MISSISSIPPI LEGISLATURE REGULAR SESSION 2022

By: Senator(s) Blackwell, Barnett, Butler (36th), Butler (38th), DeLano, Hickman, Horhn, Jackson (11th), Simmons (12th), Simmons (13th)

To: Public Health and Welfare

SENATE BILL NO. 2095
(As Passed the Senate)

AN ACT TO ENACT THE MISSISSIPPI MEDICAL CANNABIS ACT; TO AUTHORIZE MEDICAL CANNABIS USE BY CERTAIN PATIENTS WHO HAVE DEBILITATING MEDICAL CONDITIONS; TO REQUIRE A PATIENT TO RECEIVE A WRITTEN CERTIFICATION FROM A QUALIFIED PRACTITIONER TO QUALIFY FOR A REGISTRY IDENTIFICATION CARD FOR THE USE OF MEDICAL CANNABIS; TO PROVIDE FOR THE PROCESS BY WHICH A PATIENT MAY REGISTER AS A CARDHOLDER FOR THE USE OF MEDICAL CANNABIS; TO PROVIDE CERTAIN PROTECTIONS TO PATIENTS, CAREGIVERS, MEDICAL PROVIDERS AND MEDICAL CANNABIS ESTABLISHMENTS FOR THE MEDICAL USE OF CANNABIS; TO PROVIDE FOR THE ALLOWABLE AMOUNT OF MEDICAL CANNABIS BY A QUALIFIED PATIENT; TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH WILL ISSUE REGISTRY IDENTIFICATION CARDS TO QUALIFYING PATIENTS AND REGISTRATIONS TO QUALIFYING FACILITIES; TO PROVIDE FOR THE LICENSING OF CANNABIS RESEARCH FACILITIES, TESTING FACILITIES, TRANSPORTATION ENTITIES AND PROCESSING FACILITIES; TO ALLOW FOR A DEDUCTION FROM INCOME TAXES FOR ALL OF THE ORDINARY AND NECESSARY EXPENSES PAID OR INCURRED DURING THE TAXABLE YEAR IN CARRYING ON A BUSINESS AS A MEDICAL CANNABIS ESTABLISHMENT; TO PROVIDE THAT THE MISSISSIPPI DEPARTMENT OF HEALTH SHALL HAVE THE ULTIMATE AUTHORITY FOR OVERSIGHT OF THE ADMINISTRATION OF THE MEDICAL CANNABIS PROGRAM; TO REQUIRE THE DEPARTMENT OF HEALTH TO DELEGATE THE RESPONSIBILITIES FOR INSPECTION, REGULATION AND ENFORCEMENT OF CANNABIS CULTIVATION FACILITIES, CANNABIS PROCESSING FACILITIES, CANNABIS TRANSPORTATION ENTITIES AND CANNABIS DISPOSAL ENTITIES TO THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE; TO PROVIDE THAT THE DEPARTMENT OF HEALTH SHALL LICENSE THESE ENTITIES, CANNABIS TESTING FACILITIES AND CANNABIS RESEARCH FACILITIES; TO REQUIRE THE DEPARTMENT OF HEALTH TO REGISTER QUALIFIED PRACTITIONERS AND GRANT REGISTRY IDENTIFICATION CARDS TO QUALIFIED PATIENTS AND DESIGNATED CAREGIVERS; TO PROVIDE FOR A STATEWIDE SEED-TO-SALE TRACKING SYSTEM; TO PROVIDE FOR DEADLINES FOR THE IMPLEMENTATION OF THE PROGRAM; TO PROVIDE FOR CERTAIN LIMITATIONS OF THE APPLICATION OF THE ACT; TO PROVIDE THAT THE ACT DOES NOT AUTHORIZE ANY INDIVIDUAL TO ENGAGE IN NOR PREVENT THE IMPOSITION

OF ANY CIVIL, CRIMINAL OR OTHER PENALTIES FOR CERTAIN ACTS RELATED TO THE USE OF MEDICAL CANNABIS; TO PROVIDE THAT CERTAIN DISCRIMINATORY ACTS AGAINST MEDICAL CANNABIS CARDHOLDERS ARE PROHIBITED; TO PROVIDE FOR PROCESS OF THE ADDITION OF DEBILITATING MEDICAL CONDITIONS BY THE DEPARTMENT OF HEALTH; TO PROVIDE THAT NOTHING IN THE ACT PROHIBITS AN EMPLOYER FROM DISCIPLINING AN EMPLOYEE FOR INGESTING MEDICAL CANNABIS IN THE WORKPLACE OR FOR WORKING WHILE UNDER THE INFLUENCE OF MEDICAL CANNABIS; TO PROVIDE THAT NOTHING IN THE ACT REQUIRES A GOVERNMENT MEDICAL ASSISTANCE PROGRAM OR PRIVATE INSURER TO REIMBURSE A PERSON FOR COSTS ASSOCIATED WITH THE MEDICAL USE OF MEDICAL CANNABIS; TO REQUIRE THE DEPARTMENT OF HEALTH, DEPARTMENT OF AGRICULTURE AND COMMERCE AND THE DEPARTMENT OF REVENUE TO PROVIDE ANNUAL REPORTS TO THE GOVERNOR AND CERTAIN MEMBERS OF THE LEGISLATURE; TO REQUIRE THE DEPARTMENT OF HEALTH TO MAINTAIN A CONFIDENTIAL LIST OF REGISTRY IDENTIFICATION CARDS; TO REQUIRE CERTAIN NOTIFICATIONS FROM QUALIFYING PATIENTS; TO PROVIDE FOR THE FEES FOR LICENSES OF MEDICAL CANNABIS ESTABLISHMENTS; TO ALLOW MUNICIPALITIES AND COUNTIES TO ENACT ORDINANCES OR REGULATIONS NOT IN CONFLICT WITH THE ACT; TO PROHIBIT MEDICAL CANNABIS ESTABLISHMENTS FROM BEING LOCATED WITHIN 1,000 FEET OF THE NEAREST BOUNDARY LINE OF ANY SCHOOL, CHURCH OR CHILD CARE FACILITY UNLESS IT HAS RECEIVED A WAIVER; TO PROVIDE CERTAIN REQUIREMENTS, PROHIBITIONS AND PENALTIES FOR MEDICAL CANNABIS ESTABLISHMENTS; TO PROVIDE THAT NO MEDICAL CANNABIS ESTABLISHMENT SHALL SELL CANNABIS FLOWER OR TRIM THAT HAS A POTENCY OF GREATER THAN 30% TOTAL THC; TO REQUIRE ALL MEDICAL CANNABIS PRODUCTS TO CONTAIN A NOTICE OF HARM REGARDING THE USE OF MEDICAL CANNABIS; TO PROVIDE FOR THE WEEKLY AND MONTHLY ALLOWABLE AMOUNT OF MEDICAL CANNABIS; TO PROVIDE THE POSSESSION LIMIT OF MEDICAL CANNABIS FOR RESIDENT AND NONRESIDENT CARDHOLDERS; TO REQUIRE THE DEPARTMENT OF HEALTH, DEPARTMENT OF AGRICULTURE AND COMMERCE AND THE DEPARTMENT OF REVENUE TO ESTABLISH AND PROMULGATE RULES AND REGULATIONS RELATING TO THE PROGRAM; TO ESTABLISH VIOLATIONS RELATED TO THE USE OF MEDICAL CANNABIS AND THE PROGRAM; TO PROVIDE FOR FINES, SUSPENSIONS AND REVOCATIONS FOR VIOLATIONS OF THE ACT; TO PROVIDE THAT BANKS SHALL NOT BE HELD LIABLE FOR PROVIDING FINANCIAL SERVICES TO A MEDICAL CANNABIS ESTABLISHMENT; TO IMPOSE AN EXCISE TAX ON MEDICAL CANNABIS CULTIVATION FACILITIES AT A RATE OF 5% OF THE SALE PRICE OF CANNABIS TRIM OR CANNABIS FLOWER; TO REQUIRE DISPENSARIES TO COLLECT AND REMIT THE SALES TAX LEVIED IN SECTION 27-65-17(1)(a) FROM THE GROSS PROCEEDS OF EACH SALE OF MEDICAL CANNABIS; TO ALLOW THE GOVERNING AUTHORITIES OF MUNICIPALITIES AND BOARD OF SUPERVISORS OF COUNTIES TO OPT OUT OF ALLOWING THE PROCESSING, SALE AND DISTRIBUTION OF MEDICAL CANNABIS WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE ACT; TO PROVIDE FOR THE REFERENDUM PROCESS FOR A MUNICIPALITY OR COUNTY TO OPT INTO ALLOWING THE CULTIVATION, PROCESSING, SALE AND DISTRIBUTION OF MEDICAL CANNABIS IN A MUNICIPALITY OR COUNTY THAT HAS OPTED OUT; TO PROVIDE FOR THE JUDICIAL REVIEW FOR THOSE AGGRIEVED BY A FINAL DECISION OR ORDER RELATED TO THE MEDICAL CANNABIS PROGRAM; TO REQUIRE ALL FINES AND

FEES COLLECTED BY THE DEPARTMENT OF HEALTH AND DEPARTMENT OF REVENUE TO BE DEPOSITED INTO THE STATE GENERAL FUND; TO ESTABLISH A MEDICAL CANNABIS ADVISORY COMMITTEE; TO AMEND SECTION 25-53-5, MISSISSIPPI CODE OF 1972, TO TEMPORARILY EXEMPT ACQUISITIONS OF INFORMATION TECHNOLOGY EQUIPMENT AND SERVICES MADE BY THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE, THE MISSISSIPPI DEPARTMENT OF HEALTH AND THE MISSISSIPPI DEPARTMENT OF REVENUE FOR THE PURPOSES OF IMPLEMENTING, ADMINISTERING AND ENFORCING THE PROVISIONS OF THE MISSISSIPPI MEDICAL CANNABIS ACT, FROM MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES PROCUREMENT LAWS, RULES, AND REGULATIONS; TO AMEND SECTION 27-104-203, MISSISSIPPI CODE OF 1972, TO AUTHORIZE GRANTS, CONTRACTS, PASS-THROUGH FUNDS, PROJECT FEES OR CHARGES FOR SERVICES BETWEEN THE STATE DEPARTMENT OF HEALTH, STATE DEPARTMENT OF AGRICULTURE AND COMMERCE, STATE DEPARTMENT OF REVENUE, AND OTHER STATE AGENCIES OR ENTITIES FOR THE OPERATION OF THE MEDICAL MARIJUANA PROGRAM ESTABLISHED UNDER THIS ACT; TO AMEND SECTION 37-11-29, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE TERM CONTROLLED SUBSTANCE SHALL NOT INCLUDE THE POSSESSION OR USE OF MEDICAL CANNABIS THAT IS LAWFUL UNDER THIS ACT; TO AMEND SECTIONS 27-7-17, 27-65-111, 33-13-520, 41-29-125, 41-29-127, 41-29-136, 41-29-137, 41-29-139; 41-29-141, 41-29-143, 43-21-301, 43-21-303, 45-9-101, 59-23-7, 63-11-30, 71-3-7, 71-3-121, 73-15-29, 73-19-23, 73-21-127, 73-25-29 AND 83-9-22, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD SECTIONS 17-1-3, 19-5-9, 25-43-1.103, 25-43-2.101, 25-43-3.102, 25-43-3.103, 25-43-3.104, 25-43-3.105, 25-43-3.106, 25-43-3.107, 25-43-3.109, 25-43-3.110 AND 25-43-3.113, MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS OF THE MISSISSIPPI ADMINISTRATIVE PROCEDURES LAW AND THE PROVISIONS RELATING TO THE ADOPTION OF BUILDING CODES IN COUNTIES, FOR THE PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTION 25-43-3.108, MISSISSIPPI CODE OF 1972, TO MAKE SOME MINOR NONSUBSTANTIVE CHANGES; TO BRING FORWARD SECTION 41-3-15, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR POWERS AND DUTIES OF THE STATE BOARD OF HEALTH, FOR THE PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTIONS 27-7-22.5 AND 27-7-22.30, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MEDICAL CANNABIS ESTABLISHMENTS ARE NOT ELIGIBLE FOR CERTAIN INCOME TAX CREDITS AUTHORIZED BY SUCH SECTIONS; TO AMEND SECTIONS 27-31-51 AND 27-31-53, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PERSONAL PROPERTY OF MEDICAL CANNABIS ESTABLISHMENTS IS NOT ELIGIBLE FOR FREEPORT WAREHOUSE AD VALOREM TAX EXEMPTIONS; TO AMEND SECTIONS 27-31-101 AND 27-31-104, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT COUNTY BOARDS OF SUPERVISORS AND MUNICIPAL AUTHORITIES CANNOT GRANT CERTAIN AD VALOREM TAX EXEMPTIONS FOR MEDICAL CANNABIS ESTABLISHMENTS OR ENTER INTO FEE-IN-LIEU OF AD VALOREM TAX AGREEMENTS WITH MEDICAL CANNABIS ESTABLISHMENTS; TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MEDICAL CANNABIS ESTABLISHMENTS ARE NOT CONSIDERED TO BE TECHNOLOGY INTENSIVE ENTERPRISES FOR PURPOSES OF THE REDUCED SALES TAX RATE AUTHORIZED FOR SALES OF MACHINERY AND MACHINE PARTS TO TECHNOLOGY

INTENSIVE ENTERPRISES; TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN INDUSTRIAL SALES TAX EXEMPTIONS DO NOT APPLY TO SALES TO MEDICAL CANNABIS ESTABLISHMENTS; TO AMEND SECTION 37-148-3, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF THE TERM "INVESTOR" UNDER THE STRENGTHENING MISSISSIPPI ACADEMIC RESEARCH THROUGH BUSINESS ACT; TO AMEND SECTION 57-1-16, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF THE TERM "EXTRAORDINARY ECONOMIC DEVELOPMENT OPPORTUNITY" FOR PURPOSES OF THE ACE FUND; TO AMEND SECTION 57-1-221, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF THE TERM "PROJECT" FOR PURPOSES OF THE MISSISSIPPI INDUSTRY INCENTIVE FINANCING REVOLVING FUND; TO AMEND SECTION 57-10-401, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF THE TERM "ELIGIBLE COMPANY" FOR PURPOSES OF THE SECTIONS OF LAW THAT PROVIDE FOR THE ISSUANCE OF BONDS BY THE MISSISSIPPI BUSINESS FINANCE CORPORATION TO FINANCE ECONOMIC DEVELOPMENT PROJECTS IN ORDER TO INDUCE THE LOCATION OR EXPANSION OF CERTAIN BUSINESSES WITHIN THIS STATE; TO AMEND SECTION 57-61-5, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF THE TERM "PRIVATE COMPANY" UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT; TO AMEND SECTION 57-62-5, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF THE TERM "QUALIFIED BUSINESS OR INDUSTRY" UNDER THE MISSISSIPPI ADVANTAGE JOBS ACT; TO AMEND SECTION 57-69-3, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF THE TERMS "MINORITY BUSINESS ENTERPRISE" AND "MINORITY BUSINESS ENTERPRISE SUPPLIER" UNDER THE MISSISSIPPI MINORITY BUSINESS ENTERPRISE ACT; TO AMEND SECTION 57-71-5, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF PRIVATE COMPANY; TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MEDICAL CANNABIS ESTABLISHMENTS ARE NOT ELIGIBLE FOR CERTAIN INCOME TAX CREDITS AUTHORIZED BY SUCH SECTION; TO AMEND SECTION 57-80-5, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF THE TERM "BUSINESS ENTERPRISE" UNDER THE GROWTH AND PROSPERITY ACT; TO AMEND SECTION 57-85-5, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF THE TERMS "PROJECT" AND "RURAL BUSINESS" UNDER THE MISSISSIPPI RURAL IMPACT ACT; TO AMEND SECTION 57-91-5, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF THE TERM "BUSINESS ENTERPRISE" UNDER THE ECONOMIC REDEVELOPMENT ACT; TO AMEND SECTION 57-117-3, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF THE TERMS "HEALTH CARE INDUSTRY FACILITY" AND "QUALIFIED BUSINESS" UNDER THE MISSISSIPPI HEALTH CARE INDUSTRY ZONE ACT; TO AMEND SECTION 57-119-11, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY SHALL NOT PROVIDE FINANCIAL ASSISTANCE FROM

THE GULF COAST RESTORATION FUND FOR PROJECTS THAT ARE MEDICAL CANNABIS ESTABLISHMENTS OR PROJECTS RELATED TO MEDICAL CANNABIS ESTABLISHMENTS; TO AMEND SECTION 65-4-5, MISSISSIPPI CODE OF 1972, TO EXCLUDE MEDICAL CANNABIS ESTABLISHMENTS FROM THE DEFINITION OF THE TERMS "HIGH ECONOMIC BENEFIT PROJECT" AND "PRIVATE COMPANY" UNDER THE ECONOMIC DEVELOPMENT HIGHWAY ACT; TO AMEND SECTIONS 69-2-11 AND 69-2-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY SHALL NOT PROVIDE FINANCIAL ASSISTANCE TO MEDICAL CANNABIS ESTABLISHMENTS UNDER THE MISSISSIPPI FARM REFORM ACT OF 1987; AND FOR RELATED PURPOSES.

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

SECTION 1. **Title.** This chapter shall be known and may be cited as the "Mississippi Medical Cannabis Act."

SECTION 2. **Definitions.** For purposes of this chapter, unless the context requires otherwise, the following terms shall have the meanings ascribed herein:

(a) "Allowable amount of medical cannabis" means an amount not to exceed the maximum amount of Mississippi Medical Cannabis Equivalency Units ("MMCEU").

(b) "Bona fide practitioner-patient relationship" means:

(i) A practitioner and patient have a treatment or consulting relationship, during the course of which the practitioner, within his or her scope of practice, has completed an in-person assessment of the patient's medical history and current mental health and medical condition and has documented their certification in the patient's medical file;

(ii) The practitioner has consulted in person with the patient with respect to the patient's debilitating medical condition; and

(iii) The practitioner is available to or offers to provide follow-up care and treatment to the patient.

(c) "Cannabis" means all parts of the plant of the genus cannabis, the flower, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including whole plant extracts. Such term shall not mean cannabis derived drug products approved by the federal Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act.

(d) "Cannabis cultivation facility" means a business entity licensed and registered by the Mississippi Department of Health that acquires, grows, cultivates and harvests medical cannabis in an indoor, enclosed, locked and secure area.

(e) "Cannabis disposal entity" means a business licensed and registered by the Mississippi Department of Health that is involved in the commercial disposal or destruction of medical cannabis.

(f) "Cannabis processing facility" means a business entity that is licensed and registered by the Mississippi Department of Health that:

(i) Acquires or intends to acquire cannabis from a cannabis cultivation facility;

(ii) Possesses cannabis with the intent to manufacture a cannabis product;

(iii) Manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(iv) Sells or intends to sell a cannabis product to a medical cannabis dispensary, cannabis testing facility or cannabis research facility.

(g) "Cannabis products" means cannabis flower, concentrated cannabis, cannabis extracts and products that are infused with cannabis or an extract thereof and are intended for use or consumption by humans. The term includes, without limitation, edible cannabis products, beverages, topical products, ointments, oils, tinctures and suppositories that contain tetrahydrocannabinol (THC) and/or cannabidiol (CBD) except those products excluded from control under Sections 41-29-113 and 41-29-136.

(h) "Cannabis research facility" or "research facility" means a research facility at any university or college in this state or an independent entity licensed and registered by the Mississippi Department of Health pursuant to this chapter that acquires cannabis from cannabis cultivation facilities and cannabis processing facilities in order to research cannabis, develop best practices for specific medical conditions, develop medicines and provide commercial access for medical use.

(i) "Cannabis testing facility" or "testing facility" means an independent entity licensed and registered by the

Mississippi Department of Health that analyzes the safety and potency of cannabis.

(j) "Cannabis transportation entity" means an independent entity licensed and registered by the Mississippi Department of Health that is involved in the commercial transportation of medical cannabis.

(k) "Canopy" means the total surface area within a cultivation area that is dedicated to the cultivation of flowering cannabis plants. The surface area of the plant canopy must be calculated in square feet and measured and must include all of the area within the boundaries where the cultivation of the flowering cannabis plants occurs. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used in the cultivation area the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the cultivation area that are used to cultivate immature cannabis plants and seedlings, prior to flowering, and that are not used at any time to cultivate mature cannabis plants.

(l) "Cardholder" means a registered qualifying patient or a registered designated caregiver who has been issued and possesses a valid registry identification card.

(m) "Chronic pain" means a pain state in which the cause of the pain cannot be removed or otherwise treated, and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts by a practitioner.

(n) "Concentrate" means a substance obtained by separating cannabinoids from cannabis by:

(i) A mechanical extraction process;

(ii) A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, food-grade ethanol or steam distillation; or

(iii) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure.

(o) "Debilitating medical condition" means:

(i) Cancer, Parkinson's disease, Huntington's disease, muscular dystrophy, glaucoma, spastic quadriplegia, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis, amyotrophic lateral sclerosis (ALS), Crohn's disease, ulcerative colitis, sickle-cell anemia, Alzheimer's disease, agitation of dementia, post-traumatic stress disorder (PTSD), autism, pain refractory to appropriate opioid management, diabetic/peripheral neuropathy, spinal cord disease or severe injury, or the treatment of these conditions;

(ii) A chronic, terminal or debilitating disease or medical condition, or its treatment, that produces one or more of the following: cachexia or wasting syndrome, chronic pain, severe or intractable nausea, seizures, or severe and persistent muscle spasms, including, but not limited to, those characteristic of multiple sclerosis; or

(iii) Any other serious medical condition or its treatment added by the Mississippi Department of Health, as provided for in Section 9 of this act.

(p) "Designated caregiver" means a person who:

(i) Has agreed to assist with a registered qualifying patient's medical use of medical cannabis;

(ii) Assists no more than five (5) registered qualifying patients with their medical use of medical cannabis, unless the designated caregiver's registered qualifying patients each reside in or are admitted to a health care facility or facility providing residential care services or day care services where the designated caregiver is employed;

(iii) Is at least twenty-one (21) years of age unless the person is the parent or legal guardian of each qualifying patient the person assists; and

(iv) Has not been convicted of a disqualifying felony offense.

(q) "Disqualifying felony offense" means:

(i) A conviction for a crime of violence, as defined in Section 97-3-2;

(ii) A conviction for a crime that was defined as a violent crime in the law of the jurisdiction in which the offense was committed, and that was classified as a felony in the jurisdiction where the person was convicted; or

(iii) A conviction for a violation of a state or federal controlled substances law that was classified as a felony in the jurisdiction where the person was convicted, including the service of any term of probation, incarceration or supervised release within the previous five (5) years and the offender has not committed another similar offense since the conviction. Under this subparagraph (iii), a disqualifying felony offense shall not include a conviction that consisted of conduct for which this chapter would likely have prevented the conviction but for the fact that the conduct occurred before the effective date of this act.

(r) "Edible cannabis products" means products that:

(i) Contain or are infused with cannabis or an extract thereof;

(ii) Are intended for human consumption by oral ingestion; and

(iii) Are presented in the form of foodstuffs, beverages, extracts, oils, tinctures, lozenges and other similar products.

(s) "Entity" means a corporation, general partnership, limited partnership or limited liability company that has been registered with the Secretary of State as applicable.

(t) "MMCEU" means Mississippi Medical Cannabis Equivalency Unit. One unit of MMCEU shall be considered equal to:

(i) Three and one-half (3.5) grams of medical cannabis flower;

(ii) One (1) gram of medical cannabis concentrate; or

(iii) One hundred (100) milligrams of THC in an infused product.

(u) "MDAC" means the Mississippi Department of Agriculture and Commerce.

(v) "MDOH" means the Mississippi Department of Health.

