification  
2382 to the State Department of Education that a statewide test was  
2383 administered in strict accordance with the Requirements of the  
2384 Mississippi Statewide Assessment System; or

2385 (i) The license holder has failed to comply with the  
2386 Procedures for Reporting Infractions as promulgated by the  
2387 commission and approved by the State Board of Education pursuant  
2388 to subsection (15) of this section.

2389 For purposes of this subsection, probation shall be defined  
2390 as a length of time determined by the commission, its subcommittee  
2391 or hearing officer, and based on the severity of the offense in  
2392 which the license holder shall meet certain requirements as





2393 prescribed by the commission, its subcommittee or hearing officer.  
2394 Failure to complete the requirements in the time specified shall  
2395 result in immediate suspension of the license for one (1) year.

2396 (13) (a) Dismissal or suspension of a licensed employee by  
2397 a local school board pursuant to Section 37-9-59 may result in the  
2398 suspension or revocation of a license for a length of time which  
2399 shall be determined by the commission and based upon the severity  
2400 of the offense.

2401 (b) Any offense committed or attempted in any other  
2402 state shall result in the same penalty as if committed or  
2403 attempted in this state.

2404 (c) A person may voluntarily surrender a license. The  
2405 surrender of such license may result in the commission  
2406 recommending any of the above penalties without the necessity of a  
2407 hearing. However, any such license which has voluntarily been  
2408 surrendered by a licensed employee may only be reinstated by a  
2409 majority vote of all members of the commission present at the  
2410 meeting called for such purpose.

2411 (14) (a) A person whose license has been suspended or  
2412 surrendered on any grounds except criminal grounds may petition  
2413 for reinstatement of the license after one (1) year from the date  
2414 of suspension or surrender, or after one-half (1/2) of the  
2415 suspended or surrendered time has lapsed, whichever is greater. A  
2416 person whose license has been suspended or revoked on any grounds  
2417 or violations under subsection (12) of this section may be



2418 reinstated automatically or approved for a reinstatement hearing,  
2419 upon submission of a written request to the commission. A license  
2420 suspended, revoked or surrendered on criminal grounds may be  
2421 reinstated upon petition to the commission filed after expiration  
2422 of the sentence and parole or probationary period imposed upon  
2423 conviction. A revoked, suspended or surrendered license may be  
2424 reinstated upon satisfactory showing of evidence of  
2425 rehabilitation. The commission shall require all who petition for  
2426 reinstatement to furnish evidence satisfactory to the commission  
2427 of good character, good mental, emotional and physical health and  
2428 such other evidence as the commission may deem necessary to  
2429 establish the petitioner's rehabilitation and fitness to perform  
2430 the duties authorized by the license.

2431 (b) A person whose license expires while under  
2432 investigation by the Office of Educator Misconduct for an alleged  
2433 violation may not be reinstated without a hearing before the  
2434 commission if required based on the results of the investigation.

2435 (15) Reporting procedures and hearing procedures for dealing  
2436 with infractions under this section shall be promulgated by the  
2437 commission, subject to the approval of the State Board of  
2438 Education. The revocation or suspension of a license shall be  
2439 effected at the time indicated on the notice of suspension or  
2440 revocation. The commission shall immediately notify the  
2441 superintendent of the school district or school board where the  
2442 teacher or administrator is employed of any disciplinary action



2443 and also notify the teacher or administrator of such revocation or  
2444 suspension and shall maintain records of action taken. The State  
2445 Board of Education may reverse or remand with instructions any  
2446 decision of the commission, its subcommittee or hearing officer  
2447 regarding a petition for reinstatement of a license, and any such  
2448 decision of the State Board of Education shall be final.

2449 (16) An appeal from the action of the State Board of  
2450 Education in denying an application, revoking or suspending a  
2451 license or otherwise disciplining any person under the provisions  
2452 of this section shall be filed in the Chancery Court of the First  
2453 Judicial District of Hinds County, Mississippi, on the record  
2454 made, including a verbatim transcript of the testimony at the  
2455 hearing. The appeal shall be filed within thirty (30) days after  
2456 notification of the action of the board is mailed or served and  
2457 the proceedings in chancery court shall be conducted as other  
2458 matters coming before the court. The appeal shall be perfected  
2459 upon filing notice of the appeal and by the prepayment of all  
2460 costs, including the cost of preparation of the record of the  
2461 proceedings by the State Board of Education, and the filing of a  
2462 bond in the sum of Two Hundred Dollars (\$200.00) conditioned that  
2463 if the action of the board be affirmed by the chancery court, the  
2464 applicant or license holder shall pay the costs of the appeal and  
2465 the action of the chancery court.

2466 (17) All such programs, rules, regulations, standards and  
2467 criteria recommended or authorized by the commission shall become



2468 effective upon approval by the State Board of Education as  
2469 designated by appropriate orders entered upon the minutes thereof.

2470 (18) The granting of a license shall not be deemed a  
2471 property right nor a guarantee of employment in any public school  
2472 district. A license is a privilege indicating minimal eligibility  
2473 for teaching in the public school districts of Mississippi. This  
2474 section shall in no way alter or abridge the authority of local  
2475 school districts to require greater qualifications or standards of  
2476 performance as a prerequisite of initial or continued employment  
2477 in such districts.

2478 (19) In addition to the reasons specified in subsections  
2479 (12) and (13) of this section, the board shall be authorized to  
2480 suspend the license of any licensee for being out of compliance  
2481 with an order for support, as defined in Section 93-11-153. The  
2482 procedure for suspension of a license for being out of compliance  
2483 with an order for support, and the procedure for the reissuance or  
2484 reinstatement of a license suspended for that purpose, and the  
2485 payment of any fees for the reissuance or reinstatement of a  
2486 license suspended for that purpose, shall be governed by Section  
2487 93-11-157 or 93-11-163, as the case may be. Actions taken by the  
2488 board in suspending a license when required by Section 93-11-157  
2489 or 93-11-163 are not actions from which an appeal may be taken  
2490 under this section. Any appeal of a license suspension that is  
2491 required by Section 93-11-157 or 93-11-163 shall be taken in  
2492 accordance with the appeal procedure specified in Section



2493 93-11-157 or 93-11-163, as the case may be, rather than the  
2494 procedure specified in this section. If there is any conflict  
2495 between any provision of Section 93-11-157 or 93-11-163 and any  
2496 provision of this chapter, the provisions of Section 93-11-157 or  
2497 93-11-163, as the case may be, shall control.

