

**Tabled
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2124

BY: Committee

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

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)(l) 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 (1) 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, and shall stand repealed on June 30, 2021.

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

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.