(w) "MDOR" means the Mississippi Department of Revenue.

(x) "Medical cannabis" means cannabis, cannabis products and edible cannabis that are intended to be used by registered qualifying patients as provided in this chapter.

(y) "Medical cannabis dispensary" or "dispensary" means an entity licensed and registered with the MDOR that acquires, possesses, stores, transfers, sells, supplies or dispenses medical cannabis, equipment used for medical cannabis, or related supplies and educational materials to cardholders.

(z) "Medical cannabis establishment" means a cannabis cultivation facility, cannabis processing facility, cannabis

391 testing facility, cannabis dispensary, cannabis transportation
392 entity, cannabis disposal entity or cannabis research facility
393 licensed and registered by the appropriate agency.
394 (aa) "Medical cannabis establishment agent" means an
395 owner, officer, board member, employee, volunteer or agent of a
396 medical cannabis establishment.
397 (bb) "Medical use" includes the acquisition,
398 administration, cultivation, processing, delivery, harvest,
399 possession, preparation, transfer, transportation, or use of
400 medical cannabis or equipment relating to the administration of
401 medical cannabis to treat or alleviate a registered qualifying
402 patient's debilitating medical condition or symptoms associated
403 with the patient's debilitating medical condition. The term
404 "medical use" does not include:
405 (i) The cultivation of cannabis unless the
406 cultivation is done by a cannabis cultivation facility; or
407 (ii) The extraction of resin from cannabis by
408 mechanical or chemical extraction unless the extraction is done by
409 a cannabis processing facility.
410 (cc) "Nonresident cardholder" means a person who:
411 (i) Has been diagnosed with a debilitating medical
412 condition by a practitioner in his or her respective state or
413 territory, or is the parent, guardian, conservator or other person
414 with authority to consent to the medical use of medical cannabis

415 by a person who has been diagnosed with a debilitating medical
416 condition;
417 (ii) Is not a resident of Mississippi or who has
418 been a resident of Mississippi for less than forty-five (45) days;
419 and
420 (iii) Has submitted any documentation required by
421 MDOH rules and regulations and has received confirmation of
422 registration.
423 (dd) "Practitioner" means a physician, certified nurse
424 practitioner, physician assistant or optometrist who is licensed
425 to prescribe medicine under the licensing requirements of their
426 respective occupational boards and the laws of this state. In
427 relation to a nonresident cardholder, the term means a physician,
428 certified nurse practitioner, physician assistant or optometrist
429 who is licensed to prescribe medicine under the licensing
430 requirements of their respective occupational boards and under the
431 laws of the state or territory in which the nonresident patient
432 resides. For registered qualifying patients who are minors,
433 "practitioner" shall mean a physician or doctor of osteopathic
434 medicine who is licensed to prescribe medicine under the licensing
435 requirements of their respective occupational boards and the laws
436 of this state.
437 (ee) "Public place" means a church or any area to which
438 the general public is invited or in which the general public is
439 permitted, regardless of the ownership of the area, and any area

owned or controlled by a municipality, county, state or federal government, including, but not limited to, streets, sidewalks or other forms of public transportation. Such term shall not mean a private residential dwelling.

(ff) "Qualifying patient" means a person who has been diagnosed by a practitioner as having a debilitating medical condition and has been issued a written certification.

(gg) "Registry identification card" means a document issued by the MDOH that identifies a person as a registered qualifying patient, nonresident registered qualifying patient or registered designated caregiver.

(hh) "School" means an institution for the teaching of children, consisting of a physical location, whether owned or leased, including instructional staff members and students, and which is in session each school year. This definition shall include, but not be limited to, public, private, church and parochial programs for kindergarten, elementary, junior high and high schools. Such term shall not mean a home instruction program.

(ii) "Scope of practice" means the defined parameters of various duties, services or activities that may be provided or performed by a certified nurse practitioner as authorized under Sections 73-15-5 and 73-15-20, by an optometrist as authorized under Section 73-19-1, by a physician as authorized under Section 73-25-33, or by a physician assistant under Section 73-26-5, and

465 rules and regulations adopted by the respective licensing boards
466 for those practitioners.
467 (jj) "THC" or "Tetrahydrocannabinol" means any and all
468 forms of tetrahydrocannabinol that are contained naturally in the
469 cannabis plant, as well as synthesized forms of THC and derived
470 variations, derivatives, isomers and allotropes that have similar
471 molecular and physiological characteristics of
472 tetrahydrocannabinol, including, but not limited to THCA, THC
473 Delta 9, THC Delta 8, THC Delta 10 and THC Delta 6.
474 (kk) "Written certification" means a form approved by
475 the MDOH, signed and dated by a practitioner, certifying that a
476 person has a debilitating medical condition. A written
477 certification shall include the following:
478 (i) The date of issue and the effective date
479 of the recommendation;
480 (ii) The patient's name, date of birth and
481 address;
482 (iii) The practitioner's name, address, and
483 federal Drug Enforcement Agency number; and
484 (iv) The practitioner's signature.
485 **SECTION 3. Authorization to use medical cannabis;**
486 **requirements.** (1) No person shall be authorized to use medical
487 cannabis in this state unless the person (a) has been diagnosed by
488 a practitioner, with whom the person has a bona fide
489 practitioner-patient relationship within his or her scope of

practice, as having a debilitating medical condition for which the practitioner believes, in his or her professional opinion, that the person would likely receive medical or palliative benefit from the medical use of medical cannabis to treat or alleviate the person's debilitating medical condition or symptoms associated with the person's debilitating medical condition, (b) has received a written certification of that diagnosis from the practitioner, and (c) has been issued a registry identification card from the MDOH under Section 12 of this act. A person who has been diagnosed by a practitioner as specified in paragraph (a) of this subsection shall be a qualifying patient, and the practitioner who has diagnosed the patient shall document that diagnosis with a written certification. However, nothing herein shall require a practitioner to issue a written certification.

(2) A written certification shall:

(a) Affirm that it is made in the course of a bona fide practitioner-patient relationship;

(b) Remain current for twelve (12) months, unless the practitioner specifies a shorter period of time;

(c) Be issued only after an in-person assessment of the patient by a practitioner;

(d) Only be issued on behalf of a minor when the minor's parent or guardian is present and provides signed consent; and

514 (e) Be limited to the allowable amount of cannabis in a
515 thirty-day period.
516 (3) After a qualifying patient receives a written
517 certification from a practitioner, the patient shall be required
518 to make a follow-up visit with the practitioner not less than six
519 (6) months after the date of issuance of the certification for the
520 practitioner to evaluate and determine the effectiveness of the
521 patient's medical use of medical cannabis to treat or alleviate
522 the patient's debilitating medical condition or symptoms
523 associated with the patient's debilitating medical condition.
524 (4) Before dispensing medical cannabis to a cardholder, the
525 dispensary from which the cardholder is obtaining medical cannabis
526 shall verify the identity of the cardholder and the authority of
527 the cardholder to use medical cannabis as provided in Section 20
528 of this act and shall determine the maximum amount of medical
529 cannabis that a cardholder is eligible to receive and the amount
530 of medical cannabis that the cardholder has received from all
531 dispensaries during a specified period of time using the statewide
532 seed-to-sale tracking system under Section 6 of this act.
533 (5) A practitioner shall be registered to issue written
534 certifications to qualifying patients by completing the required
535 application process as set forth by the MDOH. The MDOH shall
536 require a practitioner to complete a minimum of eight (8) hours of
537 continuing education in medical cannabis in order to issue written
538 certifications. After the first year of registration, these

practitioners shall complete five (5) hours of continuing education in medical cannabis annually to maintain this registration.

(6) Only physicians and doctors of osteopathic medicine may issue written certifications to registered qualifying patients who are minors.

SECTION 4. General Responsibilities of Departments. (1) The MDOH shall have the ultimate authority for oversight of the administration of the medical cannabis program, and the MDOH shall coordinate the activities of the MDOH, MDAC and MDOR under the provisions of this chapter in order to best effectuate the purpose and intent of this chapter.

(2) (a) The MDOH shall delegate the responsibilities for the inspection, regulation and enforcement of cannabis cultivation facilities, cannabis processing facilities, cannabis transportation entities and cannabis disposal entities to the MDAC, and the MDAC shall accept the delegation of and perform those responsibilities. The MDAC shall be ultimately responsible for the performance of its powers and duties under this chapter and the responsibilities delegated to the MDAC under this subsection.

(b) The MDAC may contract with other governmental agencies and public or private third parties to assist the MDAC with carrying out any of the responsibilities delegated to the MDAC under this subsection. However, the MDAC shall be ultimately

564 responsible for the performance of the responsibilities delegated
565 to the MDAC under this subsection that are exercised by any agency
566 or third party with which the MDAC has contracted under the
567 authority of this subsection.
568 (3) The MDOH shall be responsible for:
569 (a) The licensing, oversight and inspection of cannabis
570 testing facilities and cannabis research facilities;
571 (b) The licensing of cannabis cultivation facilities,
572 cannabis processing facilities, cannabis transportation entities
573 and cannabis disposal entities;
574 (c) The application and licensing of registry
575 identification cards for qualifying patients and designated
576 caregivers;
577 (d) The registering of practitioners in accordance with
578 this chapter; and
579 (e) The selection, certification and oversight of the
580 statewide seed-to-sale tracking system as provided for in Section
581 6 of this act.
582 (4) Unless otherwise provided herein, the MDOR shall be
583 responsible for the licensing, inspection and oversight of medical
584 cannabis dispensaries.
585 (5) The MDOR and MDOH shall accept applications for and
586 award licenses according to their respective duties as provided
587 for in this chapter, subject to the following:

588 (a) After one hundred twenty (120) days from the
589 effective date of this act, the MDOH shall begin accepting
590 applications, registering and licensing registry identification
591 cards and practitioners.
592 (b) After one hundred twenty (120) days from the
593 effective date of this act, the MDOH shall begin licensing and
594 registering cannabis cultivation facilities, cannabis processing
595 facilities, cannabis testing facilities, cannabis research
596 facilities, cannabis disposal entities and cannabis transportation
597 entities. After one hundred fifty (150) days from the effective
598 date of this act, the MDOR shall issue licenses for medical
599 cannabis dispensaries as provided for in this chapter within
600 thirty (30) days of receipt of the application from an applicant
601 or within thirty (30) days after the initial one hundred fifty
602 (150) day period, whichever is the later date.
603 (6) The MDOR and MDOH shall issue a registration certificate
604 and a random ten-digit alphanumeric identification number to each
605 licensed medical cannabis establishment, as applicable.
606 (7) After one hundred twenty (120) days from the effective
607 date of this act, the MDOH shall issue licenses according to their
608 respective duties as provided for in this chapter within thirty
609 (30) days of receipt of the application from an applicant or
610 within thirty (30) days after the initial one hundred twenty (120)
611 day period, whichever is the later date. After one hundred fifty
612 (150) days from the effective date of this act, the MDOR shall

613 issue licenses according to their respective duties as provided
614 for in this chapter within thirty (30) days of receipt of the
615 application from an applicant or within thirty (30) days after the
616 initial one-hundred-fifty-day period, whichever is the later date.
617 (8) It is the intent of the Legislature that the MDOH, MDAC,
618 MDOR and any other state agency, as needed, shall cooperate and
619 collaborate together to accomplish the purposes of this chapter.
620 (9) (a) Subject to paragraph (b) of this subsection, the
621 Department of Public Safety shall not be involved in or have any
622 role regarding the administration, regulation or oversight of the
623 medical cannabis program established under this chapter; however,
624 this provision does not prohibit the department from carrying out
625 any law enforcement activities that a law enforcement agency may
626 exercise under this chapter or that the department may exercise
627 under the authority of any other law.
628 (b) The Department of Public Safety may assist the MDOH
629 in conducting background checks of individuals as required under
630 this chapter.
631 **SECTION 5. Protections for the medical use of cannabis.** (1)
632 There is a presumption that a registered qualifying patient is
633 engaged in the medical use of medical cannabis under this chapter
634 if the person is in possession of a registry identification card
635 and an amount of medical cannabis that does not exceed the
636 allowable amount of medical cannabis. There is a presumption that
637 a registered designated caregiver is assisting in the medical use

638 of medical cannabis under this chapter if the person is in
639 possession of a registry identification card and an amount of
640 medical cannabis that does not exceed the allowable amount of
641 medical cannabis. These presumptions may be rebutted by evidence
642 that conduct related to medical cannabis was not for the purpose
643 of treating or alleviating a registered qualifying patient's
644 debilitating medical condition or symptoms associated with the
645 registered qualifying patient's debilitating medical condition
646 under this chapter.
647 (2) Subject to the conditions, limitations, requirements and
648 exceptions set forth in this chapter, the following activities
649 related to medical cannabis shall be considered lawful:
650 (a) The purchase, transportation or possession of up to
651 the allowable amount or medical use of medical cannabis;
652 (b) Financial reimbursement by a registered qualifying
653 patient to the patient's registered designated caregiver for
654 direct costs incurred by the registered designated caregiver for
655 assisting with the registered qualifying patient's medical use of
656 medical cannabis;
657 (c) Compensating a dispensary for goods or services
658 provided;
659 (d) The provision, by a professional or occupational
660 licensee, of advice or services related to medical cannabis
661 activities allowed under this chapter, to the extent such advice

or services meet or exceed the applicable professional or occupational standard of care;

(e) Providing or selling equipment used to ingest medical cannabis to a cardholder, nonresident cardholder or to a medical cannabis establishment;

(f) Acting as a designated caregiver to assist a registered qualifying patient with the act of using or administering medical cannabis;

(g) Activities by a medical cannabis establishment or a medical cannabis establishment agent that are allowed by its license and registration;

(h) Activities by a dispensary or a dispensary agent to possess, store or sell medical cannabis products, educational materials and products used to ingest medical cannabis to cardholders, nonresident cardholders and other dispensaries, or to purchase or otherwise acquire medical cannabis products from cannabis cultivation facilities, cannabis processing facilities, cannabis research facilities or other dispensaries;

(i) Activities by a cannabis cultivation facility, cannabis processing facility or agents of these facilities to:

(i) Possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack or store medical cannabis;

(ii) Purchase or otherwise acquire medical cannabis and cannabis products from medical cannabis establishments; or

(iii) Sell, supply or transfer medical cannabis products, equipment used to ingest medical cannabis, and related supplies and educational materials to other cannabis cultivation facilities, cannabis processing facilities or dispensaries.

(j) Activities by a cannabis research facility, a cannabis testing facility or agents of these facilities to:

(i) Purchase or otherwise acquire medical cannabis from medical cannabis establishments;

(ii) Possess, produce, process, compound, convert, prepare, pack, test, repack and store medical cannabis and cannabis products obtained from medical cannabis establishments; or

(iii) Sell, supply or transfer medical cannabis, educational materials and equipment used to ingest medical cannabis to cannabis cultivation facilities, cannabis processing facilities, cannabis testing facilities and cannabis research facilities.

(k) Activities by a cannabis transportation entity or a cannabis disposal entity to transport, supply, deliver, dispose of or destroy cannabis, as applicable.

(3) Any medical cannabis, cannabis product, equipment used to ingest medical cannabis, or other interest in or right to

property that is possessed, owned or used in connection with the medical use of medical cannabis as authorized by this chapter, or acts incidental to such use, shall not be seized or forfeited. This chapter shall not prevent the seizure or forfeiture of medical cannabis exceeding the allowable amounts of medical cannabis, nor shall it prevent seizure or forfeiture if the basis for the action is unrelated to the medical cannabis that is possessed, processed, transferred or used pursuant to this chapter.

(4) Possession of, or application for, a registry identification card shall not:

(a) Constitute probable cause or reasonable suspicion;

(b) Be used to support a search of the person or property of the person possessing or applying for the registry identification card; or

(c) Subject the person or property of the person to inspection by any governmental agency.

(5) It is the public policy of the State of Mississippi that contracts related to medical cannabis that are entered into by cardholders, medical cannabis establishments, medical cannabis establishment agents and those who allow property to be used by those persons, should be enforceable to the extent that those activities comply with the other provisions of this chapter. It is the public policy of the State of Mississippi that no contract entered into by a cardholder, a medical cannabis establishment, or

735 a medical cannabis establishment agent, or by a person who allows
736 property to be used for activities that are authorized under this
737 chapter, shall be unenforceable on the basis that activities
738 related to cannabis are prohibited by federal law.
739 (6) An applicant for a professional or occupational license
740 shall not be denied a license based on previous employment related
741 to medical cannabis activities that are allowed under this
742 chapter.
743 **SECTION 6. Seed-to-sale tracking system.** (1) Each medical
744 cannabis establishment shall use a statewide seed-to-sale tracking
745 system certified by the MDAC and MDOH to track medical cannabis
746 from seed or immature plant stage until the medical cannabis is
747 purchased by a registered qualifying patient or registered
748 designated caregiver or destroyed. Records entered into the
749 seed-to-sale tracking system shall include each day's beginning
750 inventory, harvests, acquisitions, sales, disbursements,
751 remediations, disposals, transfers, ending inventory, and any
752 other data necessary for inventory control records in the
753 statewide seed-to-sale tracking system. Each medical cannabis
754 dispensary shall be responsible for ensuring that all medical
755 cannabis sold or disbursed to a registered qualifying patient or
756 registered designated caregiver is recorded in the seed-to-sale
757 tracking system as a purchase by or on behalf of the applicable
758 registered qualifying patients.

759 (2) Amounts of medical cannabis shall be recorded in the
760 following manner:
761 (a) For dried, unprocessed cannabis, in ounces or
762 grams;
763 (b) For concentrates, in grams; or
764 (c) For infused products, by milligrams of THC.
765 (3) The seed-to-sale tracking system used by cannabis
766 cultivation facilities, dispensaries, cannabis processing
767 facilities, cannabis testing facilities, cannabis research
768 facilities, cannabis transportation entities and cannabis disposal
769 entities shall be capable of:
770 (a) Allowing those facilities and entities to interface
771 with the statewide system such that a facility may enter and
772 access information in the statewide system;
773 (b) Providing the MDAC, MDOR and MDOH with access to
774 all information stored in the system's database;
775 (c) Maintaining the confidentiality of all patient and
776 caregiver data and records accessed or stored by the system such
777 that all persons or entities other than the MDAC, MDOR and MDOH
778 may only access the information in the system that they are
779 authorized by law to access;
780 (d) Producing analytical reports to the MDAC, MDOR and
781 MDOH regarding the total quantity of daily, monthly, and yearly
782 sales at the facility per product type; the average prices of
783 daily, monthly, and yearly sales at the facility per product type;

784 and total inventory or sales record adjustments at the facility;
785 and
786 (e) The ability to determine the amount of medical
787 cannabis that a registered qualifying patient or registered
788 designated caregiver has purchased that day in real time by
789 searching a patient registration number.
790 (4) Banks and other financial institutions may be allowed
791 access to specific limited information from the seed-to-sale
792 tracking system. The information that may be available to these
793 institutions shall be limited to financial data of individuals and
794 business entities that have a business relationship with these
795 institutions. This information shall be limited to the
796 information needed for banks to comply with applicable federal
797 regulations and shall not disclose any medical or personal
798 information about registered cardholders or designated caregivers.
799 **SECTION 7. Limitations.** (1) This chapter shall not be
800 construed to do any of the following:
801 (a) Require an organization for managed care, health
802 benefit plan, private health insurer, government medical
803 assistance program, employer, property and casualty, or workers'
804 compensation insurer or self-insured group providing coverage for
805 a medical, pharmacy or health care service to pay for or reimburse
806 any other individual or entity for costs associated with the
807 medical use of cannabis;

(b) Require any employer to permit, accommodate, or allow the medical use of medical cannabis, or to modify any job or working conditions of any employee who engages in the medical use of medical cannabis or who for any reason seeks to engage in the medical use of medical cannabis;

(c) Prohibit any employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hiring, discharging, tenure, terms, conditions, or privileges of employment as a result, in whole or in part, of that individual's medical use of medical cannabis, regardless of the individual's impairment or lack of impairment resulting from the medical use of medical cannabis;

(d) Prohibit or limit the ability of any employer from establishing or enforcing a drug testing policy;

(e) Interfere with, impair or impede any federal restrictions or requirements on employment or contracting, including, but not limited to, regulations adopted by the United States Department of Transportation in Title 49, Code of Federal Regulations;

(f) Permit, authorize, or establish any individual's right to commence or undertake any legal action against an employer for refusing to hire, discharging, disciplining or otherwise taking an adverse employment action against an individual with respect to hiring, discharging, tenure, terms,

833 conditions or privileges of employment due to the individual's
834 medical use of medical cannabis;
835 (g) Affect, alter or otherwise impact the workers'
836 compensation premium discount available to employers who establish
837 a drug-free workplace program in accordance with Section 71-3-201
838 et seq.;
839 (h) Affect, alter or otherwise impact an employer's
840 right to deny or establish legal defenses to the payment of
841 workers' compensation benefits to an employee on the basis of a
842 positive drug test or refusal to submit to or cooperate with a
843 drug test, as provided under Section 71-3-7 and Section 71-3-121;
844 or
845 (i) Affect, alter or supersede any obligation or
846 condition imposed on a parolee, probationer or an individual
847 participating in a pretrial diversion program or other
848 court-ordered substance abuse rehabilitation program.
849 (2) This chapter does not authorize any individual to engage
850 in, and does not prevent the imposition of any civil, criminal or
851 other penalties for engaging in, the following conduct:
852 (a) Acting with negligence, gross negligence,
853 recklessness, in breach of any applicable professional or
854 occupational standard of care, or to effect an intentional wrong,
855 as a result, in whole or in part, of that individual's medical use
856 of medical cannabis;

857 (b) Possessing medical cannabis or otherwise engaging
858 in the medical use of medical cannabis in any correctional
859 facility, unless the correctional facility has elected to allow
860 the cardholder to engage in the use of medical cannabis;
861 (c) Smoking medical cannabis in a public place or in a
862 motor vehicle; for purposes of this paragraph (c), the term
863 "smoking" includes vaping and any other method of inhalation of
864 medical cannabis;
865 (d) Operating, navigating, or being in actual physical
866 control of any motor vehicle, aircraft, train, motorboat or other
867 conveyance in a manner that would violate Section 59-23-7, Section
868 63-11-30 or federal law as a result, in whole or in part, of that
869 individual's medical use of medical cannabis;
870 (e) Possessing medical cannabis in excess of the
871 allowable amount of medical cannabis; or
872 (f) Consumption, by a registered designated caregiver,
873 of cannabis provided for use to a registered qualifying patient.
874 **SECTION 8. Discrimination prohibited.** (1) A person shall
875 not be denied custody of or visitation rights or parenting time
876 with a minor solely for the person's status as a cardholder.
877 (2) No school, landlord or employer may be penalized or
878 denied any benefit under state law for enrolling, leasing to or
879 employing a cardholder.
880 (3) A registered qualifying patient or registered designated
881 caregiver shall not be denied the right to own, purchase or

possess a firearm, firearm accessory or ammunition based solely on his or her status as a registered qualifying patient or registered designated caregiver. No state or local agency, municipal or county governing authority shall restrict, revoke, suspend or otherwise infringe upon the right of a person to own, purchase or possess a firearm, firearm accessory or ammunition or any related firearms license or certification based solely on his or her status as a registered qualifying patient or registered designated caregiver.

(4) Facilities such as schools, child care facilities and temporary care providers shall be allowed to administer medical cannabis in the same manner as with medical prescriptions.

(5) Nothing in this chapter shall be construed as to create a private right of action by an employee against an employer.

(6) Nothing in this chapter shall be construed to affect the existing legal relationship between an employer and employee or any existing law or regulation relating to such relationship.