2498 **SECTION 10.** Section 37-16-3, Mississippi Code of 1972, is  
2499 amended as follows:

2500 37-16-3. (1) The State Department of Education is directed  
2501 to implement a program of statewide assessment testing which shall  
2502 provide for the improvement of the operation and management of the  
2503 public schools. The statewide program shall be timed, as far as  
2504 possible, so as not to conflict with ongoing district assessment  
2505 programs. As part of the program, the department shall:

2506 (a) Establish, with the approval of the State Board of  
2507 Education, minimum performance standards related to the goals for  
2508 education contained in the state's plan including, but not limited  
2509 to, basic skills in reading, writing and mathematics. The minimum  
2510 performance standards shall be approved by April 1 in each year  
2511 they are established.

2512 (b) Conduct a uniform statewide testing program in  
2513 grades deemed appropriate in the public schools, including charter  
2514 schools, which shall provide for the administration of the ACT  
2515 WorkKeys Assessment to any students electing to take the  
2516 assessment. Each individual school district shall determine  
2517 whether the ACT WorkKeys Assessment is administered in the ninth,



2518 tenth or eleventh grade. The program may test skill areas, basic  
2519 skills and high school course content.

2520 (c) Monitor the results of the assessment program and,  
2521 at any time the composite student performance of a school or basic  
2522 program is found to be below the established minimum standards,  
2523 notify the district superintendent or the governing board of the  
2524 charter school, as the case may be, the school principal and the  
2525 school advisory committee or other existing parent group of the  
2526 situation within thirty (30) days of its determination. The  
2527 department shall further provide technical assistance to a school  
2528 district in the identification of the causes of this deficiency  
2529 and shall recommend courses of action for its correction.

2530 (d) Provide technical assistance to the school  
2531 districts, when requested, in the development of student  
2532 performance standards in addition to the established minimum  
2533 statewide standards.

2534 (e) Issue security procedure regulations providing for  
2535 the security and integrity of the tests that are administered  
2536 under the basic skills assessment program.

2537 (f) In case of an allegation of a testing irregularity  
2538 that prompts a need for an investigation by the Department of  
2539 Education, the department may, in its discretion, take complete  
2540 control of the statewide test administration in a school district  
2541 or any part thereof, including, but not limited to, obtaining  
2542 control of the test booklets and answer documents. In the case of



2543 any verified testing irregularity that jeopardized the security  
2544 and integrity of the test(s), validity or the accuracy of the test  
2545 results, the cost of the investigation and any other actual and  
2546 necessary costs related to the investigation paid by the  
2547 Department of Education shall be reimbursed by the local school  
2548 district from funds other than federal funds, Mississippi Adequate  
2549 Education Program funds, or any other state funds within six (6)  
2550 months from the date of notice by the department to the school  
2551 district to make reimbursement to the department.

2552 (2) Uniform basic skills tests shall be completed by each  
2553 student in the appropriate grade. These tests shall be  
2554 administered in such a manner as to preserve the integrity and  
2555 validity of the assessment. In the event of excused or unexcused  
2556 student absences, make-up tests shall be given. The school  
2557 superintendent of every school district in the state and the  
2558 principal of each charter school shall annually certify to the  
2559 State Department of Education that each student enrolled in the  
2560 appropriate grade has completed the required basic skills  
2561 assessment test for his or her grade in a valid test  
2562 administration.

2563 (3) Within five (5) days of completing the administration of  
2564 a statewide test, the principal of the school where the test was  
2565 administered shall certify under oath to the State Department of  
2566 Education that the statewide test was administered in strict  
2567 accordance with the Requirements of the Mississippi Statewide



2568 Assessment System as adopted by the State Board of Education. The  
2569 principal's sworn certification shall be set forth on a form  
2570 developed and approved by the Department of Education. If,  
2571 following the administration of a statewide test, the principal  
2572 has reason to believe that the test was not administered in strict  
2573 accordance with the Requirements of the Mississippi Statewide  
2574 Assessment System as adopted by the State Board of Education, the  
2575 principal shall submit a sworn certification to the Department of  
2576 Education setting forth all information known or believed by the  
2577 principal about all potential violations of the Requirements of  
2578 the Mississippi Statewide Assessment System as adopted by the  
2579 State Board of Education. The submission of false information or  
2580 false certification to the Department of Education by any licensed  
2581 educator may result in licensure disciplinary action pursuant to  
2582 Section 37-3-2 and criminal prosecution pursuant to Section  
2583 37-16-4.

2584 **SECTION 11.** Section 37-17-6, Mississippi Code of 1972, is  
2585 amended as follows:

2586 37-17-6. (1) The State Board of Education, acting through  
2587 the Commission on School Accreditation, shall establish and  
2588 implement a permanent performance-based accreditation system, and  
2589 all noncharter public elementary and secondary schools shall be  
2590 accredited under this system.

2591 (2) No later than June 30, 1995, the State Board of  
2592 Education, acting through the Commission on School Accreditation,





2593 shall require school districts to provide school classroom space  
2594 that is air-conditioned as a minimum requirement for  
2595 accreditation.

2596 (3) (a) Beginning with the 1994-1995 school year, the State  
2597 Board of Education, acting through the Commission on School  
2598 Accreditation, shall require that school districts employ  
2599 certified school librarians according to the following formula:

2600	Number of Students	Number of Certified
2601	Per School Library	School Librarians
2602	0 - 499 Students	1/2 Full-time Equivalent
2603		Certified Librarian
2604	500 or More Students	1 Full-time Certified
2605		Librarian

2606 (b) The State Board of Education, however, may increase  
2607 the number of positions beyond the above requirements.

2608 (c) The assignment of certified school librarians to  
2609 the particular schools shall be at the discretion of the local  
2610 school district. No individual shall be employed as a certified  
2611 school librarian without appropriate training and certification as  
2612 a school librarian by the State Department of Education.

2613 (d) School librarians in the district shall spend at  
2614 least fifty percent (50%) of direct work time in a school library  
2615 and shall devote no more than one-fourth (1/4) of the workday to  
2616 administrative activities that are library related.