SECTION 9. Addition of debilitating medical conditions. (1) Any resident of Mississippi may petition the MDOH to add serious medical conditions or their treatments to the list of debilitating medical conditions listed in Section 2 of this act. The MDOH shall consider petitions in accordance with its rules and regulations, including public notices and hearings. The MDOH shall approve or deny a petition within sixty (60) days of its submission.

907 (2) The approval or denial of any petition is a final
908 decision of the MDOH. Any person aggrieved by a final decision
909 may obtain judicial review thereof in accordance with Section 31
910 of this act.

911 **SECTION 10. Acts not required and acts not prohibited.** (1)
912 Nothing in this chapter requires a government medical assistance
913 program or private insurer to reimburse a person for costs
914 associated with the medical use of medical cannabis.

915 (2) Nothing in this chapter prohibits an employer from
916 disciplining an employee for ingesting medical cannabis in the
917 workplace or for working while under the influence of medical
918 cannabis.

919 (3) Any person or establishment that is in lawful possession
920 of property may allow a guest, client, customer or other visitor
921 to use medical cannabis on or in that property as authorized under
922 this chapter.

923 (4) A landlord may, but shall not be required to, allow the
924 lawful cultivation, processing, testing, research, sale or use of
925 medical cannabis on rental property as authorized under this
926 chapter.

927 **SECTION 11. Facility restrictions.** (1) Any nursing
928 facility, hospital, hospice, assisted living facility, personal
929 care home, adult day care facility, or adult foster care facility
930 may adopt reasonable restrictions on the use of medical cannabis
931 by registered qualifying patients who are receiving health care

932 services, residential care services, or day care services from the
933 facility, including:
934 (a) That the facility will not store or maintain the
935 patient's supply of medical cannabis;
936 (b) That the facility, caregivers, or hospice agencies
937 serving the facility's residents are not responsible for providing
938 the medical cannabis for registered qualifying patients; and
939 (c) That medical cannabis be consumed only in a place
940 specified by the facility.
941 (2) Nothing in this section requires a facility listed in
942 subsection (1) of this section to adopt restrictions on the
943 medical use of medical cannabis.
944 (3) A facility listed in subsection (1) of this section may
945 not unreasonably limit a registered qualifying patient's access to
946 or medical use of medical cannabis authorized under this chapter
947 unless failing to do so would cause the facility to lose a
948 monetary or licensing-related benefit under federal law or
949 regulations.
950 **SECTION 12. Issuance and denial of registry identification**
951 **cards.** (1) No later than one hundred twenty (120) days after the
952 effective date of this act, the MDOH shall begin issuing registry
953 identification cards to qualifying patients who submit the
954 following:

(a) A written certification issued by a practitioner within sixty (60) days immediately preceding the date of the application;

(b) The application or renewal fee;

(c) The name, address, social security number, and date of birth of the qualifying patient;

(d) The name, address, and telephone number of the qualifying patient's practitioner issuing the written certification;

(e) The name, address, social security number, and date of birth of the designated caregiver, or designated caregivers, chosen by the qualifying patient; and

(f) If more than one (1) designated caregiver is designated at any given time, documentation demonstrating that a greater number of designated caregivers is needed due to the patient's age or medical condition.

(2) If the qualifying patient is unable to submit the information required by subsection (1) of this section due to the person's age or medical condition, the person responsible for making medical decisions for the qualifying patient may do so on behalf of the qualifying patient.

(3) Except as provided in subsection (5) of this section, the MDOH shall:

(a) Verify the information contained in an application or renewal submitted under this section and approve or deny an

application or renewal within thirty (30) days of receiving a completed application or renewal application; and

(b) Issue registry identification cards to a qualifying patient and his or her designated caregiver(s), if any, within five (5) days of approving the application or renewal. A designated caregiver must have a registry identification card for each of his or her qualifying patients.

(4) The MDOH shall conduct a background check of the prospective designated caregiver or caregivers in order to carry out the provisions of this section. The Department of Public Safety may assist the MDOH in conducting background checks.

(5) The MDOH shall not issue a registry identification card to a qualifying patient who is younger than eighteen (18) years of age unless:

(a) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of medical cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and

(b) The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:

(i) Acknowledge the potential harms related to the use of medical cannabis;

1004 (ii) Allow the qualifying patient's medical use of
1005 medical cannabis;
1006 (iii) Serve as the qualifying patient's designated
1007 caregiver; and
1008 (iv) Control the acquisition of the medical
1009 cannabis, the dosage and the frequency of the use of medical
1010 cannabis by the qualifying patient.
1011 (6) If a designated caregiver is an entity licensed to
1012 provide health care services, residential care services or day
1013 care services, then:
1014 (a) The MDOH may provide a single registry
1015 identification card to the entity, regardless of the number of
1016 registered qualifying patients the entity serves; and
1017 (b) The MDOH may issue individual registry
1018 identification cards for employees of the entity that may
1019 transport medical cannabis.
1020 (7) The MDOH shall provide an electronic or physical list of
1021 registered qualifying patients who have designated the entity as
1022 their caregiver. This list shall be updated with each additional
1023 designation.
1024 (8) The MDOH may deny an application or renewal of a
1025 qualifying patient's registry identification card only if the
1026 applicant:
1027 (a) Did not provide the required information or
1028 materials;

1029 (b) Previously had a registry identification card
1030 revoked;
1031 (c) Provided false information; or
1032 (d) Failed to meet the other requirements of this
1033 chapter.
1034 (9) The MDOH may deny an application or renewal for a
1035 designated caregiver chosen by a qualifying patient whose registry
1036 identification card was granted only if the applicant:
1037 (a) Does not meet the definition of "designated
1038 caregiver" under Section 2 of this act;
1039 (b) Did not provide the information required;
1040 (c) Previously had a registry identification card
1041 revoked;
1042 (d) Provided false information;
1043 (e) Is younger than twenty-one (21) years of age and is
1044 not the parent or legal guardian of the qualifying patient who the
1045 designated caregiver would assist; or
1046 (f) Failed to meet the other requirements of this
1047 chapter.
1048 (10) The MDOH shall give written notice to the qualifying
1049 patient of the reason for denying a registry identification card
1050 to the qualifying patient or to the qualifying patient's
1051 designated caregiver.

1052 (11) Denial of an application or renewal is considered a
1053 final MDOH action, subject to judicial review in accordance with
1054 Section 31 of this act.
1055 **SECTION 13. Registry identification cards.** (1) Registry
1056 identification cards must contain all of the following:
1057 (a) The name of the cardholder;
1058 (b) A designation of whether the cardholder is a
1059 qualifying patient, a designated caregiver or a nonresident;
1060 (c) The date of issuance and expiration date of the
1061 registry identification card;
1062 (d) A random ten-digit alphanumeric identification
1063 number, containing at least four (4) numbers and at least four (4)
1064 letters, that is unique to the cardholder;
1065 (e) If the cardholder is a designated caregiver, the
1066 random identification number of the qualifying patient the
1067 designated caregiver will assist;
1068 (f) A photograph of the cardholder;
1069 (g) The toll-free phone number or internet address
1070 where the card can be verified;
1071 (h) A notice of the potential harm caused by medical
1072 cannabis; and
1073 (i) A notice of the MMCEU daily, monthly and possession
1074 limit.
1075 (2) The expiration date shall be visible on the registry
1076 identification card. Except as provided in subsection (3) or

subsection (4) of this section, the expiration date for registry identification cards for residents shall be one (1) year after the date of issuance. The expiration date for registry identification cards for nonresidents shall be fifteen (15) days after the date of issuance, except as provided in subsection (4) of this section.

(3) If the practitioner stated in the written certification that the qualifying patient would benefit from the medical use of medical cannabis until a specified earlier date, then the registry identification card shall expire on that date, except as provided in subsection (4) of this section.

(4) (a) The expiration date for registry identification cards for residents that are issued not later than one hundred fifty (150) days after the effective date of this act shall be one (1) year after the initial one-hundred-fifty-day period.

(b) If the practitioner specified an earlier date for the expiration of the registry identification card as provided under subsection (3) of this section, then the registry identification card shall be valid for the period specified by the practitioner, which shall begin after the initial one-hundred-fifty-day period.

(c) The expiration date for registry identification cards for nonresidents that are issued not later than one hundred fifty (150) days after the effective date of this act shall be fifteen (15) days after the initial one-hundred-fifty-day period.

SECTION 14. **Annual reports.** (1) No later than December 31, 2022, and every December 31 thereafter, the MDOH, MDAC and MDOR shall provide an annual report to the Governor, Lieutenant Governor, Speaker of the House of Representatives, Chairman of the Senate Public Health and Welfare Committee, Chairman of the House of Representatives Public Health and Human Services Committee and the Chairmen of the Drug Policy Committees and Appropriation Committees of the Senate and House of Representatives.

(2) The MDOH, MDAC and MDOR shall report every year to the Governor, Lieutenant Governor, Speaker of the House of Representatives, Chairman of the Senate Public Health and Welfare Committee, Chairman of the House of Representatives Public Health and Human Services Committee and the Chairmen of the Drug Policy Committees and Appropriation Committees of the Senate and House of Representatives on the number of applications for registry identification cards received, the amount of fees, fines and taxes collected, any changes to the fees allowed to be charged under this chapter, any addition to the list of debilitating medical conditions, the number of qualifying patients and designated caregivers approved, the number of registry identification cards revoked and expenses incurred by the MDOH, MDAC and MDOR. The MDOH shall not include identifying information on qualifying patients, designated caregivers or practitioners in the report.

(3) The MDOR shall provide quarterly reports for all sales of medical cannabis sold by dispensaries to registered qualified

patients to the Governor, Lieutenant Governor, Speaker of the House of Representatives, Chairman of the Senate Public Health and Welfare Committee, Chairman of the House of Representatives Public Health and Human Services Committee, and the Chairmen of the Drug Policy Committees and Appropriation Committees of the Senate and House of Representatives. The MDOR shall report every year on the number of each type of medical cannabis establishments that are licensed and registered and the expenses incurred and revenues generated from the medical cannabis program to the Governor, Lieutenant Governor, Speaker of the House of Representatives, Chairman of the Senate Public Health and Welfare Committee, Chairman of the House of Representatives Public Health and Human Services Committee, and the Chairmen of the Drug Policy Committees and Appropriation Committees of the Senate and House of Representatives.

SECTION 15. **Verification system.** (1) The MDOH shall maintain a confidential list of the persons to whom the MDOH has issued registry identification cards and their addresses, phone numbers, and registry identification numbers. This confidential list shall not be combined or linked in any manner with any other lists or databases, nor shall it be used for any purpose not provided for in this chapter.

(2) All records containing the identity of registered qualifying patients, registered designated caregivers or practitioners shall be confidential and exempt from disclosure

under the Mississippi Public Records Act or any related statute, rule or regulation pertaining to public disclosure of records. Within one hundred twenty (120) days after the effective date of this act, the MDOH shall establish a secure phone and internet-based verification system. The verification system must allow law enforcement personnel and medical cannabis establishments to enter a registry identification number to determine whether the number corresponds with a current, valid registry identification card. The system may disclose only:

(a) Whether the identification card is valid;

(b) The name of the cardholder;

(c) Whether the cardholder is a registered qualifying patient, a registered designated caregiver, or a nonresident; and

(d) If a cardholder is a registered designated caregiver, the registry identification number of any affiliated registered qualifying patient.

SECTION 16. Notifications to department and responses. (1) The following notifications and MDOH responses are required:

(a) A registered qualifying patient shall notify the MDOH of any change in his or her name or address, or if the registered qualifying patient ceases to have his or her diagnosed debilitating medical condition, within twenty (20) days of the change.

(b) A registered designated caregiver shall notify the MDOH of any change in his or her name or address, or if the

1176 designated caregiver becomes aware that the registered qualifying
1177 patient passed away, within twenty (20) days of the change.
1178 (c) Before a registered qualifying patient changes his
1179 or her registered designated caregiver, the registered qualifying
1180 patient must notify the MDOH.
1181 (d) If a cardholder loses his or her registry
1182 identification card, he or she shall notify the MDOH within ten
1183 (10) days of becoming aware that the card has been lost.
1184 (2) Each notification that a registered qualifying patient
1185 is required to make shall instead be made by the patient's
1186 registered designated caregiver if the qualifying patient is
1187 unable to make the notification due to his or her age or medical
1188 condition.
1189 (3) When a cardholder notifies the MDOH of any of the
1190 circumstances listed in subsection (1) of this section but remains
1191 eligible under this chapter, the MDOH shall issue the cardholder a
1192 new registry identification card within ten (10) days of receiving
1193 the updated information and a Twenty-five Dollar ($25.00) fee. If
1194 the person notifying the MDOH is a registered qualifying patient,
1195 the MDOH shall also issue his or her registered designated
1196 caregiver, if any, a new registry identification card within ten
1197 (10) days of receiving the updated information.
1198 (4) If the registered qualifying patient's certifying
1199 practitioner notifies the patient and the MDOH in writing that
1200 either the registered qualifying patient has ceased to have a

debilitating medical condition or that the practitioner no longer believes, in his or her professional opinion and within his or her scope of practice, that the patient would likely receive medical or palliative benefit from the medical use of medical cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition, the card shall become null and void.

(5) A medical cannabis establishment shall notify the MDOH within one (1) business day of any theft or loss of medical cannabis.

(6) A medical cannabis establishment shall notify its licensing agency within one (1) business day if there is a change of ownership or closure of the entity.

SECTION 17. Reporting requirement of dispensaries. Medical cannabis dispensaries shall report medical cannabis dispensing information every twenty-four (24) hours to the Prescription Monitoring Program provided for in Section 73-21-127. Dispensaries shall submit information as required by the Prescription Monitoring Program, including, but not limited to, the qualified patient's registry identification card number and the amount of medical cannabis dispensed to the patient.

SECTION 18. Licensing of medical cannabis establishments. (1) The MDOH shall issue licenses for cannabis cultivation facilities, cannabis processing facilities, cannabis transportation entities, cannabis disposal entities, cannabis

research facilities and cannabis testing facilities. The MDOR shall issue licenses for medical cannabis dispensaries.

(2) The cannabis cultivation facility license application fee shall be subject to the following tiers:

(a) Micro-cultivators.

(i) Tier 1. A cannabis cultivation facility with a canopy of one thousand (1,000) square feet or less shall be subject to a one-time nonrefundable license application fee of One Thousand Five Hundred Dollars ($1,500.00). The annual license fee shall be a nonrefundable fee of Two Thousand Dollars ($2,000.00).

(ii) Tier 2. A cannabis cultivation facility with a canopy of more than one thousand (1,000) square feet but not more than two thousand (2,000) square feet shall be subject to a one-time nonrefundable license application fee of Two Thousand Five Hundred Dollars ($2,500.00). The annual license fee shall be a nonrefundable fee of Three Thousand Five Hundred Dollars ($3,500.00).

(b) Cultivators.

(i) Tier 1. A cannabis cultivation facility with a canopy of not less than two thousand (2,000) square feet but not more than five thousand (5,000) square feet shall be subject to a one-time nonrefundable license application fee of Five Thousand Dollars ($5,000.00). The annual license fee shall be a nonrefundable fee of Fifteen Thousand Dollars ($15,000.00).

1250 (ii) Tier 2. A cannabis cultivation facility with
1251 a canopy of not less than five thousand (5,000) square feet but
1252 not more than fifteen thousand (15,000) square feet shall be
1253 subject to a one-time nonrefundable license application fee of Ten
1254 Thousand Dollars ($10,000.00). The annual license fee shall be a
1255 nonrefundable fee of Twenty-five Thousand Dollars ($25,000.00).
1256 (iii) Tier 3. A cannabis cultivation facility
1257 with a canopy of not less than fifteen thousand (15,000) square
1258 feet but not more than thirty thousand (30,000) square feet shall
1259 be subject to a one-time nonrefundable license application fee of
1260 Twenty Thousand Dollars ($20,000.00). The annual license fee
1261 shall be a nonrefundable fee of Fifty Thousand Dollars
1262 ($50,000.00).
1263 (iv) Tier 4. A cannabis cultivation facility with
1264 a canopy of not less than thirty thousand (30,000) square feet but
1265 not more than sixty thousand (60,000) square feet shall be subject
1266 to a onetime nonrefundable license application fee of Thirty
1267 Thousand Dollars ($30,000.00). The annual license fee shall be a
1268 nonrefundable fee of Seventy-five Thousand Dollars ($75,000.00).
1269 (v) Tier 5. A cannabis cultivation facility with
1270 a canopy of not less than sixty thousand (60,000) square feet but
1271 not more than one hundred thousand (100,000) square feet shall be
1272 subject to a one-time nonrefundable license application fee of
1273 Forty Thousand Dollars ($40,000.00). The annual license fee shall

be a nonrefundable fee of One Hundred Thousand Dollars ($100,000.00).

(vi) Tier 6. A cannabis cultivation facility with a canopy of one hundred thousand (100,000) square feet or more shall be subject to a one-time nonrefundable license application fee of Sixty Thousand Dollars ($60,000.00). The annual license fee shall be a nonrefundable fee of One Hundred Fifty Thousand Dollars ($150,000.00).

(3) The cannabis processing facility license application fee shall be subject to the following tiers:

(a) Micro-processors.

(i) Tier 1. A cannabis processing facility which processes less than two thousand (2,000) pounds of dried biomass cannabis material annually shall be subject to a one-time nonrefundable license application fee of Two Thousand Dollars ($2,000.00). The annual license fee shall be a nonrefundable fee of Three Thousand Five Hundred Dollars ($3,500.00).

(ii) Tier 2. A cannabis processing facility which processes not less than two thousand (2,000) pounds but less than three thousand (3,000) pounds of dried biomass cannabis material annually shall be subject to a one-time nonrefundable license application fee of Two Thousand Five Hundred Dollars ($2,500.00). The annual license fee shall be a nonrefundable fee of Five Thousand Dollars ($5,000.00).

(b) Processors. A cannabis processing facility which processes not less than three thousand (3,000) pounds of biomass cannabis material annually shall be subject to a one-time nonrefundable license application fee of Fifteen Thousand Dollars ($15,000.00). The annual license fee shall be a nonrefundable fee of Twenty Thousand Dollars ($20,000.00).

(4) A medical cannabis dispensary shall be subject to a one-time nonrefundable license application fee of Fifteen Thousand Dollars ($15,000.00). The annual license fee shall be a nonrefundable fee of Twenty-five Thousand Dollars ($25,000.00).

(5) Cannabis transportation entities shall be subject to a one-time nonrefundable application fee of Five Thousand Dollars ($5,000.00). The annual license fee shall be a nonrefundable fee of Seven Thousand Five Hundred Dollars ($7,500.00).

(6) Cannabis disposal entities shall be subject to a one-time nonrefundable application fee of Five Thousand Dollars ($5,000.00). The annual license fee shall be a nonrefundable fee of Seven Thousand Five Hundred Dollars ($7,500.00).

(7) Cannabis testing facilities shall be subject to a one-time nonrefundable application fee of Ten Thousand Dollars ($10,000.00), and an annual license fee of Fifteen Thousand Dollars ($15,000.00). A cannabis testing facility shall not employ an agent or employee who also is employed or has ownership at any other medical cannabis establishment.

(8) Cannabis research facilities shall be subject to a one-time nonrefundable application fee of Ten Thousand Dollars ($10,000.00), and an annual license fee of Fifteen Thousand Dollars ($15,000.00). A research facility at any university or college in this state shall be exempt from all fees imposed under this section.

(9) No individual or business entity shall have a direct or indirect ownership or economic interest of greater than ten percent (10%) in:

(a) More than one (1) cannabis cultivation facility license;

(b) More than one (1) cannabis processing facility license; and

(c) More than five (5) medical cannabis dispensary licenses.

(10) Minimum qualifications for applicants for a cannabis cultivation facility, a cannabis processing facility, a medical cannabis dispensary, a medical cannabis transportation entity or a medical cannabis disposal entity license(s) are as follows:

(a) An individual applicant for a cannabis cultivation facility, cannabis processing facility, medical cannabis dispensary, medical cannabis transportation entity or medical cannabis disposal license shall be a natural person who:

(i) Is at least twenty-one (21) years of age;

(ii) Has not previously held a license for a cannabis cultivation facility, cannabis processing facility, medical cannabis dispensary, medical cannabis transportation entity or medical cannabis disposal entity that has been revoked;

(iii) Has not been convicted of a disqualifying felony offense;

(iv) If possessing a professional or occupational license, that the license is in good standing;

(v) Has submitted a sworn statement indicating that he or she is a true and actual owner of the entity for which the license is desired, and that he or she intends to carry on the business authorized for himself or herself and the entity and not as the agent for any other entity.

(vi) Has no outstanding tax delinquencies owed to the State of Mississippi;

(vii) Is not serving as a member of the Mississippi Senate or Mississippi House of Representatives through December 31, 2022;

(viii) Is not the spouse of a person serving as a member of the Mississippi Senate or Mississippi House of Representatives through December 31, 2022; and

(b) If the applicant is applying on behalf of an entity, in addition to paragraph (a) of this subsection, the individual applicant shall:

1370 (i) Be legally authorized to submit an application
1371 on behalf of the entity;
1372 (ii) Serve as the primary point of contact with
1373 the MDAC, MDOR and MDOH;
1374 (iii) Submit sufficient proof that the entity has
1375 no owner, board member, officer, or anyone with an economic
1376 interest in the entity who:
1377 1. Is under the age of twenty-one (21);
1378 2. Has previously been an owner of a medical
1379 cannabis dispensary, cannabis cultivation facility, a cannabis
1380 processing facility, medical cannabis transportation entity or
1381 medical cannabis disposal entity that has had its license revoked;
1382 3. Has been convicted of a disqualifying
1383 felony offense;
1384 4. Owes delinquent taxes to the State of
1385 Mississippi;
1386 5. Is serving as a member of the Mississippi
1387 Senate or Mississippi House of Representatives through December
1388 31, 2022; and
1389 6. Is the spouse of a person serving as a
1390 member of the Mississippi Senate or Mississippi House of
1391 Representatives through December 31, 2022; and
1392 (iv) Submit sufficient proof that if an owner,
1393 board member, officer or anyone with an economic interest in the

entity has or had a professional or occupational license, that the license is in good standing.

(11) Applicants for cannabis cultivation facility licenses and cannabis processing facility licenses shall both meet the minimum qualifications in subsection (10) of this section and shall also submit sufficient proof of the following:

(a) If a natural person, proof that the person has been a resident of the State of Mississippi and a citizen of the United States of America for at least three (3) years prior to the application date; or

(b) If a business entity, proof that at least thirty-five percent (35%) of the equity ownership interests in the entity are held by individuals who have been residents of the State of Mississippi and citizens of the United States of America for at least three (3) consecutive years prior to the application date.

This subsection (11) shall stand repealed on December 31, 2022.

(12) A micro-cultivator or a micro-processor shall both meet the minimum qualifications in subsection (10) of this section and shall also submit sufficient proof of the following:

(a) If a natural person, proof that the person has been a resident of the State of Mississippi and a citizen of the United States of America for at least three (3) years prior to the application date; or

1419 (b) If a business entity, provide proof that:

1420 (i) It was registered as an entity with the
1421 Secretary of State in Mississippi; and

1422 (ii) One-hundred percent (100%) of the equity
1423 ownership interests in the entity are held by individuals who have
1424 been residents of the State of Mississippi and citizens of the
1425 United States of America for at least three (3) consecutive years
1426 prior to the application date.

1427 (13) For purposes of this section, it shall be sufficient to
1428 prove Mississippi residency for the individual(s) to submit two
1429 (2) of the following source documents:

1430 (a) Mississippi Tax Return Form 80-105 or Form 80-205
1431 for each of the three (3) years preceding the application without
1432 schedules, worksheets, or attachments, and redacted to remove all
1433 financial information and all but the last four (4) digits of the
1434 individual's social security number for the three (3) years
1435 preceding the application;

1436 (b) Ownership, lease, or rental documents for place of
1437 primary domicile for the three (3) years preceding the
1438 application;

1439 (c) Billing statements, including utility bills for the
1440 three (3) years preceding the application; or

1441 (d) Vehicle registration for the three (3) years
1442 preceding the application.

(14) Ownership in a cannabis cultivation facility license, cannabis processing facility license or a medical cannabis dispensary license or investment in a business that supports or benefits from such a license shall not disqualify or otherwise negatively impact the license or finding of suitability of such owner who is otherwise engaged in any other form of business operation in the state, if such business requires the owner to hold a license or be found suitable under state law.

(15) Any business or state entity applying for registration as a medical cannabis establishment must meet all the requirements specified in this chapter.

(16) A prospective medical cannabis establishment shall submit all of the following:

(a) An application, including:

(i) The legal name of the prospective medical cannabis establishment;

(ii) The physical address of the prospective medical cannabis establishment, which shall not be within one thousand (1,000) feet of the nearest property boundary line of a school, church or child care facility which exists or has acquired necessary real property for the operation of such facility before the date of the medical cannabis establishment application unless the entity has received approval from the school, church or child care facility and received the applicable waiver from their licensing agency, provided that the main point of entry of the

cannabis establishment is not located within five hundred (500) feet of the nearest property boundary line of any school, church or child care facility;

(iii) The name of each principal officer and board member of the proposed medical cannabis establishment; and

(iv) Any additional information requested by the MDAC, MDOR and MDOH.

(b) Operating procedures consistent with rules and regulations for oversight of the proposed medical cannabis establishment, including procedures to ensure accurate record keeping and adequate security measures.

(c) If the municipality or county where the proposed medical cannabis establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed medical cannabis establishment is in compliance with the restrictions.

(d) If the municipality or county where the proposed medical cannabis establishment would be located requires a local registration, license, or permit, then proof of receiving such registration, license or permit.

(e) If the application is on behalf of an entity, verification that none of the principal officers or board members have served as a principal officer or board member for a medical cannabis establishment that has had its license revoked.

1492 (f) If the application is on behalf of an entity,
1493 verification that none of the principal officers or board members
1494 is under twenty-one (21) years of age.
1495 (17) The MDOR and MDOH shall issue a renewal registration
1496 certificate within ten (10) days of receipt of the prescribed
1497 renewal application and renewal fee from a medical cannabis
1498 establishment if its license is not under suspension and has not
1499 been revoked.
1500 (18) A licensing agency shall require disclosure only of
1501 persons, entities or affiliated entities who directly or
1502 indirectly own ten percent (10%) or more of a medical cannabis
1503 establishment issued a license by the licensing agency.
1504 (19) Otherwise eligible applicants for licenses to operate
1505 as medical cannabis establishments under this chapter shall not be
1506 disqualified from receipt of a license based on:
1507 (a) Their location on Mississippi Choctaw Indian
1508 Reservation Lands; or
1509 (b) The involvement of the Mississippi Band of Choctaw
1510 Indians or any entity owned or operated by the Mississippi Band of
1511 Choctaw Indians as an owner or co-owner of such license, provided
1512 that such license shall be subject to revocation for material
1513 noncompliance with this chapter on the same basis as any other
1514 license.
1515 (20) A cannabis processing facility that produces edible
1516 cannabis products shall hold a permit to operate as a food

establishment and shall comply with all applicable requirements for food establishments as set by the MDOH.

(21) Denial of an application or renewal is considered a final MDOH or MDOR action, subject to judicial review in accordance with Section 31 of this act.

SECTION 19. Local ordinances. (1) A municipality or county may enact ordinances or regulations not in conflict with this chapter, or with regulations enacted under this chapter, governing the time, place, and manner of medical cannabis establishment operations in the locality. A municipality or county may establish penalties for violation of an ordinance or regulation governing the time, place and manner of a medical cannabis establishment that may operate in the municipality or county.

(2) No municipality or county may prohibit dispensaries either expressly or through the enactment of ordinances or regulations that make their operation impracticable in the jurisdiction. The main point of entry of a medical cannabis establishment shall not be located within one thousand (1,000) feet of the nearest property boundary line of any school, church or child care facility. A medical cannabis establishment may receive a waiver to this distance restriction by receiving approval from the school, church or child care facility and by applying for a waiver with its respective licensing agency, provided that the main point of entry of the cannabis establishment is not located within five hundred (500) feet of the

nearest property boundary line of any school, church or child care facility.

(3) A dispensary, cannabis research facility or cannabis testing facility may be located in any area in a municipality or county that is zoned as commercial or for which commercial use is otherwise authorized or not prohibited, provided that it being located there does not violate any other provisions of this chapter. A cannabis cultivation facility and/or cannabis processing facility may be located in any area in a municipality or county that is zoned as agricultural or industrial or for which agricultural or industrial use is otherwise authorized or not prohibited, provided that it being there does not violate any other provision of this chapter.

(4) A municipality or county may require a medical cannabis establishment to obtain a local license, permit or registration to operate, and may charge a reasonable fee for the local license, permit or registration, provided that this fee is consistent with fees charged to businesses that are not involved in the cannabis industry.

(5) No medical cannabis dispensary may be located within a one-thousand-five-hundred-feet radius from the main point of entry of the dispensary to the main point of entry of another medical cannabis dispensary. If the sole basis of denial by the licensing agency in refusing to issue the medical cannabis dispensary a license to operate is that the dispensary fails the distance

1567 requirement of this subsection (5), then the licensing agency may
1568 refund all or part of the license application fee in Section 18(5)
1569 of this act to the applicant.

1570 **SECTION 20. Requirements, prohibitions and penalties.** (1)
1571 Medical cannabis establishments shall conduct a background check
1572 into the criminal history of every person seeking to become a
1573 principal officer, board member, agent, volunteer, or employee
1574 before the person begins working at or for the medical cannabis
1575 establishment.

1576 (2) A medical cannabis establishment may not employ any
1577 person who:

1578 (a) Was convicted of a disqualifying felony offense;
1579 or

1580 (b) Is under twenty-one (21) years of age.

1581 (3) The operating documents of a medical cannabis
1582 establishment must include procedures for the oversight of the
1583 medical cannabis establishment and procedures to ensure accurate
1584 record keeping and adequate security measures.

1585 (4) A medical cannabis establishment shall implement
1586 appropriate security measures designed to deter and prevent the
1587 theft of medical cannabis and unauthorized entrance into areas
1588 containing medical cannabis.

1589 (5) All cultivation, harvesting, processing and packaging of
1590 medical cannabis must take place in an enclosed, locked and secure
1591 facility with a physical address provided to the MDOH during the

licensing and registration process. The facility shall be equipped with locks or other security devices that permit access only by agents of the medical cannabis establishment, emergency personnel or adults who are twenty-one (21) years of age and older and who are accompanied by medical cannabis establishment agents.

(6) No medical cannabis establishment other than a cannabis processing facility or cannabis research facility may produce cannabis concentrates, cannabis extractions, or other cannabis products.

(7) A medical cannabis establishment may not share office space with or refer patients to a practitioner.

(8) Medical cannabis establishments are subject to inspection by the MDAC, MDOR and MDOH during business hours.

(9) Before medical cannabis may be dispensed to a cardholder, a dispensary agent must:

(a) Require that the individual present a registry identification card;

(b) Make a diligent effort to verify that the registry identification card presented to the dispensary is valid;

(c) Make a diligent effort to verify that the person presenting the registry identification card is the person identified on the registry identification card presented to the dispensary agent; and

1615 (d) Not believe that the amount of medical cannabis
1616 dispensed would cause the person to possess more than the
1617 allowable amount of medical cannabis.
1618 (10) A medical cannabis establishment shall not sell more
1619 than the allowable amount of medical cannabis to a cardholder. A
1620 resident cardholder shall not obtain more than a total of seven
1621 (7) MMCEUs of allowable medical cannabis in a week from a
1622 dispensary or a combination of dispensaries. A resident
1623 cardholder shall not obtain more than a total of twenty-eight (28)
1624 MMCEUs of allowable medical cannabis in thirty (30) days from a
1625 dispensary or a combination of dispensaries.
1626 The possession limit for resident cardholders of the
1627 allowable amount of medical cannabis shall be a total of
1628 thirty-two (32) MMCEUs. There shall not be a possession limit on
1629 nonconsumable medical cannabis, including, but not limited to,
1630 suppositories, ointments, soaps, and lotions or other topical
1631 agents.
1632 (11) For purposes of this chapter, total THC is defined as
1633 THCA multiplied by .877 plus THC Delta 9 and all other
1634 psychoactive forms or isomers of THC added together. A medical
1635 cannabis establishment shall not sell cannabis flower or trim that
1636 has a potency of greater than thirty percent (30%) total THC. A
1637 medical cannabis dispensary shall not sell cannabis tinctures,
1638 oils or concentrates that have a potency of greater than sixty
1639 percent (60%) total THC. Cannabis products that have a potency of

over thirty percent (30%) total THC shall be clearly labeled as "extremely potent." Edible cannabis products, including food or drink products, that have been combined with usable cannabis or cannabis products shall be physically demarked and labeled with a clear determination of how much total THC is in a single-serving size and how much THC is in the entire package.

A medical cannabis product shall contain a notice of harm regarding the use of cannabis products. Edible cannabis products shall be homogenized to ensure uniform disbursement of cannabinoids throughout the product. All molded edible cannabis products shall be presented in the form of geometric shapes and shall not be molded to contain any images or characters designed or likely to appeal to minors, such as cartoons, toys, animals or children.

(12) A dispensary may not dispense more than the allowable amount of cannabis to a registered qualifying patient or a nonresident cardholder, directly or via a registered designated caregiver. Dispensaries shall ensure compliance with this limitation by maintaining internal, confidential records that include records specifying how much medical cannabis is being dispensed to the registered qualifying patient or nonresident cardholder and whether it was dispensed directly to a registered qualifying patient, nonresident cardholder or to the registered designated caregiver.

1664 (13) A nonresident cardholder shall not obtain more than a
1665 total of seven (7) MMCEUs of allowable medical cannabis in a week
1666 from a dispensary or a combination of dispensaries. A nonresident
1667 cardholder shall not obtain more than a total of fourteen (14)
1668 MMCEUs of allowable cannabis from a dispensary or a combination of
1669 dispensaries in a fifteen-day period.

1670 (14) A nonresident may apply to receive a nonresident
1671 registry identification card up to thirty (30) days before
1672 arriving in Mississippi. A nonresident registry identification
1673 card shall be valid for fifteen (15) days. After the expiration
1674 of the card, a nonresident may apply for a renewal of the card and
1675 may be granted another card which shall be valid for another
1676 fifteen-day period. A nonresident registry identification card
1677 shall only be valid, at a maximum, for two (2) separate periods of
1678 fifteen (15) days in a three-hundred-sixty-five-day period. An
1679 applicant may indicate on his or her application the specific time
1680 period that he or she wishes for the card to be valid. The
1681 possession limit of the allowable amount of medical cannabis for
1682 nonresident cardholders shall be sixteen (16) MMCEUs.

1683 (15) A medical cannabis dispensary agent or employee shall
1684 not issue a written certification. Employees and agents of a
1685 medical cannabis dispensary shall complete at least eight (8)
1686 hours of continuing education in medical cannabis as regulated by
1687 the MDOR in order to be certified to work at a medical cannabis
1688 dispensary. After the first year of employment, these employees

shall complete five (5) hours of continuing education in medical cannabis annually to maintain this certification.

(16) Notwithstanding any other provision to the contrary, a patient with a debilitating medical condition who is between eighteen (18) years to twenty-five (25) years of age is not eligible for a medical cannabis registry identification card unless two (2) practitioners from separate medical practices have diagnosed the patient as having a debilitating medical condition after an in-person consultation. One (1) of these practitioners must be a physician or doctor of osteopathic medicine.

If one (1) of the recommending practitioners is not the patient's primary care practitioner, the recommending practitioner shall review the records of a diagnosing practitioner. The requirement that the two (2) practitioners be from separate medical practices does not apply if the patient is homebound or if the patient had a registry identification card before the age of eighteen (18).

(17) A medical cannabis establishment shall not allow an individual who is younger than twenty-one (21) years old to enter the premises of the establishment unless the individual possesses a registry identification card and is accompanied by his or her legal guardian.

(18) A medical cannabis establishment shall only purchase, grow, cultivate, and use cannabis that is grown and cultivated in

this state. Any medical cannabis that is grown and cultivated in this state shall not be transported outside of this state.

(19) Employees of all medical cannabis establishments shall apply for a work permit with the MDOH and MDOR, as applicable, before beginning employment with any establishment. The licensing agency for the respective medical cannabis establishment may issue work permits to these individuals. These licensing agencies shall maintain a work registry of all applicants and work permits issued. The fee for a work permit shall be Twenty-five Dollars ($25.00) and the permit shall be valid for five (5) years. Work permits shall be the property of the employee and shall not be transferable to other employees.

(20) For purposes of this subsection, "plant growth regulator cannabis" shall mean a cannabis plant whose growth and structure has been modified using plant growth hormones. A cannabis cultivation facility shall not cultivate and a cannabis dispensary shall not sell, transfer or provide for consumption plant growth regulator cannabis.

(21) A medical cannabis dispensary shall only make sales to cardholders inside the dispensary. A medical cannabis dispensary shall not sell or otherwise convey medical cannabis to a cardholder through the means of a drive-through, curbside delivery or other delivery outside the premises of the dispensary.

(22) Any and all contracts or agreements entered into by the MDOH, MDOR and MDAC for information technology software, hardware,

and/or services for the purpose of implementing and/or operating under the Mississippi Medical Cannabis Act shall include language reasonably limiting the ability of the vendor to escalate the ongoing cost of such software, hardware, and/or services during the term of the contract, including any amendments and/or extensions.

(23) The MDOR, MDAC and MDOH shall not share the name, address or personal data of a registry identification cardholder to any federal government entity.

SECTION 21. Agencies to issue rules and regulations. (1) From and after the effective date of this act, the MDOH, MDAC and MDOR shall each, where relevant to the role of that particular agency, establish and promulgate the following rules and regulations:

(a) Governing the manner in which it shall consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in Section 2 of this act, including public notice of and opportunities to comment in public hearings on the petitions;

(b) Establishing the form and content of license and renewal applications and written certifications submitted under this chapter;

(c) Governing the manner in which it shall consider applications for and renewals of registry identification cards,

which may include creating a standardized written certification form;

(d) Governing medical cannabis establishments with the goals of ensuring the health and safety of registered qualifying patients and preventing diversion and theft of medical cannabis without imposing an undue burden or compromising the confidentiality of cardholders, including:

(i) Oversight requirements;

(ii) Recordkeeping requirements;

(iii) Qualifications that are directly and demonstrably related to the operation of medical cannabis establishments;

(iv) Security requirements, including lighting, physical security, and alarm requirements;

(v) Health and safety regulations, including restrictions on the use of pesticides, herbicides or other chemicals that are injurious to human health;

(vi) Standards for the processing of cannabis products and the indoor cultivation of cannabis by cannabis cultivation facilities;

(vii) Requirements for the transportation and storage of cannabis by medical cannabis establishments;

(viii) Employment and training requirements, including requiring that each medical cannabis establishment

create an identification badge for each agent of the establishment;

(ix) Standards for the safe processing of medical cannabis products, including extracts and concentrates;

(x) Restrictions on the advertising, signage, and display of medical cannabis, provided that the restrictions may not prevent appropriate signs on the property of a dispensary, listings in business directories, including phone books, listings in cannabis-related or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events;

(xi) Requirements and procedures for the safe and accurate packaging and labeling of medical cannabis, including prohibiting the use of any images designed or likely to appeal to minors, such as cartoons, packaging that resembles popular candy brands, toys, animals or children, or any other likeness or image containing characters or phrases to advertise to minors;

(xii) Standards for cannabis testing facilities, including requirements for equipment and qualifications for personnel;

(xiii) Protocol development for the safe delivery of medical cannabis from dispensaries to cardholders;

(xiv) Reasonable requirements to ensure the applicant has sufficient property or capital to operate the applicant's proposed medical cannabis establishment;

1810 (xv) Procedures for suspending or terminating the
1811 licenses or registry identification cards of cardholders and
1812 medical cannabis establishments that commit multiple or serious
1813 violations of the provisions of this chapter or the rules and
1814 regulations promulgated pursuant to this section;
1815 (xvi) Procedures for the selection, certification
1816 and oversight of a seed-to-sale tracking system as provided for in
1817 Section 6 of this act;
1818 (xvii) Requirements for labeling medical cannabis
1819 and cannabis products, including requiring medical cannabis
1820 product labels to include the following:
1821 1. The length of time it typically takes for
1822 the product to take effect;
1823 2. Disclosure of ingredients and possible
1824 allergens;
1825 3. A nutritional fact panel;
1826 4. The amount of THC and CBD in the product;
1827 5. A notice of the potential harm caused by
1828 consuming medical cannabis; and
1829 6. For edible cannabis products, when
1830 practicable, a standard symbol indicating that the product
1831 contains cannabis;
1832 (xviii) Procedures for the registration of
1833 nonresident cardholders, which must require the submission of:

1. A practitioner's statement confirming that the patient has a debilitating medical condition; and

2. Documentation demonstrating that the nonresident cardholder is allowed to possess medical cannabis or cannabis preparations in the jurisdiction where he or she resides;

(xix) The amount of cannabis products, including the amount of concentrated cannabis, each cardholder and nonresident cardholder can possess;

(xx) Reasonable application and renewal fees for registry identification cards and registration certificates, according to the following:

1. The fee schedule shall be set as follows:

a. The qualifying patient registry identification card application fee shall be Twenty-five Dollars ($25.00);

b. The designated caregiver registry identification card application fee shall be Twenty-five Dollars ($25.00);

c. The designated caregiver criminal background fee shall be Thirty-seven Dollars ($37.00);

d. The fee for a renewal or replacement of a card shall be Twenty-five Dollars ($25.00);

e. The fee for a card for a nonresident patient shall be Seventy-five Dollars ($75.00);

1858 f. The qualifying patient registry
1859 identification card application fee for a Medicaid participant
1860 shall be Fifteen Dollars ($15.00) and the fee for a renewal of
1861 such card shall be Fifteen Dollars ($15.00); and
1862 g. The application fee for a qualifying
1863 patient registry identification card for disabled veterans or
1864 disabled first responders shall be waived. A disabled veteran or
1865 first responder may prove their disability by providing written
1866 documentation from their practitioner attesting to their
1867 debilitating medical condition, documentation from the Social
1868 Security Disability Office, or documentation that attests the
1869 applicant is a one-hundred percent (100%) disabled veteran as
1870 determined by the U.S. Department of Veteran Affairs and codified
1871 at 38 C.F.R., Section 3.340(a)(2013); and
1872 2. The MDOH may accept donations from private
1873 sources to reduce the amount of the application and renewal fees;
1874 (xxi) Any other rules and regulations necessary to
1875 implement and administer this chapter.
1876 (2) The initial rules filed by the MDOH to implement the
1877 medical cannabis program in accordance with this chapter shall be
1878 effective immediately upon their filing.
1879 **SECTION 22.** **Public registry.** (1) The MDOH and MDOR shall
1880 jointly create and maintain a public registry of medical cannabis
1881 establishments, which shall include, but shall not be limited to,
1882 the following information:

1883 (a) The name of the establishment;

1884 (b) The owner and, if applicable, the beneficial owner
1885 of the establishment;

1886 (c) The physical address, including municipality and
1887 zip code, of the establishment;

1888 (d) The mailing address, including municipality and zip
1889 code, of the establishment;

1890 (e) The county in which the establishment is domiciled;

1891 (f) The phone number of the establishment;

1892 (g) The electronic mail address of the establishment;

1893 (h) The license number of the establishment;

1894 (i) The issuance date of the establishment's license;

1895 (j) The expiration date of the establishment's license;

1896 (k) The NAICS code of the establishment;

1897 (l) Any changes to the license holder's status; and

1898 (m) Any other information determined necessary by the
1899 MDOH and MDOR.

1900 (2) The public registry shall not include personal
1901 information of an owner of a medical cannabis establishment.

1902 (3) The public registry shall be maintained electronically
1903 and shall be easily accessible to the public.

1904 **SECTION 23.** **Violations.** (1) It shall be unlawful for any
1905 person or entity to cultivate, process, transport, use, possess,
1906 purchase, sell or transfer cannabis except as authorized by this
1907 chapter.

1908 (2) A cardholder or medical cannabis establishment that
1909 purposely or knowingly fails to provide a notice required by
1910 Section 16 of this act is guilty of a civil offense, punishable by
1911 a fine of no more than One Thousand Five Hundred Dollars
1912 ($1,500.00), which may be assessed and collected by the licensing
1913 agency.
1914 (3) A medical cannabis establishment or an agent of a
1915 medical cannabis establishment that purposely, knowingly, or
1916 recklessly sells or otherwise transfers medical cannabis other
1917 than to a cardholder, a nonresident cardholder, or to a medical
1918 cannabis establishment or its agent as authorized under this
1919 chapter is guilty of a felony punishable by a fine of not more
1920 than Ten Thousand Dollars ($10,000.00), or by commitment to the
1921 custody of the Department of Corrections for not more than two (2)
1922 years, or both. A person convicted under this subsection may not
1923 continue to be affiliated with the medical cannabis establishment
1924 and is disqualified from further participation in the medical
1925 cannabis program under this chapter.
1926 (4) A cardholder or nonresident cardholder who purposely,
1927 knowingly, or recklessly sells or otherwise transfers medical
1928 cannabis to a person or other entity is guilty of a felony
1929 punishable by a fine of not more than Three Thousand Dollars
1930 ($3,000.00), or by commitment to the custody of the Department of
1931 Corrections for not more than two (2) years, or both. A person
1932 convicted under this subsection is disqualified from further

participation in the medical cannabis program under this chapter.

(5) A person who purposely, knowingly, or recklessly makes a false statement to a law enforcement official about any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars ($1,000.00), by imprisonment in the county jail for not more than ninety (90) days, or both. If a person convicted of violating this subsection is a cardholder, the person is disqualified from further participation in the medical cannabis program under this chapter.

(6) A person who purposely submits false records or documentation for an application for a license for a medical cannabis establishment under this chapter is guilty of a felony punishable by a fine of not more than Five Thousand Dollars ($5,000.00), or by commitment to the custody of the Department of Corrections for not more than two (2) years, or both. A person convicted under this subsection may not continue to be affiliated with the medical cannabis establishment and is disqualified from further participation in the medical cannabis program under this chapter.

(7) A practitioner who purposely refers patients to a specific medical cannabis establishment or to a registered designated caregiver, who advertises in a medical cannabis establishment, or who issues written certifications while holding a financial interest in a medical cannabis establishment, is

1958 guilty of a civil offense for every false certification and shall
1959 be fined up to Five Thousand Dollars ($5,000.00) by the MDOH.
1960 (8) Any person, including an employee or official of an
1961 agency or local government, who purposely, knowingly, or
1962 recklessly breaches the confidentiality of information obtained
1963 under this chapter is guilty of a misdemeanor punishable by a fine
1964 of not more than One Thousand Dollars ($1,000.00), or by
1965 imprisonment for not more than one hundred eighty (180) days in
1966 the county jail, or both.
1967 (9) No person, other than a cannabis processing facility or
1968 its agents, complying with this chapter and the rules and
1969 regulations promulgated under it, may extract compounds from
1970 cannabis that involves a chemical extraction process using a
1971 nonhydrocarbon-based or other solvent, such as water, vegetable
1972 glycerin, vegetable oils, animal fats, steam distillation,
1973 food-grade ethanol, or hydrocarbon-based solvent carbon dioxide.
1974 No person may extract compounds from cannabis using ethanol in the
1975 presence or vicinity of an open flame. It shall be a felony
1976 punishable by commitment to the custody of the Mississippi
1977 Department of Corrections for up to three (3) years and a Ten
1978 Thousand Dollar ($10,000.00) fine for any person to purposely,
1979 knowingly, or recklessly violate this subsection.
1980 (10) A medical cannabis establishment is guilty of a civil
1981 offense for any purposeful, knowing or reckless violation of this
1982 chapter or the rules and regulations issued under this chapter

where no penalty has been specified, and shall be fined not more than Five Thousand Dollars ($5,000.00) for each such violation by its licensing agency.