2617 (e) Nothing in this subsection shall prohibit any  
2618 school district from employing more certified school librarians  
2619 than are provided for in this section.

2620 (f) Any additional millage levied to fund school  
2621 librarians required for accreditation under this subsection shall  
2622 be included in the tax increase limitation set forth in Sections  
2623 37-57-105 and 37-57-107 and shall not be deemed a new program for  
2624 purposes of the limitation.

2625 (4) On or before December 31, 2002, the State Board of  
2626 Education shall implement the performance-based accreditation  
2627 system for school districts and for individual noncharter public  
2628 schools which shall include the following:

2629 (a) High expectations for students and high standards  
2630 for all schools, with a focus on the basic curriculum;

2631 (b) Strong accountability for results with appropriate  
2632 local flexibility for local implementation;

2633 (c) A process to implement accountability at both the  
2634 school district level and the school level;

2635 (d) Individual schools shall be held accountable for  
2636 student growth and performance;

2637 (e) Set annual performance standards for each of the  
2638 schools of the state and measure the performance of each school  
2639 against itself through the standard that has been set for it;



2640 (f) A determination of which schools exceed their  
2641 standards and a plan for providing recognition and rewards to  
2642 those schools;

2643 (g) A determination of which schools are failing to  
2644 meet their standards and a determination of the appropriate role  
2645 of the State Board of Education and the State Department of  
2646 Education in providing assistance and initiating possible  
2647 intervention. A failing district is a district that fails to meet  
2648 both the absolute student achievement standards and the rate of  
2649 annual growth expectation standards as set by the State Board of  
2650 Education for two (2) consecutive years. The State Board of  
2651 Education shall establish the level of benchmarks by which  
2652 absolute student achievement and growth expectations shall be  
2653 assessed. In setting the benchmarks for school districts, the  
2654 State Board of Education may also take into account such factors  
2655 as graduation rates, dropout rates, completion rates, the extent  
2656 to which the school or district employs qualified teachers in  
2657 every classroom, and any other factors deemed appropriate by the  
2658 State Board of Education. The State Board of Education, acting  
2659 through the State Department of Education, shall apply a simple  
2660 "A," "B," "C," "D" and "F" designation to the current school and  
2661 school district statewide accountability performance  
2662 classification labels beginning with the State Accountability  
2663 Results for the 2011-2012 school year and following, and in the  
2664 school, district and state report cards required under state and



2665 federal law. Under the new designations, a school or school  
2666 district that has earned a "Star" rating shall be designated an  
2667 "A" school or school district; a school or school district that  
2668 has earned a "High-Performing" rating shall be designated a "B"  
2669 school or school district; a school or school district that has  
2670 earned a "Successful" rating shall be designated a "C" school or  
2671 school district; a school or school district that has earned an  
2672 "Academic Watch" rating shall be designated a "D" school or school  
2673 district; a school or school district that has earned a  
2674 "Low-Performing," "At-Risk of Failing" or "Failing" rating shall  
2675 be designated an "F" school or school district. Effective with  
2676 the implementation of any new curriculum and assessment standards,  
2677 the State Board of Education, acting through the State Department  
2678 of Education, is further authorized and directed to change the  
2679 school and school district accreditation rating system to a simple  
2680 "A," "B," "C," "D," and "F" designation based on a combination of  
2681 student achievement scores and student growth as measured by the  
2682 statewide testing programs developed by the State Board of  
2683 Education pursuant to Chapter 16, Title 37, Mississippi Code of  
2684 1972. In any statute or regulation containing the former  
2685 accreditation designations, the new designations shall be  
2686 applicable;

2687 (h) Development of a comprehensive student assessment  
2688 system to implement these requirements; and



2689 (i) The State Board of Education may, based on a  
2690 written request that contains specific reasons for requesting a  
2691 waiver from the school districts affected by Hurricane Katrina of  
2692 2005, hold harmless school districts from assignment of district  
2693 and school level accountability ratings for the 2005-2006 school  
2694 year. The State Board of Education upon finding an extreme  
2695 hardship in the school district may grant the request. It is the  
2696 intent of the Legislature that all school districts maintain the  
2697 highest possible academic standards and instructional programs in  
2698 all schools as required by law and the State Board of Education.

2699 (5) (a) Effective with the 2013-2014 school year, the State  
2700 Department of Education, acting through the Mississippi Commission  
2701 on School Accreditation, shall revise and implement a single "A"  
2702 through "F" school and school district accountability system  
2703 complying with applicable federal and state requirements in order  
2704 to reach the following educational goals:

2705 (i) To mobilize resources and supplies to ensure  
2706 that all students exit third grade reading on grade level by 2015;

2707 (ii) To reduce the student dropout rate to  
2708 thirteen percent (13%) by 2015; and

2709 (iii) To have sixty percent (60%) of students  
2710 scoring proficient and advanced on the assessments of the Common  
2711 Core State Standards by 2016 with incremental increases of three  
2712 percent (3%) each year thereafter.



2713 (b) The State Department of Education shall combine the  
2714 state school and school district accountability system with the  
2715 federal system in order to have a single system.

2716 (c) The State Department of Education shall establish  
2717 five (5) performance categories ("A," "B," "C," "D" and "F") for  
2718 the accountability system based on the following criteria:

2719 (i) Student Achievement: the percent of students  
2720 proficient and advanced on the current state assessments;

2721 (ii) Individual student growth: the percent of  
2722 students making one (1) year's progress in one (1) year's time on  
2723 the state assessment, with an emphasis on the progress of the  
2724 lowest twenty-five percent (25%) of students in the school or  
2725 district;

2726 (iii) Four-year graduation rate: the percent of  
2727 students graduating with a standard high school diploma in four  
2728 (4) years, as defined by federal regulations;

2729 (iv) Categories shall identify schools as Reward  
2730 ("A" schools), Focus ("D" schools) and Priority ("F" schools). If  
2731 at least five percent (5%) of schools in the state are not graded  
2732 as "F" schools, the lowest five percent (5%) of school grade point  
2733 designees will be identified as Priority schools. If at least ten  
2734 percent (10%) of schools in the state are not graded as "D"  
2735 schools, the lowest ten percent (10%) of school grade point  
2736 designees will be identified as Focus schools;