(11) The penalties provided for under this section are in addition to any other criminal, civil or administrative penalties provided for under law, rule or regulation.

(12) In addition to peace officers within their jurisdiction, all law enforcement officers of MDOH, MDAC and MDOR may enforce the provisions made unlawful by this chapter.

SECTION 24. Fines, suspensions and revocations. (1) The licensing agency may fine, suspend or revoke a license at its discretion for a violation of this chapter or any rules and regulations under this chapter by the licensee or any of its employees or agents. If a licensee wishes to appeal this decision, the licensee shall file its administrative appeal within twenty (20) days of receipt of the initial notice. The licensing agency shall then conduct a hearing on the record pursuant to the licensing agency's rules and regulations governing such hearings, at which time the burden shall be on the licensee to prove that the agency's decision was:

(a) Unsupported by substantial evidence;

(b) Arbitrary or capricious;

(c) Beyond the power of the administrative agency to make; or

2007 (d) Violated some statutory or constitutional right of
2008 the aggrieved party.
2009 If the licensee fails to appeal the initial notice within the
2010 prescribed time, the decision becomes final and cannot be further
2011 appealed.
2012 (2) The licensing agency shall provide its initial notice of
2013 suspension, revocation, fine or other sanction by personal
2014 delivery or mailing by certified mail, signature required, to the
2015 medical cannabis establishment at the address on the registration
2016 certificate. A suspension shall not be for a longer period than
2017 six (6) months.
2018 (3) A medical cannabis establishment may continue to possess
2019 and cultivate cannabis as otherwise authorized to do so under its
2020 license during a suspension, but it may not dispense, transfer or
2021 sell cannabis.
2022 (4) The MDOH shall immediately revoke the registry
2023 identification card of any cardholder who sells or otherwise
2024 transfers medical cannabis to a person or other entity, and the
2025 cardholder shall be disqualified from further participation in the
2026 medical cannabis program under this chapter.
2027 (5) Except as otherwise provided in subsection (4) of this
2028 section, the MDOH may revoke the registry identification card of
2029 any cardholder who knowingly commits a violation of this chapter.
2030 (6) The hearing decision of the agency on a revocation,
2031 suspension or fine is a final decision of the applicable agency

subject to judicial review in accordance with Section 31 of this act.

(7) No license issued by the MDOH or MDOR shall be transferred by the license holder to any other person or entity except with the written consent of the applicable licensing agency.

SECTION 25. Confidentiality. (1) Data in license and registration applications and supporting data submitted by registered qualifying patients, registered designated caregivers, medical cannabis establishments and nonresident cardholders, including data on registered designated caregivers and practitioners, shall be considered private data on individuals that is confidential and exempt from disclosure under the Mississippi Public Records Act of 1983, Sections 25-61-1 through 25-61-17.

(2) Data kept or maintained by an agency shall not be used for any purpose not provided for in this chapter and shall not be combined or linked in any manner with any other list or database.

(3) Data kept or maintained by an agency may be disclosed as necessary for:

(a) The verification of registration certificates and registry identification cards under this chapter;

(b) Submission of the annual report required by this chapter;

2056 (c) Notification of state or local law enforcement of
2057 apparent criminal violations of this chapter;
2058 (d) Notification of state and local law enforcement
2059 about falsified or fraudulent information submitted for purposes
2060 of obtaining or renewing a registry identification card; or
2061 (e) Notification of the State Board of Medical
2062 Licensure or other occupational or professional licensing board or
2063 entity if there is reason to believe that a practitioner provided
2064 a written certification in violation of this chapter, or if the
2065 MDOH has reason to believe the practitioner otherwise violated the
2066 standard of care for evaluating medical conditions.
2067 (4) Any information kept or maintained by medical cannabis
2068 establishments must identify cardholders by their registry
2069 identification numbers and must not contain names or other
2070 personally identifying information.
2071 (5) At a cardholder's request, the MDOH may confirm the
2072 cardholder's status as a registered qualifying patient or a
2073 registered designated caregiver to a third party, such as a
2074 landlord, school, medical professional, or court.
2075 (6) Any agency hard drives or other data-recording media
2076 that are no longer in use and that contain cardholder information
2077 shall be destroyed.
2078 **SECTION 26.** **Business expenses, deductions.** Notwithstanding
2079 any federal tax law to the contrary, in computing net income for
2080 medical cannabis establishments, there shall be allowed as a

deduction from income taxes imposed under Section 27-7-5, Mississippi Code of 1972, all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business as a medical cannabis establishment, including reasonable allowance for salaries or other compensation for personal services actually rendered.

SECTION 27. **Banks to be held harmless.** (1) A bank may provide any services to any person or entity licensed in this state to engage in the business of medical cannabis, or with any person or entity engaging in business dealings with such licensee, if the bank provides those services to any other business.

(2) A bank and its officers, directors, agents and employees shall not be held liable pursuant to any state law or regulation solely for:

(a) Providing financial services to a licensed medical cannabis establishment; or

(b) Investing any income derived from providing financial services to a licensed medical cannabis establishment.

(3) Nothing in this section shall require a bank to provide financial services to a licensed medical cannabis establishment.

SECTION 28. **Not applicable to CBD solution.** This chapter does not apply to or supersede any of the provisions of Section 41-29-136.

SECTION 29. **Medical cannabis taxes.** (1) (a) For purposes of this section:

2106 (i) "Cannabis cultivation facility," "dispensary,"
2107 "medical cannabis" and "medical cannabis establishments" shall be
2108 defined as provided in Section 2 of this act.
2109 (ii) "Cannabis flower" means the flower, including
2110 abnormal and immature flowers, of a plant of the genus cannabis
2111 that has been harvested, dried and cured, and prior to any
2112 processing whereby the flower material is transformed into a
2113 cannabis product. "Cannabis flower" does not include the leaves
2114 or stem of such plant or hemp.
2115 (iii) "Cannabis trim" means all parts, including
2116 abnormal or immature parts, of a plant of the genus cannabis,
2117 other than cannabis flower, that have been harvested, dried and
2118 cured, and prior to any processing whereby the plant material is
2119 transformed into a cannabis product. "Cannabis trim" does not
2120 include hemp.
2121 (2) (a) There is hereby imposed, levied and assessed an
2122 excise tax on medical cannabis cultivation facilities. A cannabis
2123 cultivation facility shall collect and remit an excise tax on
2124 forms and in a manner specified by the Commissioner of Revenue.
2125 (b) The excise tax on cannabis cultivation facilities
2126 shall be based on the sales price for which a cannabis cultivation
2127 facility first sells cannabis flower or cannabis trim, as the case
2128 may be, to a medical cannabis establishment, and the rate of the
2129 excise tax shall be five percent (5%) of such sales price.
2130 However, if there is common ownership or other interest between

the cannabis cultivation facility and the medical cannabis establishment to which the cannabis cultivation facility first sells or transfers the cannabis flower or cannabis trim, as the case may be, the excise tax shall be based on the fair market value of the cannabis flower or cannabis trim, as the case may be, at the time that the cannabis cultivation facility first sells or transfers the cannabis flower or cannabis trim to the medical cannabis establishment, and the rate of the excise tax shall be five percent (5%) of such fair market value. The fair market value of cannabis flower and cannabis trim shall initially be determined by the MDOR not later than November 1, 2022. Beginning January 1, 2023, the MDOR shall recalculate and adjust the fair market value of cannabis flower and cannabis trim twice per calendar year on January 1 and July 1.

(c) The excise tax imposed by this subsection shall apply regardless of the ownership of the medical cannabis establishment to which the cannabis cultivation facility sells or transfers the cannabis flower or cannabis trim, as the case may be.

(d) All administrative provisions of the sales tax law and amendments thereto, including those which fix damages, penalties and interest for nonpayment of taxes and for noncompliance with the provision of said sales tax law, and all other requirements and duties imposed upon a taxpayer, shall apply to all persons liable for taxes under the provisions of this

subsection. The commissioner shall exercise all power and authority and perform all duties with respect to taxpayers under this subsection as are provided in said sales tax law, except where there is conflict, then the provisions of this subsection shall control.

(e) All excise taxes collected under the provisions of this subsection shall be deposited into the State General Fund.

(3) A dispensary, on forms and in a manner specified by the Commissioner of Revenue, shall collect and remit the sales tax levied in Section 27-65-17(1)(a) from the gross proceeds derived from each retail sale of medical cannabis.

SECTION 30. Local government option. (1) The cultivation, processing, sale and distribution of medical cannabis and cannabis products, as performed in accordance to the provisions of this chapter, shall be legal in every county and municipality of this state unless a county or municipality opts out through a vote by the board of supervisors of the county or governing authorities of the municipality, as applicable, within ninety (90) days after the effective date of this act. The governing authorities of the municipality or the board of supervisors of the county, as applicable, shall provide a notice in accordance with the Open Meetings Act (Section 25-41-1 et seq.) of its intent of holding a vote regarding opting out of allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable. The governing authorities of the

municipality or the board of supervisors of the county, as applicable, may opt out of allowing one or more of the following: cultivation, processing, sale or distribution of medical cannabis and cannabis products. The governing authorities of a municipality, by a vote entered upon their minutes, may opt out of allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, in the municipality. The board of supervisors of a county, by a vote entered upon its minutes, may opt out of allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, in the unincorporated areas of the county.

(2) If the board of supervisors of a county or the governing authorities of a municipality do not opt out of allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, within ninety (90) days after the effective date of this act, then no vote by the board of supervisors or governing authorities, as applicable, may be held to so opt out, and the provisions of this chapter shall remain applicable and operative in the county or municipality, as applicable. If the board of supervisors of a county or governing authorities of a municipality have opted out of allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, then the board of supervisors or governing authorities of a municipality may later

opt in regarding the same through a vote by the board of supervisors or governing authorities, as applicable, entered upon its or their minutes, or an election duly held according to subsection (3) or (4) of this section, as applicable.

(3) (a) Upon presentation and filing of a proper petition requesting that the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, be legal in the unincorporated areas of the county signed by at least twenty percent (20%) or fifteen hundred (1500), whichever number is the lesser, of the qualified electors of the county, it shall be the duty of the board of supervisors to call an election at which there shall be submitted to the qualified electors of the county the question of whether or not the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, shall be legal in the unincorporated areas of such county as provided in this chapter. Such election shall be held and conducted by the county election commissioners on a date fixed by the order of the board of supervisors, which date shall not be more than sixty (60) days from the date of the filing of the petition. Notice thereof shall be given by publishing such notice once each week for at least three (3) consecutive weeks in some newspaper published in the county or if no newspaper be published therein, by such publication in a newspaper in an adjoining county and having a general circulation in the county involved. The election shall be

held not earlier than fifteen (15) days from the first publication of such notice.

(b) The election shall be held and conducted as far as may be possible in the same manner as is provided by law for the holding of general elections. The ballots used at the election shall contain a brief statement of the proposition submitted and, on separate lines, the words "I vote FOR allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, in the unincorporated areas of _____ [Name of County] ( )" or "I vote AGAINST allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, in the unincorporated areas of _____ [Name of County] ( )" with appropriate boxes in which the voters may express their choice. All qualified electors may vote by marking the ballot with a cross (x) or check (√) mark opposite the words of their choice.

(c) The election commissioners shall canvass and determine the results of the election and shall certify the same to the board of supervisors which shall adopt and spread upon its minutes an order declaring such results. If, in such election, a majority of the qualified electors participating therein vote in favor of allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, in the unincorporated areas of the county, this chapter shall be applicable and operative in the unincorporated

areas of such county, and the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, in the unincorporated areas of the county shall be lawful to the extent and in the manner permitted in this chapter. If, on the other hand, a majority of the qualified electors participating in the election vote against allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, then it shall be illegal to cultivate, process, sell and/or distribute medical cannabis and cannabis products, as applicable, in the unincorporated areas of the county. In either case, no further election shall be held in the county under the provisions of this section for a period of two (2) years from the date of the prior election and then only upon the filing of a petition requesting same signed by at least twenty percent (20%) or fifteen hundred (1500), whichever number is the lesser, of the qualified electors of the county as provided in this section.

(4) (a) Upon presentation and filing of a proper petition requesting that the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, be legal in the municipality signed by at least twenty percent (20%) or fifteen hundred (1500), whichever number is the lesser, of the qualified electors of the municipality, it shall be the duty of the governing authorities of the municipality to call an election at which there shall be submitted to the qualified

electors of the municipality the question of whether or not the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, shall be legal in the municipality as provided in this chapter. Such election shall be held and conducted on a date fixed by the order of the governing authorities of the municipality, which date shall not be more than sixty (60) days from the date of the filing of the petition. Notice thereof shall be given by publishing such notice once each week for at least three (3) consecutive weeks in some newspaper published in the municipality or if no newspaper be published therein, by such publication in a newspaper having a general circulation in the municipality involved. The election shall be held not earlier than fifteen (15) days from the first publication of such notice.

(b) The election shall be held and conducted as far as may be possible in the same manner as is provided by law for the holding of municipal elections. The ballots used at the election shall contain a brief statement of the proposition submitted and, on separate lines, the words "I vote FOR allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, in _____ [Name of Municipality] ( )" or "I vote AGAINST allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, in _____ [Name of Municipality] ( )" with appropriate boxes in which the voters may

express their choice. All qualified electors may vote by marking the ballot with a cross (x) or check (√) mark opposite the words of their choice.

(c) The election commissioners shall canvass and determine the results of the election and shall certify the same to the governing authorities which shall adopt and spread upon their minutes an order declaring such results. If, in such election, a majority of the qualified electors participating therein vote in favor of allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, this chapter shall be applicable and operative in such municipality and the cultivation, processing, sale, and/or distribution of medical cannabis and cannabis products, as applicable, therein shall be lawful to the extent and in the manner permitted in this chapter. If, on the other hand, a majority of the qualified electors participating in the election vote against allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, as applicable, then it shall be illegal to cultivate, process, sell and/or distribute medical cannabis and cannabis products, as applicable, in the municipality. In either case, no further election shall be held in the municipality under the provisions of this section for a period of two (2) years from the date of the prior election and then only upon the filing of a petition requesting same signed by at least twenty percent (20%) or fifteen

hundred (1500), whichever number is the lesser, of the qualified electors of the municipality as provided in this section.

(5) Regardless of whether a county or municipality opts out of allowing the cultivation, processing, sale and/or distribution of medical cannabis and cannabis products, cardholders, cannabis testing facilities, cannabis research facilities, cannabis transportation entities and cannabis disposal entities may possess medical cannabis in the municipality or county if done in accordance with this chapter.

(6) (a) If a municipality that has opted out under this section annexes a geographic area which contains a licensed entity operating under the provisions of this chapter, then the licensed entity may continue its operation in that municipality's newly annexed geographic area.

(b) If a licensed entity operating under the provisions of this chapter is located in a municipality that contracts its corporate boundaries thereby causing the geographic area in which the licensed entity is located to no longer be in the municipality and instead in an unincorporated area of a county that has opted out under this section, then the licensed entity may continue its operation in that area of the county.

SECTION 31. **Judicial review.** (1) Any person or entity aggrieved by a final decision or order of an agency under the provisions of this chapter may petition for judicial review of the final decision or order.

2356 (2) (a) The petition shall be filed within twenty (20) days
2357 after the issuance of the agency's final decision or order. The
2358 petition shall be filed in the circuit court of the county in
2359 which the appellant resides. If the appellant is a nonresident of
2360 this state, the appeal shall be made to the Circuit Court of the
2361 First Judicial District of Hinds County, Mississippi.
2362 (b) Any person or entity aggrieved by the decision of
2363 the circuit court may appeal to the Mississippi Supreme Court.
2364 **SECTION 32. Fees and fines allocation.** All fees and fines
2365 collected by the MDOR and MDOH according to the provisions of this
2366 chapter shall be deposited into the State General Fund.
2367 **SECTION 33. Medical Cannabis Advisory Committee.** (1) (a)
2368 There is established a Medical Cannabis Advisory Committee, which
2369 shall be the committee that is required to advise the Legislature
2370 about medical cannabis and cannabis product, patient care,
2371 services and industry.
2372 (b) The advisory committee shall consist of nine (9)
2373 members, as follows:
2374 (i) The Governor shall appoint three (3) members
2375 to the committee, as follows:
2376 1. One (1) representative from the MDAC;
2377 2. One (1) registered qualifying patient; and
2378 3. One (1) physician with experience in
2379 medical cannabis issues;

2380 (ii) The Lieutenant Governor shall appoint three
2381 (3) members, as follows:
2382 1. One (1) owner or agent of a medical
2383 cannabis cultivation facility;
2384 2. One (1) representative from the MDOH; and
2385 3. One (1) qualified certified nurse
2386 practitioner, physician assistant or optometrist;
2387 (iii) The Speaker of the House shall appoint three
2388 (3) members, as follows:
2389 1. One (1) owner or agent of a medical
2390 cannabis processing facility;
2391 2. One (1) owner or agent of a medical
2392 cannabis dispensary; and
2393 3. One (1) representative from the MDOR.
2394 (c) The advisory committee shall meet at least two (2)
2395 times per year for the purpose of evaluating and making
2396 recommendations to the Legislature and the MDOH, MDOR and MDAC
2397 regarding:
2398 (i) The ability of qualifying patients in all
2399 areas of the state to obtain timely access to high-quality medical
2400 cannabis;
2401 (ii) The effectiveness of the medical cannabis
2402 establishments in serving the needs of registered qualifying
2403 patients, including the provision of educational and support
2404 services by dispensaries, the reasonableness of their prices,

2405 security issues, and the sufficiency of the number operating to
2406 serve the state's registered qualifying patients;
2407 (iii) The effectiveness of the cannabis testing
2408 facilities, including whether a sufficient number are operating;
2409 (iv) The sufficiency of the regulatory and
2410 security safeguards contained in this chapter and adopted by the
2411 MDOH and MDAC to ensure that access to and use of cannabis
2412 cultivated is provided only to cardholders;
2413 (v) Any recommended additions or revisions to the
2414 MDAC, MDOH and MDOR rules and regulations or this chapter,
2415 including relating to security, safe handling, labeling,
2416 nomenclature, and whether additional types of licenses should be
2417 made available; and
2418 (vi) Any research studies regarding health effects
2419 of medical cannabis for patients.
2420 (d) The advisory committee shall accept public comment
2421 in writing and in-person at least once per year. The advisory
2422 committee shall meet at least two (2) times per year and advisory
2423 committee members shall be furnished written notice of the
2424 meetings at least ten (10) days before the date of the meeting.
2425 (e) The chairman of the advisory committee shall be
2426 elected by the voting members of the committee annually and shall
2427 not serve more than two (2) consecutive years as chairman.
2428 (f) The members of the advisory committee specified in
2429 paragraph (b) of this subsection shall serve for terms that are

concurrent with the terms of members of the Legislature, and any member appointed under paragraph (b) may be reappointed to the advisory committee. The members of the advisory committee specified in paragraph (b) shall serve without compensation, but shall receive reimbursement to defray actual expenses incurred in the performance of committee business as authorized by law.

(2) This section shall stand repealed on December 31, 2025.

SECTION 34. Section 25-53-5, Mississippi Code of 1972, is amended as follows:

25-53-5. The authority shall have the following powers, duties, and responsibilities:

(a) (i) The authority shall provide for the development of plans for the efficient acquisition and utilization of computer equipment and services by all agencies of state government, and provide for their implementation. In so doing, the authority may use the MDITS' staff, at the discretion of the executive director of the authority, or the authority may contract for the services of qualified consulting firms in the field of information technology and utilize the service of such consultants as may be necessary for such purposes. Pursuant to Section 25-53-1, the provisions of this section shall not apply to the Department of Human Services for a period of three (3) years beginning on July 1, 2017. Pursuant to Section 25-53-1, the provisions of this section shall not apply to the Department of

Child Protection Services for a period of three (3) years beginning July 1, 2017.

(ii) [Repealed]

(b) The authority shall immediately institute procedures for carrying out the purposes of this chapter and supervise the efficient execution of the powers and duties of the office of executive director of the authority. In the execution of its functions under this chapter, the authority shall maintain as a paramount consideration the successful internal organization and operation of the several agencies so that efficiency existing therein shall not be adversely affected or impaired. In executing its functions in relation to the institutions of higher learning and junior colleges in the state, the authority shall take into consideration the special needs of such institutions in relation to the fields of teaching and scientific research.

(c) Title of whatever nature of all computer equipment now vested in any agency of the State of Mississippi is hereby vested in the authority, and no such equipment shall be disposed of in any manner except in accordance with the direction of the authority or under the provisions of such rules and regulations as may hereafter be adopted by the authority in relation thereto.

(d) The authority shall adopt rules, regulations, and procedures governing the acquisition of computer and telecommunications equipment and services which shall, to the fullest extent practicable, insure the maximum of competition

between all manufacturers of supplies or equipment or services. In the writing of specifications, in the making of contracts relating to the acquisition of such equipment and services, and in the performance of its other duties the authority shall provide for the maximum compatibility of all information systems hereafter installed or utilized by all state agencies and may require the use of common computer languages where necessary to accomplish the purposes of this chapter. The authority may establish by regulation and charge reasonable fees on a nondiscriminatory basis for the furnishing to bidders of copies of bid specifications and other documents issued by the authority.

(e) The authority shall adopt rules and regulations governing the sharing with, or the sale or lease of information technology services to any nonstate agency or person. Such regulations shall provide that any such sharing, sale or lease shall be restricted in that same shall be accomplished only where such services are not readily available otherwise within the state, and then only at a charge to the user not less than the prevailing rate of charge for similar services by private enterprise within this state.

(f) The authority may, in its discretion, establish a special technical advisory committee or committees to study and make recommendations on technology matters within the competence of the authority as the authority may see fit. Persons serving on the Information Resource Council, its task forces, or any such

technical advisory committees shall be entitled to receive their actual and necessary expenses actually incurred in the performance of such duties, together with mileage as provided by law for state employees, provided the same has been authorized by a resolution duly adopted by the authority and entered on its minutes prior to the performance of such duties.

(g) The authority may provide for the development and require the adoption of standardized computer programs and may provide for the dissemination of information to and the establishment of training programs for the personnel of the various information technology centers of state agencies and personnel of the agencies utilizing the services thereof.

(h) The authority shall adopt reasonable rules and regulations requiring the reporting to the authority through the office of executive director of such information as may be required for carrying out the purposes of this chapter and may also establish such reasonable procedures to be followed in the presentation of bills for payment under the terms of all contracts for the acquisition of computer equipment and services now or hereafter in force as may be required by the authority or by the executive director in the execution of their powers and duties.

(i) The authority shall require such adequate documentation of information technology procedures utilized by the various state agencies and may require the establishment of such organizational structures within state agencies relating to

information technology operations as may be necessary to effectuate the purposes of this chapter.

(j) The authority may adopt such further reasonable rules and regulations as may be necessary to fully implement the purposes of this chapter. All rules and regulations adopted by the authority shall be published and disseminated in readily accessible form to all affected state agencies, and to all current suppliers of computer equipment and services to the state, and to all prospective suppliers requesting the same. Such rules and regulations shall be kept current, be periodically revised, and copies thereof shall be available at all times for inspection by the public at reasonable hours in the offices of the authority. Whenever possible no rule, regulation or any proposed amendment to such rules and regulations shall be finally adopted or enforced until copies of the proposed rules and regulations have been furnished to all interested parties for their comment and suggestions.

(k) The authority shall establish rules and regulations which shall provide for the submission of all contracts proposed to be executed by the executive director for computer equipment or services to the authority for approval before final execution, and the authority may provide that such contracts involving the expenditure of less than such specified amount as may be established by the authority may be finally executed by the

executive director without first obtaining such approval by the authority.

(l) The authority is authorized to purchase, lease, or rent computer equipment or services and to operate that equipment and use those services in providing services to one or more state agencies when in its opinion such operation will provide maximum efficiency and economy in the functions of any such agency or agencies.

(m) Upon the request of the governing body of a political subdivision or instrumentality, the authority shall assist the political subdivision or instrumentality in its development of plans for the efficient acquisition and utilization of computer equipment and services. An appropriate fee shall be charged the political subdivision by the authority for such assistance.

(n) The authority shall adopt rules and regulations governing the protest procedures to be followed by any actual or prospective bidder, offerer or contractor who is aggrieved in connection with the solicitation or award of a contract for the acquisition of computer equipment or services. Such rules and regulations shall prescribe the manner, time and procedure for making protests and may provide that a protest not timely filed shall be summarily denied. The authority may require the protesting party, at the time of filing the protest, to post a bond, payable to the state, in an amount that the authority

determines sufficient to cover any expense or loss incurred by the state, the authority or any state agency as a result of the protest if the protest subsequently is determined by a court of competent jurisdiction to have been filed without any substantial basis or reasonable expectation to believe that the protest was meritorious; however, in no event may the amount of the bond required exceed a reasonable estimate of the total project cost. The authority, in its discretion, also may prohibit any prospective bidder, offerer or contractor who is a party to any litigation involving any such contract with the state, the authority or any agency of the state to participate in any other such bid, offer or contract, or to be awarded any such contract, during the pendency of the litigation.

(o) The authority shall make a report in writing to the Legislature each year in the month of January. Such report shall contain a full and detailed account of the work of the authority for the preceding year as specified in Section 25-53-29(3).

All acquisitions of computer equipment and services involving the expenditure of funds in excess of the dollar amount established in Section 31-7-13(c), or rentals or leases in excess of the dollar amount established in Section 31-7-13(c) for the term of the contract, shall be based upon competitive and open specifications, and contracts therefor shall be entered into only after advertisements for bids are published in one or more daily newspapers having a general circulation in the state not less than

fourteen (14) days prior to receiving sealed bids therefor. The authority may reserve the right to reject any or all bids, and if all bids are rejected, the authority may negotiate a contract within the limitations of the specifications so long as the terms of any such negotiated contract are equal to or better than the comparable terms submitted by the lowest and best bidder, and so long as the total cost to the State of Mississippi does not exceed the lowest bid. If the authority accepts one (1) of such bids, it shall be that which is the lowest and best. Through December 31, 2022, the provisions of this paragraph shall not apply to acquisitions of information technology equipment and services made by the Mississippi Department of Agriculture and Commerce, the Mississippi Department of Health and/or the Mississippi Department of Revenue for the purposes of implementing, administering and/or enforcing the provisions of the Mississippi Medical Cannabis Act.

(p) When applicable, the authority may procure equipment, systems and related services in accordance with the law or regulations, or both, which govern the Bureau of Purchasing of the Office of General Services or which govern the Mississippi Department of Information Technology Services procurement of telecommunications equipment, software and services.

(q) The authority is authorized to purchase, lease, or rent information technology and services for the purpose of establishing pilot projects to investigate emerging technologies. These acquisitions shall be limited to new technologies and shall

be limited to an amount set by annual appropriation of the Legislature. These acquisitions shall be exempt from the advertising and bidding requirement.

(r) All fees collected by the Mississippi Department of Information Technology Services shall be deposited into the Mississippi Department of Information Technology Services Revolving Fund unless otherwise specified by the Legislature.

(s) The authority shall work closely with the council to bring about effective coordination of policies, standards and procedures relating to procurement of remote sensing and geographic information systems (GIS) resources. In addition, the authority is responsible for development, operation and maintenance of a delivery system infrastructure for geographic information systems data. The authority shall provide a warehouse for Mississippi's geographic information systems data.

(t) The authority shall manage one or more State Data Centers to provide information technology services on a cost-sharing basis. In determining the appropriate services to be provided through the State Data Center, the authority should consider those services that:

(i) Result in savings to the state as a whole;

(ii) Improve and enhance the security and reliability of the state's information and business systems; and

(iii) Optimize the efficient use of the state's information technology assets, including, but not limited to,

promoting partnerships with the state institutions of higher learning and community colleges to capitalize on advanced information technology resources.

(u) The authority shall increase federal participation in the cost of the State Data Center to the extent provided by law and its shared technology infrastructure through providing such shared services to agencies that receive federal funds. With regard to state institutions of higher learning and community colleges, the authority may provide shared services when mutually agreeable, following a determination by both the authority and the Board of Trustees of State Institutions of Higher Learning or the Mississippi Community College Board, as the case may be, that the sharing of services is mutually beneficial.

(v) The authority, in its discretion, may require new or replacement agency business applications to be hosted at the State Data Center. With regard to state institutions of higher learning and community colleges, the authority and the Board of Trustees of State Institutions of Higher Learning or the Mississippi Community College Board, as the case may be, may agree that institutions of higher learning or community colleges may utilize business applications that are hosted at the State Data Center, following a determination by both the authority and the applicable board that the hosting of those applications is mutually beneficial. In addition, the authority may establish partnerships to capitalize on the advanced technology resources of

the Board of Trustees of State Institutions of Higher Learning or the Mississippi Community College Board, following a determination by both the authority and the applicable board that such a partnership is mutually beneficial.

(w) The authority shall provide a periodic update regarding reform-based information technology initiatives to the Chairmen of the House and Senate Accountability, Efficiency and Transparency Committees.

From and after July 1, 2018, the expenses of this agency shall be defrayed by appropriation from the State General Fund. In addition, in order to receive the maximum use and benefit from information technology and services, expenses for the provision of statewide shared services that facilitate cost-effective information processing and telecommunication solutions shall be defrayed by pass-through funding and shall be deposited into the Mississippi Department of Information Technology Services Revolving Fund unless otherwise specified by the Legislature. These funds shall only be utilized to pay the actual costs incurred by the Mississippi Department of Information Technology Services for providing these shared services to state agencies. Furthermore, state agencies shall work in full cooperation with the Board of the Mississippi Department of Information Technology Services to identify computer equipment or services to minimize duplication, reduce costs, and improve the efficiency of providing common technology services across agency boundaries.

SECTION 35. Section 27-104-203, Mississippi Code of 1972, is amended as follows:

27-104-203. *** * *** From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent, audit fee, personnel fee or other charge for services or resources received. The provisions of this section shall not apply (a) to grants, contracts, pass-through funds, project fees or other charges for services between state agencies and the Board of Trustees of State Institutions of Higher Learning, any public university, the Mississippi Community College Board, any public community or junior college, and the State Department of Education, nor (b) to charges for services between the Board of Trustees of State Institutions of Higher Learning, any public university, the Mississippi Community College Board, any public community or junior college, and the State Department of Education, nor (c) to federal grants, pass-through funds, cost allocation charges, surplus property charges or project fees between state agencies as approved or determined by the State Fiscal Officer, nor (d) telecommunications, data center services, and/or other information technology services that are used on an as-needed basis and those costs shall be passed through to the using agency, nor (e) to federal grants, special funds, or pass-through funds, available for payment by state agencies to the Department of Finance and Administration related to Mississippi Management and Reporting Systems (MMRS) Statewide Application

2728 charges and utilities as approved or determined by the State
2729 Fiscal Officer, nor (f) *** * *** to grants, contracts, pass-through
2730 funds, project fees or charges for services between the State
2731 Department of Health, State Department of Agriculture and
2732 Commerce, and State Department of Revenue, and other state
2733 agencies or entities, including, but not limited to, the Board of
2734 Trustees of State Institutions of Higher Learning, any public
2735 university, the Mississippi Community College Board, any public
2736 community or junior college, and the State Department of
2737 Education, for the operation of the *** * *** medical *** * *** cannabis
2738 program as established by *** * *** the Mississippi Medical Cannabis
2739 Act. The Board of Trustees of State Institutions of Higher
2740 Learning, any public university, the Mississippi Community College
2741 Board, any public community or junior college, and the State
2742 Department of Education shall retain the authority to charge and
2743 be charged for expenditures that they deemed nonrecurring in
2744 nature by the State Fiscal Officer.
2745 *** * ***
2746 **SECTION 36.** Section 17-1-3, Mississippi Code of 1972, is
2747 brought forward as follows:
2748 17-1-3. (1) Except as otherwise provided in Section
2749 17-1-21(2) and in Article VII of the Chickasaw Trail Economic
2750 Development Compact described in Section 57-36-1, for the purpose
2751 of promoting health, safety, morals, or the general welfare of the
2752 community, the governing authority of any municipality, and, with

respect to the unincorporated part of any county, the governing authority of any county, in its discretion, are empowered to regulate the height, number of stories and size of building and other structures, the percentage of lot that may be occupied, the size of the yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes, but no permits shall be required with reference to land used for agricultural purposes, including forestry activities as defined in Section 95-3-29(2)(b), or for the erection, maintenance, repair or extension of farm buildings or farm structures, including forestry buildings and structures, outside the corporate limits of municipalities. The governing authority of each county and municipality may create playgrounds and public parks, and for these purposes, each of such governing authorities shall possess the power, where requisite, of eminent domain and the right to apply public money thereto, and may issue bonds therefor as otherwise permitted by law.

(2) Local land use regulation ordinances involving the placement, screening, or height of amateur radio antenna structures must reasonably accommodate amateur communications and must constitute the minimum practicable regulation to accomplish local authorities' legitimate purposes of addressing health, safety, welfare and aesthetic considerations. Judgments as to the types of reasonable accommodation to be made and the minimum

practicable regulation necessary to address these purposes will be determined by local governing authorities within the parameters of the law. This legislation supports the amateur radio service in preparing for and providing emergency communications for the State of Mississippi and local emergency management agencies.

SECTION 37. Section 19-5-9, Mississippi Code of 1972, is brought forward as follows:

19-5-9. The construction codes published by a nationally recognized code group which sets minimum standards and has the proper provisions to maintain up-to-date amendments are adopted as minimum standard guides for building, plumbing, electrical, gas, sanitary, and other related codes in Mississippi. Any county within the State of Mississippi, in the discretion of the board of supervisors, may adopt building codes, plumbing codes, electrical codes, sanitary codes, or other related codes dealing with general public health, safety or welfare, or a combination of the same, within but not exceeding the provisions of the construction codes published by nationally recognized code groups, by order or resolution in the manner prescribed in this section, but those codes so adopted shall apply only to the unincorporated areas of the county. However, those codes shall not apply to the erection, maintenance, repair or extension of farm buildings or farm structures, except as may be required under the terms of the "Flood Disaster Protection Act of 1973," and shall apply to a master planned community as defined in Section 19-5-10 only to the

extent allowed in Section 19-5-10. The provisions of this section shall not be construed to authorize the adoption of any code which applies to the installation, repair or maintenance of electric wires, pipelines, apparatus, equipment or devices by or for a utility rendering public utility services, required by it to be utilized in the rendition of its duly authorized service to the public. Before any such code shall be adopted, it shall be either printed or typewritten and shall be presented in pamphlet form to the board of supervisors at a regular meeting. The order or resolution adopting the code shall not set out the code in full, but shall merely identify the same. The vote or passage of the order or resolution shall be the same as on any other order or resolution. After its adoption, the code or codes shall be certified to by the president and clerk of the board of supervisors and shall be filed as a permanent record in the office of the clerk who shall not be required to transcribe and record the same in the minute book as other orders and resolutions.

If the board of supervisors of any county adopts or has adopted construction codes which do not have proper provisions to maintain up-to-date amendments, specifications in such codes for cements used in portland cement concrete shall be superseded by nationally recognized specifications referenced in any code adopted by the Mississippi Building Code Council.

All provisions of this section shall apply to amendments and revisions of the codes mentioned in this section. The provisions

of this section shall be in addition and supplemental to any existing laws authorizing the adoption, amendment or revision of county orders, resolutions or codes.

Any code adopted under the provisions of this section shall not be in operation or force until sixty (60) days have elapsed from the adoption of same; however, any code adopted for the immediate preservation of the public health, safety and general welfare may be effective from and after its adoption by a unanimous vote of the members of the board. Within five (5) days after the adoption or passage of an order or resolution adopting that code or codes the clerk of the board of supervisors shall publish in a legal newspaper published in the county the full text of the order or resolution adopting and approving the code, and the publication shall be inserted at least three (3) times, and shall be completed within thirty (30) days after the passage of the order or resolution.

Any person or persons objecting to the code or codes may object in writing to the provisions of the code or codes within sixty (60) days after the passage of the order or resolution approving same, and if the board of supervisors adjudicates that ten percent (10%) or more of the qualified electors residing in the affected unincorporated areas of the county have objected in writing to the code or codes, then in such event the code shall be inoperative and not in effect unless adopted for the immediate preservation of the public health, safety and general welfare

until approved by a special election called by the board of supervisors as other special elections are called and conducted by the election commissioners of the county as other special elections are conducted, the special election to be participated in by all the qualified electors of the county residing in the unincorporated areas of the county. If the voters approve the code or codes in the special election it shall be in force and in operation thereafter until amended or modified as provided in this section. If the majority of the qualified electors voting in the special election vote against the code or codes, then, in such event, the code or codes shall be void and of no force and effect, and no other code or codes dealing with that subject shall be adopted under the provisions of this section until at least two (2) years thereafter.

After any such code shall take effect the board of supervisors is authorized to employ such directors and other personnel as the board, in its discretion, deems necessary and to expend general county funds or any other funds available to the board to fulfill the purposes of this section.

For the purpose of promoting health, safety, morals or the general welfare of the community, the governing authority of any municipality, and, with respect to the unincorporated part of any county, the governing authority of any county, in its discretion, is empowered to regulate the height, number of stories and size of building and other structures, the percentage of lot that may be

occupied, the size of the yards, courts and other open spaces, the density or population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes, but no permits shall be required except as may be required under the terms of the "Flood Disaster Protection Act of 1973" for the erection, maintenance, repair or extension of farm buildings or farm structures outside the corporate limits of municipalities.

The authority granted in this section is cumulative and supplemental to any other authority granted by law.

Notwithstanding any provision of this section to the contrary, any code adopted by a county before or after April 12, 2001, is subject to the provisions of Section 41-26-14(10).

Notwithstanding any provision of this section to the contrary, the Boards of Supervisors of Jackson, Harrison, Hancock, Stone and Pearl River Counties shall enforce the requirements imposed under Section 17-2-1 as provided in such section.

SECTION 38. Section 25-43-1.103, Mississippi Code of 1972, is brought forward as follows:

25-43-1.103. (1) This chapter applies to all agencies and all proceedings not expressly exempted under this chapter.

(2) This chapter creates only procedural rights and imposes only procedural duties. They are in addition to those created and imposed by other statutes.

(3) Specific statutory provisions which govern agency proceedings and which are in conflict with any of the provisions of this chapter shall continue to be applied to all proceedings of any such agency to the extent of such conflict only.

(4) The provisions of this chapter shall not be construed to amend, repeal or supersede the provisions of any other law; and, to the extent that the provisions of any other law conflict or are inconsistent with the provisions of this chapter, the provisions of such other law shall govern and control.

(5) An agency may grant procedural rights to persons in addition to those conferred by this chapter so long as rights conferred upon other persons by any provision of law are not substantially prejudiced.

SECTION 39. Section 25-43-2.101, Mississippi Code of 1972, is brought forward as follows:

25-43-2.101. (1) Subject to the provisions of this chapter, the Secretary of State shall prescribe a uniform numbering system, form, style and transmitting format for all proposed and adopted rules caused to be published by him and, with prior approval of each respective agency involved, may edit rules for publication and codification without changing the meaning or effect of any rule.

(2) The Secretary of State shall cause an administrative bulletin to be published in a format and at such regular intervals as the Secretary of State shall prescribe by rule. Upon proper

filing of proposed rules, the Secretary of State shall publish them in the administrative bulletin as expeditiously as possible. The administrative bulletin must contain:

(a) Notices of proposed rule adoption prepared so that the text of the proposed rule shows the text of any existing rule proposed to be changed and the change proposed;

(b) Any other notices and materials designated by law for publication therein; and

(c) An index to its contents by subject.

(3) The Secretary of State shall cause an administrative bulletin to be published in a format and at such regular intervals as the Secretary of State shall prescribe by rule. Upon proper filing of newly adopted rules, the Secretary of State shall publish them as expeditiously as possible. The administrative bulletin must contain:

(a) Newly filed adopted rules prepared so that the text shows the text of any existing rule being changed and the change being made;

(b) Any other notices and materials designated by law for publication therein; and

(c) An index to its contents by subject.

(4) The Secretary of State retains the authority to reject proposed and newly adopted rules not properly filed in accordance with the Secretary of State's rules prescribing the numbering system, form, style or transmitting format for such filings. The

Secretary of State shall not be empowered to reject filings for reasons of the substance or content or any proposed or newly adopted rule. The Secretary of State shall notify the agency of its rejection of a proposed or newly adopted rule as expeditiously as possible and accompany such notification with a stated reason for the rejection. A rejected filing of a proposed or newly adopted rule does not constitute filing pursuant to Section 25-43-3.101 et seq. of this chapter.

(5) (a) The Secretary of State shall cause an administrative code to be compiled, indexed by subject and published in a format prescribed by the Secretary of State by rule. All of the effective rules of each agency must be published and indexed in that publication. The Secretary of State shall also cause supplements to the administrative code to be published in a format and at such regular intervals as the Secretary of State shall prescribe by rule.

(b) The Joint Legislative Committee on Compilation, Revision and Publication of Legislation is hereby authorized to contract with a reputable and competent publishing company on such terms and conditions and at such prices as may be deemed proper to digest, compile, annotate, index and publish the state agency rules and regulations.

(6) (a) Copyrights of the Mississippi Administrative Code, including, but not limited to, cross references, tables of cases, notes of decisions, tables of contents, indices, source notes,

authority notes, numerical lists and codification guides, other than the actual text of rules or regulations, shall be taken by and in the name of the publishers of said compilation. Such publishers shall thereafter promptly assign the same to the State of Mississippi and said copyright shall be owned by the state.

(b) Any information appearing on the same leaf with the text of any rule or regulation may be incidentally reproduced in connection with the reproduction of such rule or regulation, if such reproduction is for private use and not for resale.

(7) The Secretary of State may omit from the administrative bulletin or code any proposed or filed adopted rule, the publication in hard copy of which would be unduly cumbersome, expensive or otherwise inexpedient, if:

(a) Knowledge of the rule is likely to be important to only a small class of persons;

(b) On application to the issuing agency, the proposed or adopted rule in printed or processed form is made available at no more than its cost of reproduction; and

(c) The administrative bulletin or code contains a notice stating in detail the specific subject matter of the omitted proposed or adopted rule and how a copy of the omitted material may be obtained.

(8) The administrative bulletin and administrative code with supplements must be furnished to designated officials without charge and to all subscribers at a reasonable cost to be

3002 determined by the Secretary of State. Each agency shall also make
3003 available for public inspection and copying those portions of the
3004 administrative bulletin and administrative code containing all
3005 rules adopted or used by the agency in the discharge of its
3006 functions, and the index to those rules.

3007 **SECTION 40.** Section 25-43-3.102, Mississippi Code of 1972,
3008 is brought forward as follows:

3009 25-43-3.102. (1) Each agency shall maintain a current,
3010 public rule-making docket.

3011 (2) The rule-making docket may, but need not, contain a
3012 listing of the subject matter of possible rules currently under
3013 active consideration within the agency for proposal under Section
3014 25-43-3.103 and the name and address of agency personnel with whom
3015 persons may communicate with respect to the matter.

3016 (3) The rule-making docket must list each pending
3017 rule-making proceeding. A rule-making proceeding is pending from
3018 the time it is commenced, by proper filing with the Secretary of
3019 State of a notice of proposed rule adoption, to the time it is
3020 terminated by the filing with the Secretary of State of a notice
3021 of termination or the rule becoming effective. For each pending
3022 rule-making proceeding, the docket must indicate:

3023 (a) The subject matter of the proposed rule;

3024 (b) A citation to all published notices relating to the
3025 proceeding;

(c) Where written submissions or written requests for an opportunity to make oral presentations on the proposed rule may be inspected;

(d) The time during which written submissions may be made;

(e) If applicable, where and when oral presentations may be made;

(f) Where any economic impact statement and written requests for the issuance of and other information concerning an economic impact statement of the proposed rule may be inspected;

(g) The current status of the proposed rule;

(h) The date of the rule's adoption; and

(i) When the rule will become effective.

SECTION 41. Section 25-43-3.103, Mississippi Code of 1972, is brought forward as follows:

25-43-3.103. (1) At least twenty-five (25) days before the adoption of a rule an agency shall cause notice of its contemplated action to be properly filed with the Secretary of State for publication in the administrative bulletin. The notice of proposed rule adoption must include:

(a) A short explanation of the purpose of the proposed rule and the agency's reasons for proposing the rule;

(b) The specific legal authority authorizing the promulgation of rules;

(c) A reference to all rules repealed, amended or suspended by the proposed rule;

(d) Subject to Section 25-43-2.101(5), the text of the proposed rule;

(e) Where, when and how persons may present their views on the proposed rule; and

(f) Where, when and how persons may demand an oral proceeding on the proposed rule if the notice does not already provide for one.

(2) Within three (3) days after its proper filing with the Secretary of State for publication in the administrative bulletin, the agency shall cause a copy of the notice of proposed rule adoption to be provided to each person who has made a timely request to the agency to be placed on the mailing list maintained by the agency of persons who have requested notices of proposed rule adoptions. An agency may mail the copy to the person and may charge the person a reasonable fee for such service, which fee may be in excess of the actual cost of providing the person with a mailed copy. Alternatively, the agency may provide the copy via the Internet or by transmitting it to the person by electronic means, including, but not limited to, facsimile transfer or e-mail at no charge to the person, if the person consents to this form of delivery.

SECTION 42. Section 25-43-3.104, Mississippi Code of 1972, is brought forward as follows:

25-43-3.104. (1) For at least twenty-five (25) days after proper filing with the Secretary of State of the notice of proposed rule adoption, an agency shall afford persons the opportunity to submit, in writing, argument, data and views on the proposed rule.

(2) (a) An agency, in its discretion, may schedule an oral proceeding on any proposed rule. However, an agency shall schedule an oral proceeding on a proposed rule if, within twenty (20) days after the proper filing of the notice of proposed rule adoption, a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) persons. At that proceeding, persons may present oral or written argument, data and views on the proposed rule.

(b) An oral proceeding on a proposed rule, if required, may not be held earlier than twenty (20) days after notice of its location and time is properly filed with the Secretary of State for publication in the administrative bulletin. Within three (3) days after its proper filing with the Secretary of State for publication in the administrative bulletin, the agency shall cause a copy of the notice of the location and time of the oral proceeding to be mailed to each person who has made a timely request to the agency to be placed on the mailing list maintained by the agency of persons who have requested notices of proposed rule adoptions.

(c) The agency, a member of the agency, or another presiding officer designated by the agency shall preside at a required oral proceeding on a proposed rule. Oral proceedings must be open to the public and may be recorded by stenographic or other means.

(d) An agency may issue rules for the conduct of oral rule-making proceedings or prepare reasonable guidelines or procedures for the conduct of any such proceedings. Those rules may include, but not be limited to, provisions calculated to prevent undue repetition in the oral proceedings.