2737 (v) The State Department of Education shall  
2738 discontinue the use of Star School, High-Performing, Successful,  
2739 Academic Watch, Low-Performing, At-Risk of Failing and Failing  
2740 school accountability designations;

2741 (vi) The system shall include the federally  
2742 compliant four-year graduation rate in school and school district  
2743 accountability system calculations. Graduation rate will apply to  
2744 high school and school district accountability ratings as a  
2745 compensatory component. The system shall discontinue the use of  
2746 the High School Completer Index (HSCI);

2747 (vii) The school and school district  
2748 accountability system shall incorporate a standards-based growth  
2749 model, in order to support improvement of individual student  
2750 learning;

2751 (viii) The State Department of Education shall  
2752 discontinue the use of the Quality Distribution Index (QDI);

2753 (ix) The State Department of Education shall  
2754 determine feeder patterns of schools that do not earn a school  
2755 grade because the grades and subjects taught at the school do not  
2756 have statewide standardized assessments needed to calculate a  
2757 school grade. Upon determination of the feeder pattern, the  
2758 department shall notify schools and school districts prior to the  
2759 release of the school grades beginning in 2013. Feeder schools  
2760 will be assigned the accountability designation of the school to  
2761 which they provide students;



2762 (x) Standards for student, school and school  
2763 district performance will be increased when student proficiency is  
2764 at a seventy-five percent (75%) and/or when sixty-five percent  
2765 (65%) of the schools and/or school districts are earning a grade  
2766 of "B" or higher, in order to raise the standard on performance  
2767 after targets are met \* \* \*; and

2768 (xi) The system shall include student performance  
2769 on the administration of the ACT WorkKeys Assessment, which shall  
2770 be weighted in the same percentage as the standard ACT Assessment  
2771 as administered to students in Grade 11, for inclusion in the  
2772 college and career readiness portion of the accountability rating  
2773 system. The State Department of Education shall ensure equitable  
2774 distribution of points under the accountability rating, in  
2775 comparison to the ACT Assessment, for a Silver Status on the ACT  
2776 WorkKeys Assessment. A student shall not be required to complete  
2777 all of the courses within his or her career pathway for his or her  
2778 performance on the ACT WorkKeys Assessment to be included in the  
2779 system.

2780 (6) Nothing in this section shall be deemed to require a  
2781 nonpublic school that receives no local, state or federal funds  
2782 for support to become accredited by the State Board of Education.

2783 (7) The State Board of Education shall create an  
2784 accreditation audit unit under the Commission on School  
2785 Accreditation to determine whether schools are complying with  
2786 accreditation standards.





2787           (8) The State Board of Education shall be specifically  
2788 authorized and empowered to withhold adequate education program  
2789 fund allocations, whichever is applicable, to any public school  
2790 district for failure to timely report student, school personnel  
2791 and fiscal data necessary to meet state and/or federal  
2792 requirements.

2793           (9) [Deleted]

2794           (10) The State Board of Education shall establish, for those  
2795 school districts failing to meet accreditation standards, a  
2796 program of development to be complied with in order to receive  
2797 state funds, except as otherwise provided in subsection (15) of  
2798 this section when the Governor has declared a state of emergency  
2799 in a school district or as otherwise provided in Section 206,  
2800 Mississippi Constitution of 1890. The state board, in  
2801 establishing these standards, shall provide for notice to schools  
2802 and sufficient time and aid to enable schools to attempt to meet  
2803 these standards, unless procedures under subsection (15) of this  
2804 section have been invoked.

2805           (11) Beginning July 1, 1998, the State Board of Education  
2806 shall be charged with the implementation of the program of  
2807 development in each applicable school district as follows:

2808                   (a) Develop an impairment report for each district  
2809 failing to meet accreditation standards in conjunction with school  
2810 district officials;



2811 (b) Notify any applicable school district failing to  
2812 meet accreditation standards that it is on probation until  
2813 corrective actions are taken or until the deficiencies have been  
2814 removed. The local school district shall develop a corrective  
2815 action plan to improve its deficiencies. For district academic  
2816 deficiencies, the corrective action plan for each such school  
2817 district shall be based upon a complete analysis of the following:  
2818 student test data, student grades, student attendance reports,  
2819 student dropout data, existence and other relevant data. The  
2820 corrective action plan shall describe the specific measures to be  
2821 taken by the particular school district and school to improve:  
2822 (i) instruction; (ii) curriculum; (iii) professional development;  
2823 (iv) personnel and classroom organization; (v) student incentives  
2824 for performance; (vi) process deficiencies; and (vii) reporting to  
2825 the local school board, parents and the community. The corrective  
2826 action plan shall describe the specific individuals responsible  
2827 for implementing each component of the recommendation and how each  
2828 will be evaluated. All corrective action plans shall be provided  
2829 to the State Board of Education as may be required. The decision  
2830 of the State Board of Education establishing the probationary  
2831 period of time shall be final;

2832 (c) Offer, during the probationary period, technical  
2833 assistance to the school district in making corrective actions.  
2834 Beginning July 1, 1998, subject to the availability of funds, the  
2835 State Department of Education shall provide technical and/or



2836 financial assistance to all such school districts in order to  
2837 implement each measure identified in that district's corrective  
2838 action plan through professional development and on-site  
2839 assistance. Each such school district shall apply for and utilize  
2840 all available federal funding in order to support its corrective  
2841 action plan in addition to state funds made available under this  
2842 paragraph;

2843 (d) Assign department personnel or contract, in its  
2844 discretion, with the institutions of higher learning or other  
2845 appropriate private entities with experience in the academic,  
2846 finance and other operational functions of schools to assist  
2847 school districts;

2848 (e) Provide for publication of public notice at least  
2849 one time during the probationary period, in a newspaper published  
2850 within the jurisdiction of the school district failing to meet  
2851 accreditation standards, or if no newspaper is published therein,  
2852 then in a newspaper having a general circulation therein. The  
2853 publication shall include the following: declaration of school  
2854 system's status as being on probation; all details relating to the  
2855 impairment report; and other information as the State Board of  
2856 Education deems appropriate. Public notices issued under this  
2857 section shall be subject to Section 13-3-31 and not contrary to  
2858 other laws regarding newspaper publication.