SECTION 43. Section 25-43-3.105, Mississippi Code of 1972, is brought forward as follows:

25-43-3.105. (1) Prior to giving the notice required in Section 25-43-3.103, each agency proposing the adoption of a rule or significant amendment of an existing rule imposing a duty, responsibility or requirement on any person shall consider the economic impact the rule will have on the citizens of our state and the benefits the rule will cause to accrue to those citizens. For purposes of this section, a "significant amendment" means any amendment to a rule for which the total aggregate cost to all persons required to comply with that rule exceeds One Hundred Thousand Dollars ($100,000.00).

(2) Each agency shall prepare a written report providing an economic impact statement for the adoption of a rule or significant amendment to an existing rule imposing a duty,

responsibility or requirement on any person, except as provided in subsection (7) of this section. The economic impact statement shall include the following:

(a) A description of the need for and the benefits which will likely accrue as the result of the proposed action;

(b) An estimate of the cost to the agency, and to any other state or local government entities, of implementing and enforcing the proposed action, including the estimated amount of paperwork, and any anticipated effect on state or local revenues;

(c) An estimate of the cost or economic benefit to all persons directly affected by the proposed action;

(d) An analysis of the impact of the proposed rule on small business;

(e) A comparison of the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the proposed rule or significantly amending an existing rule;

(f) A determination of whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule where reasonable alternative methods exist which are not precluded by law;

(g) A description of reasonable alternative methods, where applicable, for achieving the purpose of the proposed action which were considered by the agency and a statement of reasons for rejecting those alternatives in favor of the proposed rule; and

3148 (h) A detailed statement of the data and methodology
3149 used in making estimates required by this subsection.
3150 (3) No rule or regulation shall be declared invalid based on
3151 a challenge to the economic impact statement for the rule unless
3152 the issue is raised in the agency proceeding. No person shall
3153 have standing to challenge a rule, based upon the economic impact
3154 statement or lack thereof, unless that person provided the agency
3155 with information sufficient to make the agency aware of specific
3156 concerns regarding the statement in an oral proceeding or in
3157 written comments regarding the rule. The grounds for invalidation
3158 of an agency action, based upon the economic impact statement, are
3159 limited to the agency's failure to adhere to the procedure for
3160 preparation of the economic impact statement as provided in this
3161 section, or the agency's failure to consider information submitted
3162 to the agency regarding specific concerns about the statement, if
3163 that failure substantially impairs the fairness of the rule-making
3164 proceeding.
3165 (4) A concise summary of the economic impact statement must
3166 be properly filed with the Secretary of State for publication in
3167 the administrative bulletin and the period during which persons
3168 may make written submissions on the proposed rule shall not expire
3169 until at least twenty (20) days after the date of such proper
3170 filing.
3171 (5) The properly filed summary of the economic impact
3172 statement must also indicate where persons may obtain copies of

the full text of the economic impact statement and where, when and how persons may present their views on the proposed rule and demand an oral proceeding on the proposed rule if one is not already provided.

(6) If the agency has made a good-faith effort to comply with the requirements of subsections (1) and (2) of this section, the rule may not be invalidated on the ground that the contents of the economic impact statement are insufficient or inaccurate.

(7) This section does not apply to the adoption of:

(a) Any rule which is required by the federal government pursuant to a state/federal program delegation agreement or contract;

(b) Any rule which is expressly required by state law; and

(c) A temporary rule adopted pursuant to Section 25-43-3.108.

SECTION 44. Section 25-43-3.106, Mississippi Code of 1972, is brought forward as follows:

25-43-3.106. (1) An agency may not adopt a rule until the period for making written submissions and oral presentations has expired.

(2) Following the proper filing with the Secretary of State of the notice of proposed rule adoption, an agency shall adopt a rule pursuant to the rule-making proceeding or terminate the proceeding by proper filing with the Secretary of State of a

notice to that effect for publication in the administrative bulletin.

(3) Before the adoption of a rule, an agency shall consider the written submissions, oral submissions or any memorandum summarizing oral submissions, and any economic impact statement, provided for by this Article III.

(4) Within the scope of its delegated authority, an agency may use its own experience, technical competence, specialized knowledge and judgment in the adoption of a rule.

SECTION 45. Section 25-43-3.107, Mississippi Code of 1972, is brought forward as follows:

25-43-3.107. (1) An agency shall not adopt a rule that differs from the rule proposed in the notice of proposed rule adoption on which the rule is based unless all of the following apply:

(a) The differences are within the scope of the matter announced in the notice of proposed rule adoption and are in character with the issues raised in that notice;

(b) The differences are a logical outgrowth of the contents of that notice of proposed rule adoption and the comments submitted in response thereto; and

(c) The notice of proposed rule adoption provided fair warning that the outcome of that rulemaking proceeding could be the rule in question.

(2) In determining whether the notice of proposed rule adoption provided fair warning that the outcome of that rulemaking proceeding could be the rule in question, an agency shall consider all of the following factors:

(a) The extent to which persons who will be affected by the rule should have understood that the rulemaking proceeding on which it is based could affect their interests;

(b) The extent to which the subject matter of the rule or issues determined by the rule are different from the subject matter or issues contained in the notice of proposed rule adoption; and

(c) The extent to which the effects of the rule differ from the effects of the proposed rule contained in the notice of proposed rule adoption.

SECTION 46. Section 25-43-3.108, Mississippi Code of 1972, is amended as follows:

25-43-3.108. If an agency finds that an imminent peril to the public health, safety or welfare requires adoption of a rule upon fewer than twenty-five (25) days' notice and states in writing its reasons for that finding, it may proceed without prior notice of hearing or upon any abbreviated notice and hearing that it finds practicable to adopt an emergency rule. The rule may be effective for a period of not longer than one hundred twenty (120) days, renewable once for a period not exceeding ninety (90) days,

but the adoption of an identical rule under *** * *** this Article III is not precluded.

SECTION 47. Section 25-43-3.109, Mississippi Code of 1972, is brought forward as follows:

25-43-3.109. (1) Each rule adopted by an agency must contain the text of the rule and:

(a) The date the agency adopted the rule;

(b) An indication of any change between the text of the proposed rule contained in the published notice of proposed rule adoption and the text of the rule as finally adopted, with the reasons for any substantive change;

(c) Any changes to the information contained in the notice of proposed rule adoption as required by subsection (1)(a), (b) or (c) of Section 25-43-3.103;

(d) Any findings required by any provision of law as a prerequisite to adoption or effectiveness of the rule; and

(e) The effective date of the rule if other than that specified in Section 25-43-3.113(1).

(2) To the extent feasible, each rule should be written in clear and concise language understandable to persons who may be affected by it.

(3) An agency may incorporate, by reference in its rules and without publishing the incorporated matter in full, all or any part of a code, standard, rule or regulation that has been adopted by an agency of the United States or of this state, another state

or by a nationally recognized organization or association, if incorporation of its text in agency rules would be unduly cumbersome, expensive or otherwise inexpedient. The reference in the agency rules must fully identify the incorporated matter with an appropriate citation. An agency may incorporate by reference such matter in its rules only if the agency, organization or association originally issuing that matter makes copies of it readily available to the public. The rules must state if copies of the incorporated matter are available from the agency issuing the rule or where copies of the incorporated matter are available from the agency of the United States, this state, another state or the organization or association originally issuing that matter.

(4) In preparing its rules pursuant to this Article III, each agency shall follow the uniform numbering system, form and style prescribed by the Secretary of State.

SECTION 48. Section 25-43-3.110, Mississippi Code of 1972, is brought forward as follows:

25-43-3.110. (1) An agency shall maintain an official rule-making record for each rule it (a) proposes or (b) adopts. The agency has the exclusive authority to prepare and exclusive authority to certify the record or any part thereof, including, but not limited to, any transcript of the proceedings, and the agency's certificate shall be accepted by the court and by any other agency. The record must be available for public inspection.

(2) The agency rule-making record must contain:

3296 (a) Copies of all notices of proposed rule-making or
3297 oral proceedings or other publications in the administrative
3298 bulletin with respect to the rule or the proceeding upon which the
3299 rule is based;
3300 (b) Copies of any portions of the agency's public
3301 rule-making docket containing entries relating to the rule or the
3302 proceeding upon which the rule is based;
3303 (c) All written requests, submissions and comments
3304 received by the agency and all other written materials considered
3305 by the agency in connection with the formulation, proposal or
3306 adoption of the rule or the proceeding upon which the rule is
3307 based;
3308 (d) Any official transcript of oral presentations made
3309 in the proceeding upon which the rule is based or, if not
3310 transcribed, any tape recording or stenographic record of those
3311 presentations, and any memorandum prepared by a presiding official
3312 summarizing the contents of those presentations. The word
3313 "transcript" includes a written transcript, a printed transcript,
3314 an audible audiotape or videotape that is indexed and annotated so
3315 that it is readily accessible and any other means that the agency
3316 may have by rule provided for the reliable and accessible
3317 preservation of the proceeding;
3318 (e) A copy of any economic impact statement prepared
3319 for the proceeding upon which the rule is based; and

(f) A copy of the rule and related information set out in Section 25-43-3.109 as filed in the Office of the Secretary of State.

(3) The agency shall have authority to engage such persons and acquire such equipment as may be reasonably necessary to record and preserve in any technically and practicably feasible manner all matters and all proceedings had at any rule-making proceeding.

(4) Upon judicial review, the record required by this section constitutes the official agency rule-making record with respect to a rule. Except as otherwise required by a provision of law, the agency rule-making record need not constitute the exclusive basis for agency action on that rule or for judicial review thereof.

SECTION 49. Section 25-43-3.113, Mississippi Code of 1972, is brought forward as follows:

25-43-3.113. (1) Except to the extent subsection (2) or (3) of this section provides otherwise, each rule adopted after July 1, 2005, becomes effective thirty (30) days after its proper filing in the Office of the Secretary of State.

(2) (a) A rule becomes effective on a date later than that established by subsection (1) of this section if a later date is required by another statute or specified in the rule.

(b) A rule may become effective immediately upon its filing or on any subsequent date earlier than that established by

3345 subsection (1) of this section if the agency establishes such an
3346 effective date and finds that:
3347 (i) It is required by Constitution, statute or
3348 court order;
3349 (ii) The rule only confers a benefit or removes a
3350 restriction on the public or some segment thereof;
3351 (iii) The rule only delays the effective date of
3352 another rule that is not yet effective; or
3353 (iv) The earlier effective date is necessary
3354 because of imminent peril to the public health, safety or welfare.
3355 (c) The finding and a brief statement of the reasons
3356 therefor required by paragraph (b) of this subsection must be made
3357 a part of the rule. In any action contesting the effective date
3358 of a rule made effective under paragraph (b) of this subsection,
3359 the burden is on the agency to justify its finding.
3360 (d) A temporary rule may become effective immediately
3361 upon its filing or on any subsequent date earlier than that
3362 established by subsection (1) of this section.
3363 (e) Each agency shall make a reasonable effort to make
3364 known to persons who may be affected by it a rule made effective
3365 before any date established by subsection (1) of this section.
3366 (3) This section does not relieve an agency from compliance
3367 with any provision of law requiring that some or all of its rules
3368 be approved by other designated officials or bodies before they
3369 become effective.

SECTION 50. Section 27-7-17, Mississippi Code of 1972, is amended as follows:

27-7-17. In computing taxable income, there shall be allowed as deductions:

(1) **Business deductions.**

(a) **Business expenses.** All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; nonreimbursable traveling expenses incident to current employment, including a reasonable amount expended for meals and lodging while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition of the continued use or possession, for purposes of the trade or business of property to which the taxpayer has not taken or is not taking title or in which he had no equity. Expense incurred in connection with earning and distributing nontaxable income is not an allowable deduction. Limitations on entertainment expenses shall conform to the provisions of the Internal Revenue Code of 1986. <u>There shall also be allowed a deduction for expenses as provided in Section 26 of this act.</u>

(b) **Interest.** All interest paid or accrued during the taxable year on business indebtedness, except interest upon the indebtedness for the purchase of tax-free bonds, or any stocks, the dividends from which are nontaxable under the provisions of

this article; provided, however, in the case of securities dealers, interest payments or accruals on loans, the proceeds of which are used to purchase tax-exempt securities, shall be deductible if income from otherwise tax-free securities is reported as income. Investment interest expense shall be limited to investment income. Interest expense incurred for the purchase of treasury stock, to pay dividends, or incurred as a result of an undercapitalized affiliated corporation may not be deducted unless an ordinary and necessary business purpose can be established to the satisfaction of the commissioner. For the purposes of this paragraph, the phrase "interest upon the indebtedness for the purchase of tax-free bonds" applies only to the indebtedness incurred for the purpose of directly purchasing tax-free bonds and does not apply to any other indebtedness incurred in the regular course of the taxpayer's business. Any corporation, association, organization or other entity taxable under Section 27-7-23(c) shall allocate interest expense as provided in Section 27-7-23(c)(3)(I).

(c) **Taxes.** Taxes paid or accrued within the taxable year, except state and federal income taxes, excise taxes based on or measured by net income, estate and inheritance taxes, gift taxes, cigar and cigarette taxes, gasoline taxes, and sales and use taxes unless incurred as an item of expense in a trade or business or in the production of taxable income. In the case of an individual, taxes permitted as an itemized deduction under the

provisions of subsection (3)(a) of this section are to be claimed thereunder.

(d) **Business losses.**

(i) Losses sustained during the taxable year not compensated for by insurance or otherwise, if incurred in trade or business, or nonbusiness transactions entered into for profit.

(ii) Limitations on losses from passive activities and rental real estate shall conform to the provisions of the Internal Revenue Code of 1986.

(e) **Bad debts.** Losses from debts ascertained to be worthless and charged off during the taxable year, if sustained in the conduct of the regular trade or business of the taxpayer; provided, that such losses shall be allowed only when the taxpayer has reported as income, on the accrual basis, the amount of such debt or account.

(f) **Depreciation.** A reasonable allowance for exhaustion, wear and tear of property used in the trade or business, or rental property, and depreciation upon buildings based upon their reasonable value as of March 16, 1912, if acquired prior thereto, and upon cost if acquired subsequent to that date. In the case of new or used aircraft, equipment, engines, or other parts and tools used for aviation, allowance for bonus depreciation conforms with the federal bonus depreciation rates and reasonable allowance for depreciation under this section is no less than one hundred percent (100%).

3445 (g) **Depletion.** In the case of mines, oil and gas
3446 wells, other natural deposits and timber, a reasonable allowance
3447 for depletion and for depreciation of improvements, based upon
3448 cost, including cost of development, not otherwise deducted, or
3449 fair market value as of March 16, 1912, if acquired prior to that
3450 date, such allowance to be made upon regulations prescribed by the
3451 commissioner, with the approval of the Governor.
3452 (h) **Contributions or gifts.** Except as otherwise
3453 provided in paragraph (p) of this subsection or subsection (3)(a)
3454 of this section for individuals, contributions or gifts made by
3455 corporations within the taxable year to corporations,
3456 organizations, associations or institutions, including Community
3457 Chest funds, foundations and trusts created solely and exclusively
3458 for religious, charitable, scientific or educational purposes, or
3459 for the prevention of cruelty to children or animals, no part of
3460 the net earnings of which inure to the benefit of any private
3461 stockholder or individual. This deduction shall be allowed in an
3462 amount not to exceed twenty percent (20%) of the net income. Such
3463 contributions or gifts shall be allowable as deductions only if
3464 verified under rules and regulations prescribed by the
3465 commissioner, with the approval of the Governor. Contributions
3466 made in any form other than cash shall be allowed as a deduction,
3467 subject to the limitations herein provided, in an amount equal to
3468 the actual market value of the contributions at the time the
3469 contribution is actually made and consummated.

(i) **Reserve funds - insurance companies.** In the case of insurance companies the net additions required by law to be made within the taxable year to reserve funds when such reserve funds are maintained for the purpose of liquidating policies at maturity.

(j) **Annuity income.** The sums, other than dividends, paid within the taxpayer year on policy or annuity contracts when such income has been included in gross income.

(k) **Contributions to employee pension plans.** Contributions made by an employer to a plan or a trust forming part of a pension plan, stock bonus plan, disability or death-benefit plan, or profit-sharing plan of such employer for the exclusive benefit of some or all of his, their, or its employees, or their beneficiaries, shall be deductible from his, their, or its income only to the extent that, and for the taxable year in which, the contribution is deductible for federal income tax purposes under the Internal Revenue Code of 1986 and any other provisions of similar purport in the Internal Revenue Laws of the United States, and the rules, regulations, rulings and determinations promulgated thereunder, provided that:

(i) The plan or trust be irrevocable.

(ii) The plan or trust constitute a part of a pension plan, stock bonus plan, disability or death-benefit plan, or profit-sharing plan for the exclusive benefit of some or all of the employer's employees and/or officers, or their beneficiaries,

for the purpose of distributing the corpus and income of the plan or trust to such employees and/or officers, or their beneficiaries.

(iii) No part of the corpus or income of the plan or trust can be used for purposes other than for the exclusive benefit of employees and/or officers, or their beneficiaries.

Contributions to all plans or to all trusts of real or personal property (or real and personal property combined) or to insured plans created under a retirement plan for which provision has been made under the laws of the United States of America, making such contributions deductible from income for federal income tax purposes, shall be deductible only to the same extent under the Income Tax Laws of the State of Mississippi.

(l) **Net operating loss carrybacks and carryovers.** A net operating loss for any taxable year ending after December 31, 1993, and taxable years thereafter, shall be a net operating loss carryback to each of the three (3) taxable years preceding the taxable year of the loss. If the net operating loss for any taxable year is not exhausted by carrybacks to the three (3) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the fifteen (15) taxable years following the taxable year of the loss beginning with any taxable year after December 31, 1991.

For any taxable year ending after December 31, 1997, the period for net operating loss carrybacks and net operating loss

carryovers shall be the same as those established by the Internal Revenue Code and the rules, regulations, rulings and determinations promulgated thereunder as in effect at the taxable year end or on December 31, 2000, whichever is earlier.

A net operating loss for any taxable year ending after December 31, 2001, and taxable years thereafter, shall be a net operating loss carryback to each of the two (2) taxable years preceding the taxable year of the loss. If the net operating loss for any taxable year is not exhausted by carrybacks to the two (2) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the twenty (20) taxable years following the taxable year of the loss beginning with any taxable year after the taxable year of the loss.

The term "net operating loss," for the purposes of this paragraph, shall be the excess of the deductions allowed over the gross income; provided, however, the following deductions shall not be allowed in computing same:

(i) No net operating loss deduction shall be allowed.

(ii) No personal exemption deduction shall be allowed.

(iii) Allowable deductions which are not attributable to taxpayer's trade or business shall be allowed only to the extent of the amount of gross income not derived from such trade or business.

Any taxpayer entitled to a carryback period as provided by this paragraph may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year ending after December 31, 1991. The election shall be made in the manner prescribed by the Department of Revenue and shall be made by the due date, including extensions of time, for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. The election, once made for any taxable year, shall be irrevocable for that taxable year.

(m) **Amortization of pollution or environmental control facilities.** Allowance of deduction. Every taxpayer, at his election, shall be entitled to a deduction for pollution or environmental control facilities to the same extent as that allowed under the Internal Revenue Code and the rules, regulations, rulings and determinations promulgated thereunder.

(n) **Dividend distributions - real estate investment trusts.** "Real estate investment trust" (hereinafter referred to as REIT) shall have the meaning ascribed to such term in Section 856 of the federal Internal Revenue Code of 1986, as amended. A REIT is allowed a dividend distributed deduction if the dividend distributions meet the requirements of Section 857 or are otherwise deductible under Section 858 or 860, federal Internal Revenue Code of 1986, as amended. In addition:

(i) A dividend distributed deduction shall only be allowed for dividends paid by a publicly traded REIT. A qualified

REIT subsidiary shall be allowed a dividend distributed deduction if its owner is a publicly traded REIT.

(ii) Income generated from real estate contributed or sold to a REIT by a shareholder or related party shall not give rise to a dividend distributed deduction, unless the shareholder or related party would have received the dividend distributed deduction under this chapter.

(iii) A holding corporation receiving a dividend from a REIT shall not be allowed the deduction in Section 27-7-15(4)(t).

(iv) Any REIT not allowed the dividend distributed deduction in the federal Internal Revenue Code of 1986, as amended, shall not be allowed a dividend distributed deduction under this chapter.

The commissioner is authorized to promulgate rules and regulations consistent with the provisions in Section 269 of the federal Internal Revenue Code of 1986, as amended, so as to prevent the evasion or avoidance of state income tax.

(o) **Contributions to college savings trust fund accounts.** Contributions or payments to a Mississippi Affordable College Savings Program account are deductible as provided under Section 37-155-113. Payments made under a prepaid tuition contract entered into under the Mississippi Prepaid Affordable College Tuition Program are deductible as provided under Section 37-155-17.

(p) **Contributions of human pharmaceutical products.** To the extent that a "major supplier" as defined in Section 27-13-13(2)(d) contributes human pharmaceutical products in excess of Two Hundred Fifty Million Dollars ($250,000,000.00) as determined under Section 170 of the Internal Revenue Code, the charitable contribution limitation associated with those donations shall follow the federal limitation but cannot result in the Mississippi net income being reduced below zero.

(q) **Contributions to ABLE trust fund accounts.** Contributions or payments to a Mississippi Achieving a Better Life Experience (ABLE) Program account are deductible as provided under Section 43-28-13.

(2) **Restrictions on the deductibility of certain intangible expenses and interest expenses with a related member.**

(a) As used in this subsection (2):

(i) "Intangible expenses and costs" include:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income under this chapter;

2. Expenses or losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;

3620 3. Royalty, patent, technical and copyright
3621 fees;
3622 4. Licensing fees; and
3623 5. Other similar expenses and costs.
3624 (ii) "Intangible property" means patents, patent
3625 applications, trade names, trademarks, service marks, copyrights
3626 and similar types of intangible assets.
3627 (iii) "Interest expenses and cost" means amounts
3628 directly or indirectly allowed as deductions for purposes of
3629 determining taxable income under this chapter to the extent such
3630 interest expenses and costs are directly or indirectly for,
3631 related to, or in connection with the direct or indirect
3632 acquisition, maintenance, management, ownership, sale, exchange or
3633 disposition of intangible property.
3634 (iv) "Related member" means an entity or person
3635 that, with respect to the taxpayer during all or any portion of
3636 the taxable year, is a related entity, a component member as
3637 defined in the Internal Revenue Code, or is an entity or a person
3638 to or from whom there is attribution of stock ownership in
3639 accordance with Section 1563(e) of the Internal Revenue Code.
3640 (v) "Related entity" means:
3641 1. A stockholder who is an individual or a
3642 member of the stockholder's family, as defined in regulations
3643 prescribed by the commissioner, if the stockholder and the members
3644 of the stockholder's family own, directly, indirectly,

3645 beneficially or constructively, in the aggregate, at least fifty
3646 percent (50%) of the value of the taxpayer's outstanding stock;
3647 2. A stockholder, or a stockholder's
3648 partnership, limited liability company, estate, trust or
3649 corporation, if the stockholder and the stockholder's
3650 partnerships, limited liability companies, estates, trusts and
3651 corporations own, directly, indirectly, beneficially or
3652 constructively, in the aggregate, at least fifty percent (50%) of
3653 the value of the taxpayer's outstanding stock;
3654 3. A corporation, or a party related to the
3655 corporation in a manner that would require an attribution of stock
3656 from the corporation to the party or from the party to the
3657 corporation, if the taxpayer owns, directly, indirectly,
3658 beneficially or constructively, at least fifty percent (50%) of
3659 the value of the corporation's outstanding stock under regulation
3660 prescribed by the commissioner;
3661 4. Any entity or person which would be a
3662 related member under this section if the taxpayer were considered
3663 a corporation for purposes of this section.
3664 (b) In computing net income, a taxpayer shall add back
3665 otherwise deductible interest expenses and costs and intangible
3666 expenses and costs directly or indirectly paid, accrued to or
3667 incurred, in connection directly or indirectly with one or more
3668 direct or indirect transactions with one or more related members.