2859 (12) (a) If the recommendations for corrective action are  
2860 not taken by the local school district or if the deficiencies are



2861 not removed by the end of the probationary period, the Commission  
2862 on School Accreditation shall conduct a hearing to allow the  
2863 affected school district to present evidence or other reasons why  
2864 its accreditation should not be withdrawn. Additionally, if the  
2865 local school district violates accreditation standards that have  
2866 been determined by the policies and procedures of the State Board  
2867 of Education to be a basis for withdrawal of school district's  
2868 accreditation without a probationary period, the Commission on  
2869 School Accreditation shall conduct a hearing to allow the affected  
2870 school district to present evidence or other reasons why its  
2871 accreditation should not be withdrawn. After its consideration of  
2872 the results of the hearing, the Commission on School Accreditation  
2873 shall be authorized, with the approval of the State Board of  
2874 Education, to withdraw the accreditation of a public school  
2875 district, and issue a request to the Governor that a state of  
2876 emergency be declared in that district.

2877 (b) If the State Board of Education and the Commission  
2878 on School Accreditation determine that an extreme emergency  
2879 situation exists in a school district that jeopardizes the safety,  
2880 security or educational interests of the children enrolled in the  
2881 schools in that district and that emergency situation is believed  
2882 to be related to a serious violation or violations of  
2883 accreditation standards or state or federal law, or when a school  
2884 district meets the State Board of Education's definition of a  
2885 failing school district for two (2) consecutive full school years,



2886 or if more than fifty percent (50%) of the schools within the  
2887 school district are designated as Schools At-Risk in any one (1)  
2888 year, the State Board of Education may request the Governor to  
2889 declare a state of emergency in that school district. For  
2890 purposes of this paragraph, the declarations of a state of  
2891 emergency shall not be limited to those instances when a school  
2892 district's impairments are related to a lack of financial  
2893 resources, but also shall include serious failure to meet minimum  
2894 academic standards, as evidenced by a continued pattern of poor  
2895 student performance.

2896 (c) Whenever the Governor declares a state of emergency  
2897 in a school district in response to a request made under paragraph  
2898 (a) or (b) of this subsection, the State Board of Education may  
2899 take one or more of the following actions:

2900 (i) Declare a state of emergency, under which some  
2901 or all of state funds can be escrowed except as otherwise provided  
2902 in Section 206, Constitution of 1890, until the board determines  
2903 corrective actions are being taken or the deficiencies have been  
2904 removed, or that the needs of students warrant the release of  
2905 funds. The funds may be released from escrow for any program  
2906 which the board determines to have been restored to standard even  
2907 though the state of emergency may not as yet be terminated for the  
2908 district as a whole;

2909 (ii) Override any decision of the local school  
2910 board or superintendent of education, or both, concerning the



2911 management and operation of the school district, or initiate and  
2912 make decisions concerning the management and operation of the  
2913 school district;

2914 (iii) Assign an interim superintendent, or in its  
2915 discretion, contract with a private entity with experience in the  
2916 academic, finance and other operational functions of schools and  
2917 school districts, who will have those powers and duties prescribed  
2918 in subsection (15) of this section;

2919 (iv) Grant transfers to students who attend this  
2920 school district so that they may attend other accredited schools  
2921 or districts in a manner that is not in violation of state or  
2922 federal law;

2923 (v) For states of emergency declared under  
2924 paragraph (a) only, if the accreditation deficiencies are related  
2925 to the fact that the school district is too small, with too few  
2926 resources, to meet the required standards and if another school  
2927 district is willing to accept those students, abolish that  
2928 district and assign that territory to another school district or  
2929 districts. If the school district has proposed a voluntary  
2930 consolidation with another school district or districts, then if  
2931 the State Board of Education finds that it is in the best interest  
2932 of the pupils of the district for the consolidation to proceed,  
2933 the voluntary consolidation shall have priority over any such  
2934 assignment of territory by the State Board of Education;



2935 (vi) For states of emergency declared under  
2936 paragraph (b) only, reduce local supplements paid to school  
2937 district employees, including, but not limited to, instructional  
2938 personnel, assistant teachers and extracurricular activities  
2939 personnel, if the district's impairment is related to a lack of  
2940 financial resources, but only to an extent that will result in the  
2941 salaries being comparable to districts similarly situated, as  
2942 determined by the State Board of Education;

2943 (vii) For states of emergency declared under  
2944 paragraph (b) only, the State Board of Education may take any  
2945 action as prescribed in Section 37-17-13.

2946 (d) At the time that satisfactory corrective action has  
2947 been taken in a school district in which a state of emergency has  
2948 been declared, the State Board of Education may request the  
2949 Governor to declare that the state of emergency no longer exists  
2950 in the district.

2951 (e) The parent or legal guardian of a school-age child  
2952 who is enrolled in a school district whose accreditation has been  
2953 withdrawn by the Commission on School Accreditation and without  
2954 approval of that school district may file a petition in writing to  
2955 a school district accredited by the Commission on School  
2956 Accreditation for a legal transfer. The school district  
2957 accredited by the Commission on School Accreditation may grant the  
2958 transfer according to the procedures of Section 37-15-31(1)(b).  
2959 In the event the accreditation of the student's home district is



2960 restored after a transfer has been approved, the student may  
2961 continue to attend the transferee school district. The per-pupil  
2962 amount of the adequate education program allotment, including the  
2963 collective "add-on program" costs for the student's home school  
2964 district shall be transferred monthly to the school district  
2965 accredited by the Commission on School Accreditation that has  
2966 granted the transfer of the school-age child.

2967 (f) Upon the declaration of a state of emergency for  
2968 any school district in which the Governor has previously declared  
2969 a state of emergency, the State Board of Education may either:

2970 (i) Place the school district into district  
2971 transformation, in which the school district shall remain until it  
2972 has fulfilled all conditions related to district transformation.  
2973 If the district was assigned an accreditation rating of "D" or "F"  
2974 when placed into district transformation, the district shall be  
2975 eligible to return to local control when the school district has  
2976 attained a "C" rating or higher for five (5) consecutive years,  
2977 unless the State Board of Education determines that the district  
2978 is eligible to return to local control in less than the five-year  
2979 period;

2980 (ii) Abolish the school district and  
2981 administratively consolidate the school district with one or more  
2982 existing school districts;

2983 (iii) Reduce the size of the district and  
2984 administratively consolidate parts of the district, as determined





2985 by the State Board of Education. However, no school district  
2986 which is not in district transformation shall be required to  
2987 accept additional territory over the objection of the district; or

2988 (iv) Require the school district to develop and  
2989 implement a district improvement plan with prescriptive guidance  
2990 and support from the State Department of Education, with the goal  
2991 of helping the district improve student achievement. Failure of  
2992 the school board, superintendent and school district staff to  
2993 implement the plan with fidelity and participate in the activities  
2994 provided as support by the department shall result in the school  
2995 district retaining its eligibility for district transformation.

2996 (g) There is established a Mississippi Recovery School  
2997 District within the State Department of Education under the  
2998 supervision of a deputy superintendent appointed by the State  
2999 Superintendent of Public Education, who is subject to the approval  
3000 by the State Board of Education. The Mississippi Recovery School  
3001 District shall provide leadership and oversight of all school  
3002 districts that are subject to district transformation status, as  
3003 defined in Chapters 17 and 18, Title 37, Mississippi Code of 1972,  
3004 and shall have all the authority granted under these two (2)  
3005 chapters. The Mississippi Department of Education, with the  
3006 approval of the State Board of Education, shall develop policies  
3007 for the operation and management of the Mississippi Recovery  
3008 School District. The deputy state superintendent is responsible  
3009 for the Mississippi Recovery School District and shall be



3010 authorized to oversee the administration of the Mississippi  
3011 Recovery School District, oversee the interim superintendent  
3012 assigned by the State Board of Education to a local school  
3013 district, hear appeals that would normally be filed by students,  
3014 parents or employees and heard by a local school board, which  
3015 hearings on appeal shall be conducted in a prompt and timely  
3016 manner in the school district from which the appeal originated in  
3017 order to ensure the ability of appellants, other parties and  
3018 witnesses to appeal without undue burden of travel costs or loss  
3019 of time from work, and perform other related duties as assigned by  
3020 the State Superintendent of Public Education. The deputy state  
3021 superintendent is responsible for the Mississippi Recovery School  
3022 District and shall determine, based on rigorous professional  
3023 qualifications set by the State Board of Education, the  
3024 appropriate individuals to be engaged to be interim  
3025 superintendents and financial advisors, if applicable, of all  
3026 school districts subject to district transformation status. After  
3027 State Board of Education approval, these individuals shall be  
3028 deemed independent contractors.

3029 (13) Upon the declaration of a state of emergency in a  
3030 school district under subsection (12) of this section, the  
3031 Commission on School Accreditation shall be responsible for public  
3032 notice at least once a week for at least three (3) consecutive  
3033 weeks in a newspaper published within the jurisdiction of the  
3034 school district failing to meet accreditation standards, or if no



3035 newspaper is published therein, then in a newspaper having a  
3036 general circulation therein. The size of the notice shall be no  
3037 smaller than one-fourth (1/4) of a standard newspaper page and  
3038 shall be printed in bold print. If an interim superintendent has  
3039 been appointed for the school district, the notice shall begin as  
3040 follows: "By authority of Section 37-17-6, Mississippi Code of  
3041 1972, as amended, adopted by the Mississippi Legislature during  
3042 the 1991 Regular Session, this school district (name of school  
3043 district) is hereby placed under the jurisdiction of the State  
3044 Department of Education acting through its appointed interim  
3045 superintendent (name of interim superintendent)."

3046 The notice also shall include, in the discretion of the State  
3047 Board of Education, any or all details relating to the school  
3048 district's emergency status, including the declaration of a state  
3049 of emergency in the school district and a description of the  
3050 district's impairment deficiencies, conditions of any district  
3051 transformation status and corrective actions recommended and being  
3052 taken. Public notices issued under this section shall be subject  
3053 to Section 13-3-31 and not contrary to other laws regarding  
3054 newspaper publication.

3055 Upon termination of the state of emergency in a school  
3056 district, the Commission on School Accreditation shall cause  
3057 notice to be published in the school district in the same manner  
3058 provided in this section, to include any or all details relating



3059 to the corrective action taken in the school district that  
3060 resulted in the termination of the state of emergency.

3061 (14) The State Board of Education or the Commission on  
3062 School Accreditation shall have the authority to require school  
3063 districts to produce the necessary reports, correspondence,  
3064 financial statements, and any other documents and information  
3065 necessary to fulfill the requirements of this section.

3066 Nothing in this section shall be construed to grant any  
3067 individual, corporation, board or interim superintendent the  
3068 authority to levy taxes except in accordance with presently  
3069 existing statutory provisions.

3070 (15) (a) Whenever the Governor declares a state of  
3071 emergency in a school district in response to a request made under  
3072 subsection (12) of this section, the State Board of Education, in  
3073 its discretion, may assign an interim superintendent to the school  
3074 district, or in its discretion, may contract with an appropriate  
3075 private entity with experience in the academic, finance and other  
3076 operational functions of schools and school districts, who will be  
3077 responsible for the administration, management and operation of  
3078 the school district, including, but not limited to, the following  
3079 activities:

3080 (i) Approving or disapproving all financial  
3081 obligations of the district, including, but not limited to, the  
3082 employment, termination, nonrenewal and reassignment of all  
3083 licensed and nonlicensed personnel, contractual agreements and



3084 purchase orders, and approving or disapproving all claim dockets  
3085 and the issuance of checks; in approving or disapproving  
3086 employment contracts of superintendents, assistant superintendents  
3087 or principals, the interim superintendent shall not be required to  
3088 comply with the time limitations prescribed in Sections 37-9-15  
3089 and 37-9-105;

3090 (ii) Supervising the day-to-day activities of the  
3091 district's staff, including reassigning the duties and  
3092 responsibilities of personnel in a manner which, in the  
3093 determination of the interim superintendent, will best suit the  
3094 needs of the district;

3095 (iii) Reviewing the district's total financial  
3096 obligations and operations and making recommendations to the  
3097 district for cost savings, including, but not limited to,  
3098 reassigning the duties and responsibilities of staff;

3099 (iv) Attending all meetings of the district's  
3100 school board and administrative staff;

3101 (v) Approving or disapproving all athletic, band  
3102 and other extracurricular activities and any matters related to  
3103 those activities;

3104 (vi) Maintaining a detailed account of  
3105 recommendations made to the district and actions taken in response  
3106 to those recommendations;

3107 (vii) Reporting periodically to the State Board of  
3108 Education on the progress or lack of progress being made in the



3109 district to improve the district's impairments during the state of  
3110 emergency; and

3111 (viii) Appointing a parent advisory committee,  
3112 comprised of parents of students in the school district that may  
3113 make recommendations to the interim superintendent concerning the  
3114 administration, management and operation of the school district.

3115 The cost of the salary of the interim superintendent and any  
3116 other actual and necessary costs related to district  
3117 transformation status paid by the State Department of Education  
3118 shall be reimbursed by the local school district from funds other  
3119 than adequate education program funds. The department shall  
3120 submit an itemized statement to the superintendent of the local  
3121 school district for reimbursement purposes, and any unpaid balance  
3122 may be withheld from the district's adequate education program  
3123 funds.

3124 At the time that the Governor, in accordance with the request  
3125 of the State Board of Education, declares that the state of  
3126 emergency no longer exists in a school district, the powers and  
3127 responsibilities of the interim superintendent assigned to the  
3128 district shall cease.

3129 (b) In order to provide loans to school districts under  
3130 a state of emergency or in district transformation status that  
3131 have impairments related to a lack of financial resources, the  
3132 School District Emergency Assistance Fund is created as a special  
3133 fund in the State Treasury into which monies may be transferred or



3134 appropriated by the Legislature from any available public  
3135 education funds. Funds in the School District Emergency  
3136 Assistance Fund up to a maximum balance of Three Million Dollars  
3137 (\$3,000,000.00) annually shall not lapse but shall be available  
3138 for expenditure in subsequent years subject to approval of the  
3139 State Board of Education. Any amount in the fund in excess of  
3140 Three Million Dollars (\$3,000,000.00) at the end of the fiscal  
3141 year shall lapse into the State General Fund or the Education  
3142 Enhancement Fund, depending on the source of the fund.

3143         The State Board of Education may loan monies from the School  
3144 District Emergency Assistance Fund to a school district that is  
3145 under a state of emergency or in district transformation status,  
3146 in those amounts, as determined by the board, that are necessary  
3147 to correct the district's impairments related to a lack of  
3148 financial resources. The loans shall be evidenced by an agreement  
3149 between the school district and the State Board of Education and  
3150 shall be repayable in principal, without necessity of interest, to  
3151 the School District Emergency Assistance Fund by the school  
3152 district from any allowable funds that are available. The total  
3153 amount loaned to the district shall be due and payable within five  
3154 (5) years after the impairments related to a lack of financial  
3155 resources are corrected. If a school district fails to make  
3156 payments on the loan in accordance with the terms of the agreement  
3157 between the district and the State Board of Education, the State  
3158 Department of Education, in accordance with rules and regulations



3159 established by the State Board of Education, may withhold that  
3160 district's adequate education program funds in an amount and  
3161 manner that will effectuate repayment consistent with the terms of  
3162 the agreement; the funds withheld by the department shall be  
3163 deposited into the School District Emergency Assistance Fund.

3164         The State Board of Education shall develop a protocol that  
3165 will outline the performance standards and requisite timeline  
3166 deemed necessary for extreme emergency measures. If the State  
3167 Board of Education determines that an extreme emergency exists,  
3168 simultaneous with the powers exercised in this subsection, it  
3169 shall take immediate action against all parties responsible for  
3170 the affected school districts having been determined to be in an  
3171 extreme emergency. The action shall include, but not be limited  
3172 to, initiating civil actions to recover funds and criminal actions  
3173 to account for criminal activity. Any funds recovered by the  
3174 State Auditor or the State Board of Education from the surety  
3175 bonds of school officials or from any civil action brought under  
3176 this subsection shall be applied toward the repayment of any loan  
3177 made to a school district hereunder.

3178         (16) If a majority of the membership of the school board of  
3179 any school district resigns from office, the State Board of  
3180 Education shall be authorized to assign an interim superintendent,  
3181 who shall be responsible for the administration, management and  
3182 operation of the school district until the time as new board  
3183 members are selected or the Governor declares a state of emergency





3184 in that school district under subsection (12), whichever occurs  
3185 first. In that case, the State Board of Education, acting through  
3186 the interim superintendent, shall have all powers which were held  
3187 by the previously existing school board, and may take any action  
3188 as prescribed in Section 37-17-13 and/or one or more of the  
3189 actions authorized in this section.

3190 (17) (a) If the Governor declares a state of emergency in a  
3191 school district, the State Board of Education may take all such  
3192 action pertaining to that school district as is authorized under  
3193 subsection (12) or (15) of this section, including the appointment  
3194 of an interim superintendent. The State Board of Education shall  
3195 also have the authority to issue a written request with  
3196 documentation to the Governor asking that the office of the  
3197 superintendent of the school district be subject to recall. If  
3198 the Governor declares that the office of the superintendent of the  
3199 school district is subject to recall, the local school board or  
3200 the county election commission, as the case may be, shall take the  
3201 following action:

3202 (i) If the office of superintendent is an elected  
3203 office, in those years in which there is no general election, the  
3204 name shall be submitted by the State Board of Education to the  
3205 county election commission, and the county election commission  
3206 shall submit the question at a special election to the voters  
3207 eligible to vote for the office of superintendent within the  
3208 county, and the special election shall be held within sixty (60)



3209 days from notification by the State Board of Education. The  
3210 ballot shall read substantially as follows:

3211 "Shall County Superintendent of Education \_\_\_\_\_ (here the  
3212 name of the superintendent shall be inserted) of the \_\_\_\_\_  
3213 (here the title of the school district shall be inserted) be  
3214 retained in office? Yes \_\_\_\_\_ No \_\_\_\_\_"

3215 If a majority of those voting on the question votes against  
3216 retaining the superintendent in office, a vacancy shall exist  
3217 which shall be filled in the manner provided by law; otherwise,  
3218 the superintendent shall remain in office for the term of that  
3219 office, and at the expiration of the term shall be eligible for  
3220 qualification and election to another term or terms.

3221 (ii) If the office of superintendent is an  
3222 appointive office, the name of the superintendent shall be  
3223 submitted by the president of the local school board at the next  
3224 regular meeting of the school board for retention in office or  
3225 dismissal from office. If a majority of the school board voting  
3226 on the question vote against retaining the superintendent in  
3227 office, a vacancy shall exist which shall be filled as provided by  
3228 law, otherwise the superintendent shall remain in office for the  
3229 duration of his employment contract.

3230 (b) The State Board of Education may issue a written  
3231 request with documentation to the Governor asking that the  
3232 membership of the school board of the school district shall be  
3233 subject to recall. Whenever the Governor declares that the



3234 membership of the school board is subject to recall, the county  
3235 election commission or the local governing authorities, as the  
3236 case may be, shall take the following action:

3237           (i) If the members of the local school board are  
3238 elected to office, in those years in which the specific member's  
3239 office is not up for election, the name of the school board member  
3240 shall be submitted by the State Board of Education to the county  
3241 election commission, and the county election commission at a  
3242 special election shall submit the question to the voters eligible  
3243 to vote for the particular member's office within the county or  
3244 school district, as the case may be, and the special election  
3245 shall be held within sixty (60) days from notification by the  
3246 State Board of Education. The ballot shall read substantially as  
3247 follows:

3248           "Members of the \_\_\_\_\_ (here the title of the school  
3249 district shall be inserted) School Board who are not up for  
3250 election this year are subject to recall because of the school  
3251 district's failure to meet critical accountability standards as  
3252 defined in the letter of notification to the Governor from the  
3253 State Board of Education. Shall the member of the school board  
3254 representing this area, \_\_\_\_\_ (here the name of the school  
3255 board member holding the office shall be inserted), be retained in  
3256 office? Yes \_\_\_\_\_ No \_\_\_\_\_"

3257           If a majority of those voting on the question vote against  
3258 retaining the member of the school board in office, a vacancy in



3259 that board member's office shall exist, which shall be filled in  
3260 the manner provided by law; otherwise, the school board member  
3261 shall remain in office for the term of that office, and at the  
3262 expiration of the term of office, the member shall be eligible for  
3263 qualification and election to another term or terms of office.  
3264 However, if a majority of the school board members are recalled in  
3265 the special election, the Governor shall authorize the board of  
3266 supervisors of the county in which the school district is situated  
3267 to appoint members to fill the offices of the members recalled.  
3268 The board of supervisors shall make those appointments in the  
3269 manner provided by law for filling vacancies on the school board,  
3270 and the appointed members shall serve until the office is filled  
3271 at the next regular special election or general election.

3272 (ii) If the local school board is an appointed  
3273 school board, the name of all school board members shall be  
3274 submitted as a collective board by the president of the municipal  
3275 or county governing authority, as the case may be, at the next  
3276 regular meeting of the governing authority for retention in office  
3277 or dismissal from office. If a majority of the governing  
3278 authority voting on the question vote against retaining the board  
3279 in office, a vacancy shall exist in each school board member's  
3280 office, which shall be filled as provided by law; otherwise, the  
3281 members of the appointed school board shall remain in office for  
3282 the duration of their term of appointment, and those members may  
3283 be reappointed.



3284 (iii) If the local school board is comprised of  
3285 both elected and appointed members, the elected members shall be  
3286 subject to recall in the manner provided in subparagraph (i) of  
3287 this paragraph (b), and the appointed members shall be subject to  
3288 recall in the manner provided in subparagraph (ii).

3289 (18) Beginning with the school district audits conducted for  
3290 the 1997-1998 fiscal year, the State Board of Education, acting  
3291 through the Commission on School Accreditation, shall require each  
3292 school district to comply with standards established by the State  
3293 Department of Audit for the verification of fixed assets and the  
3294 auditing of fixed assets records as a minimum requirement for  
3295 accreditation.

3296 (19) Before December 1, 1999, the State Board of Education  
3297 shall recommend a program to the Education Committees of the House  
3298 of Representatives and the Senate for identifying and rewarding  
3299 public schools that improve or are high performing. The program  
3300 shall be described by the board in a written report, which shall  
3301 include criteria and a process through which improving schools and  
3302 high-performing schools will be identified and rewarded.

3303 The State Superintendent of Public Education and the State  
3304 Board of Education also shall develop a comprehensive  
3305 accountability plan to ensure that local school boards,  
3306 superintendents, principals and teachers are held accountable for  
3307 student achievement. A written report on the accountability plan  
3308 shall be submitted to the Education Committees of both houses of



3309 the Legislature before December 1, 1999, with any necessary  
3310 legislative recommendations.

3311 (20) Before January 1, 2008, the State Board of Education  
3312 shall evaluate and submit a recommendation to the Education  
3313 Committees of the House of Representatives and the Senate on  
3314 inclusion of graduation rate and dropout rate in the school level  
3315 accountability system.

3316 (21) If a local school district is determined as failing and  
3317 placed into district transformation status for reasons authorized  
3318 by the provisions of this section, the interim superintendent  
3319 appointed to the district shall, within forty-five (45) days after  
3320 being appointed, present a detailed and structured corrective  
3321 action plan to move the local school district out of district  
3322 transformation status to the deputy superintendent. A copy of the  
3323 interim superintendent's corrective action plan shall also be  
3324 filed with the State Board of Education.

3325 **SECTION 12.** Beginning with the 2021-2022 academic year, the  
3326 State Board of Education, acting through the Commission on Teacher  
3327 and Administrator Education, Certification and Licensure and  
3328 Development, and in conjunction with the Board of Trustees of  
3329 State Institutions of Higher Learning, shall require each educator  
3330 preparation program in the state to include, as part of its  
3331 curriculum, a Praxis Core Academic Skills for Educators  
3332 examination and a Praxis II examination course of study, which  
3333 shall serve as a preparatory review course with emphasis on the



3334 concepts and exam skills necessary for success on the exam, and  
3335 reinforces students' knowledge through thought-provoking examples  
3336 and Praxis exam questions. Upon completion of the course,  
3337 students shall have mastered concepts as they are tested so that  
3338 students can excel within the time constraints of the exam.

3339       **SECTION 13.** This act shall take effect and be in force from  
3340 and after July 1, 2021.