3669 (c) The adjustments required by this subsection shall
3670 not apply to such portion of interest expenses and costs and
3671 intangible expenses and costs that the taxpayer can establish
3672 meets one (1) of the following:
3673 (i) The related member directly or indirectly
3674 paid, accrued or incurred such portion to a person during the same
3675 income year who is not a related member; or
3676 (ii) The transaction giving rise to the interest
3677 expenses and costs or intangible expenses and costs between the
3678 taxpayer and related member was done primarily for a valid
3679 business purpose other than the avoidance of taxes, and the
3680 related member is not primarily engaged in the acquisition, use,
3681 maintenance or management, ownership, sale, exchange or any other
3682 disposition of intangible property.
3683 (d) Nothing in this subsection shall require a taxpayer
3684 to add to its net income more than once any amount of interest
3685 expenses and costs or intangible expenses and costs that the
3686 taxpayer pays, accrues or incurs to a related member.
3687 (e) The commissioner may prescribe such regulations as
3688 necessary or appropriate to carry out the purposes of this
3689 subsection, including, but not limited to, clarifying definitions
3690 of terms, rules of stock attribution, factoring and discount
3691 transactions.
3692 (3) **Individual nonbusiness deductions.**

3693 (a) The amount allowable for individual nonbusiness
3694 itemized deductions for federal income tax purposes where the
3695 individual is eligible to elect, for the taxable year, to itemize
3696 deductions on his federal return except the following:
3697 (i) The deduction for state income taxes paid or
3698 other taxes allowed for federal purposes in lieu of state income
3699 taxes paid;
3700 (ii) The deduction for gaming losses from gaming
3701 establishments;
3702 (iii) The deduction for taxes collected by
3703 licensed gaming establishments pursuant to Section 27-7-901;
3704 (iv) The deduction for taxes collected by gaming
3705 establishments pursuant to Section 27-7-903.
3706 (b) In lieu of the individual nonbusiness itemized
3707 deductions authorized in paragraph (a), for all purposes other
3708 than ordinary and necessary expenses paid or incurred during the
3709 taxable year in carrying on any trade or business, an optional
3710 standard deduction of:
3711 (i) Three Thousand Four Hundred Dollars
3712 ($3,400.00) through calendar year 1997, Four Thousand Two Hundred
3713 Dollars ($4,200.00) for the calendar year 1998 and Four Thousand
3714 Six Hundred Dollars ($4,600.00) for each calendar year thereafter
3715 in the case of married individuals filing a joint or combined
3716 return;

3717 (ii) One Thousand Seven Hundred Dollars
3718 ($1,700.00) through calendar year 1997, Two Thousand One Hundred
3719 Dollars ($2,100.00) for the calendar year 1998 and Two Thousand
3720 Three Hundred Dollars ($2,300.00) for each calendar year
3721 thereafter in the case of married individuals filing separate
3722 returns;
3723 (iii) Three Thousand Four Hundred Dollars
3724 ($3,400.00) in the case of a head of family; or
3725 (iv) Two Thousand Three Hundred Dollars
3726 ($2,300.00) in the case of an individual who is not married.
3727 In the case of a husband and wife living together, having
3728 separate incomes, and filing combined returns, the standard
3729 deduction authorized may be divided in any manner they choose. In
3730 the case of separate returns by a husband and wife, the standard
3731 deduction shall not be allowed to either if the taxable income of
3732 one of the spouses is determined without regard to the standard
3733 deduction.
3734 (c) A nonresident individual shall be allowed the same
3735 individual nonbusiness deductions as are authorized for resident
3736 individuals in paragraph (a) or (b) of this subsection; however,
3737 the nonresident individual is entitled only to that proportion of
3738 the individual nonbusiness deductions as his net income from
3739 sources within the State of Mississippi bears to his total or
3740 entire net income from all sources.

(4) Nothing in this section shall permit the same item to be deducted more than once, either in fact or in effect.

SECTION 51. Section 27-65-111, Mississippi Code of 1972, is amended as follows:

27-65-111. The exemptions from the provisions of this chapter which are not industrial, agricultural or governmental, or which do not relate to utilities or taxes, or which are not properly classified as one (1) of the exemption classifications of this chapter, shall be confined to persons or property exempted by this section or by the Constitution of the United States or the State of Mississippi. No exemptions as now provided by any other section, except the classified exemption sections of this chapter set forth herein, shall be valid as against the tax herein levied. Any subsequent exemption from the tax levied hereunder, except as indicated above, shall be provided by amendments to this section.

No exemption provided in this section shall apply to taxes levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

The tax levied by this chapter shall not apply to the following:

(a) Sales of tangible personal property and services to hospitals or infirmaries owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual, and which are subject to and governed by Sections 41-7-123 through 41-7-127.

Only sales of tangible personal property or services which are ordinary and necessary to the operation of such hospitals and infirmaries are exempted from tax.

(b) Sales of daily or weekly newspapers, and periodicals or publications of scientific, literary or educational organizations exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of March 31, 1975, and subscription sales of all magazines.

(c) Sales of coffins, caskets and other materials used in the preparation of human bodies for burial.

(d) Sales of tangible personal property for immediate export to a foreign country.

(e) Sales of tangible personal property to an orphanage, old men's or ladies' home, supported wholly or in part by a religious denomination, fraternal nonprofit organization or other nonprofit organization.

(f) Sales of tangible personal property, labor or services taxable under Sections 27-65-17, 27-65-19 and 27-65-23, to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual.

(g) Sales to elementary and secondary grade schools, junior and senior colleges owned and operated by a corporation or association in which no part of the net earnings inures to the

benefit of any private shareholder, group or individual, and which are exempt from state income taxation, provided that this exemption does not apply to sales of property or services which are not to be used in the ordinary operation of the school, or which are to be resold to the students or the public.

(h) The gross proceeds of retail sales and the use or consumption in this state of drugs and medicines:

(i) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed or prescription filled by a registered pharmacist in accordance with law; or

(ii) Furnished by a licensed physician, surgeon, dentist or podiatrist to his own patient for treatment of the patient; or

(iii) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, surgeon, dentist or podiatrist; or

(iv) Sold to a licensed physician, surgeon, podiatrist, dentist or hospital for the treatment of a human being; or

(v) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being or furnished for the treatment of a human being by a medical facility or clinic maintained by this

state or any political subdivision or municipal corporation thereof.

"Medicines," as used in this paragraph (h), shall mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use; provided that "medicines" do not include any auditory, prosthetic, ophthalmic or ocular device or appliance, any dentures or parts thereof or any artificial limbs or their replacement parts, articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof, or any alcoholic beverage or any other drug or medicine not commonly referred to as a prescription drug.

Notwithstanding the preceding sentence of this paragraph (h), "medicines" as used in this paragraph (h), shall mean and include sutures, whether or not permanently implanted, bone screws, bone pins, pacemakers and other articles permanently implanted in the human body to assist the functioning of any natural organ, artery, vein or limb and which remain or dissolve in the body.

<u>The exemption provided in this paragraph (h) shall not apply to medical cannabis sold in accordance with the provisions of the</u>

3838 Mississippi Medical Cannabis Act and in compliance with rules and
3839 regulations adopted thereunder.
3840 "Hospital," as used in this paragraph (h), shall have the
3841 meaning ascribed to it in Section 41-9-3, Mississippi Code of
3842 1972.
3843 Insulin furnished by a registered pharmacist to a person for
3844 treatment of diabetes as directed by a physician shall be deemed
3845 to be dispensed on prescription within the meaning of this
3846 paragraph (h).
3847 (i) Retail sales of automobiles, trucks and
3848 truck-tractors if exported from this state within forty-eight (48)
3849 hours and registered and first used in another state.
3850 (j) Sales of tangible personal property or services to
3851 the Salvation Army and the Muscular Dystrophy Association, Inc.
3852 (k) From July 1, 1985, through December 31, 1992,
3853 retail sales of "alcohol-blended fuel" as such term is defined in
3854 Section 75-55-5. The gasoline-alcohol blend or the straight
3855 alcohol eligible for this exemption shall not contain alcohol
3856 distilled outside the State of Mississippi.
3857 (l) Sales of tangible personal property or services to
3858 the Institute for Technology Development.
3859 (m) The gross proceeds of retail sales of food and
3860 drink for human consumption made through vending machines serviced
3861 by full-line vendors from and not connected with other taxable
3862 businesses.

(n) The gross proceeds of sales of motor fuel.

(o) Retail sales of food for human consumption purchased with food stamps issued by the United States Department of Agriculture, or other federal agency, from and after October 1, 1987, or from and after the expiration of any waiver granted pursuant to federal law, the effect of which waiver is to permit the collection by the state of tax on such retail sales of food for human consumption purchased with food stamps.

(p) Sales of cookies for human consumption by the Girl Scouts of America no part of the net earnings from which sales inures to the benefit of any private group or individual.

(q) Gifts or sales of tangible personal property or services to public or private nonprofit museums of art.

(r) Sales of tangible personal property or services to alumni associations of state-supported colleges or universities.

(s) Sales of tangible personal property or services to National Association of Junior Auxiliaries, Inc., and chapters of the National Association of Junior Auxiliaries, Inc.

(t) Sales of tangible personal property or services to domestic violence shelters which qualify for state funding under Sections 93-21-101 through 93-21-113.

(u) Sales of tangible personal property or services to the National Multiple Sclerosis Society, Mississippi Chapter.

(v) Retail sales of food for human consumption purchased with food instruments issued the Mississippi Band of

Choctaw Indians under the Women, Infants and Children Program (WIC) funded by the United States Department of Agriculture.

(w) Sales of tangible personal property or services to a private company, as defined in Section 57-61-5, which is making such purchases with proceeds of bonds issued under Section 57-61-1 et seq., the Mississippi Business Investment Act.

(x) The gross collections from the operation of self-service, coin-operated car washing equipment and sales of the service of washing motor vehicles with portable high-pressure washing equipment on the premises of the customer.

(y) Sales of tangible personal property or services to the Mississippi Technology Alliance.

(z) Sales of tangible personal property to nonprofit organizations that provide foster care, adoption services and temporary housing for unwed mothers and their children if the organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(aa) Sales of tangible personal property to nonprofit organizations that provide residential rehabilitation for persons with alcohol and drug dependencies if the organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(bb) (i) Retail sales of an article of clothing or footwear designed to be worn on or about the human body and retail sales of school supplies if the sales price of the article of

clothing or footwear or school supply is less than One Hundred Dollars ($100.00) and the sale takes place during a period beginning at 12:01 a.m. on the last Friday in July and ending at 12:00 midnight the following Saturday. This paragraph (bb) shall not apply to:

1. Accessories including jewelry, handbags, luggage, umbrellas, wallets, watches, briefcases, garment bags and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing;

2. The rental of clothing or footwear; and

3. Skis, swim fins, roller blades, skates and similar items worn on the foot.

(ii) For purposes of this paragraph (bb), "school supplies" means items that are commonly used by a student in a course of study. The following is an all-inclusive list:

1. Backpacks;

2. Binder pockets;

3. Binders;

4. Blackboard chalk;

5. Book bags;

6. Calculators;

7. Cellophane tape;

8. Clays and glazes;

9. Compasses;

10. Composition books;

11. Crayons;

12. Dictionaries and thesauruses;

13. Dividers;

14. Erasers;

15. Folders: expandable, pocket, plastic and manila;

16. Glue, paste and paste sticks;

17. Highlighters;

18. Index card boxes;

19. Index cards;

20. Legal pads;

21. Lunch boxes;

22. Markers;

23. Notebooks;

24. Paintbrushes for artwork;

25. Paints: acrylic, tempera and oil;

26. Paper: loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board and construction paper;

27. Pencil boxes and other school supply boxes;

28. Pencil sharpeners;

29. Pencils;

30. Pens;

31. Protractors;

32. Reference books;

33. Reference maps and globes;

34. Rulers;

35. Scissors;

36. Sheet music;

37. Sketch and drawing pads;

38. Textbooks;

39. Watercolors;

40. Workbooks; and

41. Writing tablets.

(iii) From and after January 1, 2010, the governing authorities of a municipality, for retail sales occurring within the corporate limits of the municipality, may suspend the application of the exemption provided for in this paragraph (bb) by adoption of a resolution to that effect stating the date upon which the suspension shall take effect. A certified copy of the resolution shall be furnished to the Department of Revenue at least ninety (90) days prior to the date upon which the municipality desires such suspension to take effect.

(cc) The gross proceeds of sales of tangible personal property made for the sole purpose of raising funds for a school or an organization affiliated with a school.

As used in this paragraph (cc), "school" means any public or private school that teaches courses of instruction to students in any grade from Kindergarten through Grade 12.

(dd) Sales of durable medical equipment and home medical supplies when ordered or prescribed by a licensed physician for medical purposes of a patient. As used in this paragraph (dd), "durable medical equipment" and "home medical supplies" mean equipment, including repair and replacement parts for the equipment or supplies listed under Title XVIII of the Social Security Act or under the state plan for medical assistance under Title XIX of the Social Security Act, prosthetics, orthotics, hearing aids, hearing devices, prescription eyeglasses, oxygen and oxygen equipment. Payment does not have to be made, in whole or in part, by any particular person to be eligible for this exemption. Purchases of home medical equipment and supplies by a provider of home health services or a provider of hospice services are eligible for this exemption if the purchases otherwise meet the requirements of this paragraph.

(ee) Sales of tangible personal property or services to Mississippi Blood Services.

(ff) (i) Subject to the provisions of this paragraph (ff), retail sales of firearms, ammunition and hunting supplies if sold during the annual Mississippi Second Amendment Weekend holiday beginning at 12:01 a.m. on the last Friday in August and ending at 12:00 midnight the following Sunday. For the purposes

of this paragraph (ff), "hunting supplies" means tangible personal property used for hunting, including, and limited to, archery equipment, firearm and archery cases, firearm and archery accessories, hearing protection, holsters, belts and slings. Hunting supplies does not include animals used for hunting.

(ii) This paragraph (ff) shall apply only if one or more of the following occur:

1. Title to and/or possession of an eligible item is transferred from a seller to a purchaser; and/or

2. A purchaser orders and pays for an eligible item and the seller accepts the order for immediate shipment, even if delivery is made after the time period provided in subparagraph (i) of this paragraph (ff), provided that the purchaser has not requested or caused the delay in shipment.

(gg) Sales of nonperishable food items to charitable organizations that are exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and operate a food bank or food pantry or food lines.

(hh) Sales of tangible personal property or services to the United Way of the Pine Belt Region, Inc.

(ii) Sales of tangible personal property or services to the Mississippi Children's Museum or any subsidiary or affiliate thereof operating a satellite or branch museum within this state.

(jj) Sales of tangible personal property or services to the Jackson Zoological Park.

(kk) Sales of tangible personal property or services to the Hattiesburg Zoo.

(ll) Gross proceeds from sales of food, merchandise or other concessions at an event held solely for religious or charitable purposes at livestock facilities, agriculture facilities or other facilities constructed, renovated or expanded with funds for the grant program authorized under Section 18, Chapter 530, Laws of 1995.

(mm) Sales of tangible personal property and services to the Diabetes Foundation of Mississippi and the Mississippi Chapter of the Juvenile Diabetes Research Foundation.

(nn) Sales of potting soil, mulch, or other soil amendments used in growing ornamental plants which bear no fruit of commercial value when sold to commercial plant nurseries that operate exclusively at wholesale and where no retail sales can be made.

(oo) Sales of tangible personal property or services to the University of Mississippi Medical Center Research Development Foundation.

(pp) Sales of tangible personal property or services to Keep Mississippi Beautiful, Inc., and all affiliates of Keep Mississippi Beautiful, Inc.

(qq) Sales of tangible personal property or services to the Friends of Children's Hospital.

(rr) Sales of tangible personal property or services to the Pinecrest Weekend Snackpacks for Kids located in Corinth, Mississippi.

(ss) Sales of hearing aids when ordered or prescribed by a licensed physician, audiologist or hearing aid specialist for the medical purposes of a patient.

(tt) Sales exempt under the Facilitating Business Rapid Response to State Declared Disasters Act of 2015 (Sections 27-113-1 through 27-113-9).

(uu) Sales of tangible personal property or services to the Junior League of Jackson.

(vv) Sales of tangible personal property or services to the Mississippi's Toughest Kids Foundation for use in the construction, furnishing and equipping of buildings and related facilities and infrastructure at Camp Kamassa in Copiah County, Mississippi. This paragraph (vv) shall stand repealed on July 1, 2022.

(ww) Sales of tangible personal property or services to MS Gulf Coast Buddy Sports, Inc.

(xx) Sales of tangible personal property or services to Biloxi Lions, Inc.

(yy) Sales of tangible personal property or services to Lions Sight Foundation of Mississippi, Inc.

4083 (zz) Sales of tangible personal property and services
4084 to the Goldring/Woldenberg Institute of Southern Jewish Life
4085 (ISJL).

4086 **SECTION 52.** Section 33-13-520, Mississippi Code of 1972, is
4087 amended as follows:

4088 33-13-520. (1) Any person subject to this code who uses,
4089 while on duty, any controlled substance listed in the Uniform
4090 Controlled Substances Law, not legally prescribed, or is found, by
4091 a chemical analysis of such person's blood or urine, to have in
4092 his blood, while on duty, any controlled substance described in
4093 subsection (3), not legally prescribed, shall be punished as a
4094 court-martial may direct.

4095 (2) Any person subject to this code who wrongfully uses,
4096 possesses, manufactures, distributes, imports into the customs
4097 territory of the United States, exports from the United States, or
4098 introduces into an installation, vessel, vehicle or aircraft used
4099 by or under the control of the state military forces a substance
4100 described in subsection (3) shall be punished as a court-martial
4101 may direct.

4102 (3) The substances referred to in subsections (1) and (2)
4103 are the following:

4104 (a) Opium, heroin, cocaine, amphetamine, lysergic acid
4105 diethylamide, methamphetamine, phencyclidine, barbituric acid, and
4106 marijuana and any compound or derivative of any such substance.
4107 For the purposes of this paragraph (a), "marijuana" shall not

include medical cannabis that is lawful under the Mississippi Medical Cannabis Act and in compliance with rules and regulations adopted thereunder.

(b) Any substance not specified in paragraph (a) that is listed on a schedule of controlled substance prescribed by the President for the purposes of the federal Uniform Code of Military Justice.

(c) Any other substance not specified in paragraph (a) or contained on a list prescribed by the President under paragraph (b) that is listed in Schedules I through V of Section 202 of the federal Controlled Substances Act (21 USCS 812).

SECTION 53. Section 37-11-29, Mississippi Code of 1972, is amended as follows:

37-11-29. (1) Any principal, teacher or other school employee who has knowledge of any unlawful activity which occurred on educational property or during a school related activity or which may have occurred shall report such activity to the superintendent of the school district or his designee who shall notify the appropriate law enforcement officials as required by this section. In the event of an emergency or if the superintendent or his designee is unavailable, any principal may make a report required under this subsection.

(2) Whenever any person who shall be an enrolled student in any school or educational institution in this state supported in whole or in part by public funds, or who shall be an enrolled

student in any private school or educational institution, is arrested for, and lawfully charged with, the commission of any crime and convicted upon the charge for which he was arrested, or convicted of any crime charged against him after his arrest and before trial, the office or law enforcement department of which the arresting officer is a member, and the justice court judge and any circuit judge or court before whom such student is tried upon said charge or charges, shall make or cause to be made a report thereof to the superintendent or the president or chancellor, as the case may be, of the school district or other educational institution in which such student is enrolled.

If the charge upon which such student was arrested, or any other charges preferred against him are dismissed or nol prossed, or if upon trial he is either convicted or acquitted of such charge or charges, same shall be reported to said respective superintendent or president, or chancellor, as the case may be. A copy of said report shall be sent to the Secretary of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, at Jackson, Mississippi.

Said report shall be made within one (1) week after the arrest of such student and within one (1) week after any charge placed against him is dismissed or nol prossed, and within one (1) week after he shall have pled guilty, been convicted, or have been acquitted by trial upon any charge placed against him. This

section shall not apply to ordinary traffic violations involving a penalty of less than Fifty Dollars ($50.00) and costs.

The State Superintendent of Public Education shall gather annually all of the reports provided under this section and prepare a report on the number of students arrested as a result of any unlawful activity which occurred on educational property or during a school related activity. All data must be disaggregated by race, ethnicity, gender, school, offense and law enforcement agency involved. However, the report prepared by the State Superintendent of Public Education shall not include the identity of any student who was arrested.

On or before January 1 of each year, the State Superintendent of Public Education shall report to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and the Joint PEER Committee on this section. The report must include data regarding arrests as a result of any unlawful activity which occurred on educational property or during a school related activity.

(3) When the superintendent or his designee has a reasonable belief that an act has occurred on educational property or during a school related activity involving any of the offenses set forth in subsection (6) of this section, the superintendent or his designee shall immediately report the act to the appropriate local law enforcement agency. For purposes of this subsection, "school property" shall include any public school building, bus, public

school campus, grounds, recreational area or athletic field in the charge of the superintendent. The State Board of Education shall prescribe a form for making reports required under this subsection. Any superintendent or his designee who fails to make a report required by this section shall be subject to the penalties provided in Section 37-11-35.

(4) The law enforcement authority shall immediately dispatch an officer to the educational institution and with probable cause the officer is authorized to make an arrest if necessary as provided in Section 99-3-7.

(5) Any superintendent, principal, teacher or other school personnel participating in the making of a required report pursuant to this section or participating in any judicial proceeding resulting therefrom shall be presumed to be acting in good faith. Any person reporting in good faith shall be immune from any civil liability that might otherwise be incurred or imposed.

(6) For purposes of this section, "unlawful activity" means any of the following:

(a) Possession or use of a deadly weapon, as defined in Section 97-37-1;

(b) Possession, sale or use of any controlled substance;

(c) Aggravated assault, as defined in Section 97-3-7;

4206 (d) Simple assault, as defined in Section 97-3-7, upon
4207 any school employee;
4208 (e) Rape, as defined under Mississippi law;
4209 (f) Sexual battery, as defined under Mississippi law;
4210 (g) Murder, as defined under Mississippi law;
4211 (h) Kidnapping, as defined under Mississippi law; or
4212 (i) Fondling, touching, handling, etc., a child for
4213 lustful purposes, as defined in Section 97-5-23.
4214 For the purposes of this subsection (6), the term "controlled
4215 substance" does not include the possession or use of medical
4216 cannabis that is lawful under the Mississippi Medical Cannabis Act
4217 and in compliance with rules and regulations adopted thereunder.
4218 **SECTION 54.** Section 41-3-15, Mississippi Code of 1972, is
4219 brought forward as follows:
4220 41-3-15. (1) (a) There shall be a State Department of
4221 Health.
4222 (b) The State Board of Health shall have the following
4223 powers and duties:
4224 (i) To formulate the policy of the State
4225 Department of Health regarding public health matters within the
4226 jurisdiction of the department;
4227 (ii) To adopt, modify, repeal and promulgate,
4228 after due notice and hearing, and enforce rules and regulations
4229 implementing or effectuating the powers and duties of the

department under any and all statutes within the department's jurisdiction, and as the board may deem necessary;

(iii) To apply for, receive, accept and expend any federal or state funds or contributions, gifts, trusts, devises, bequests, grants, endowments or funds from any other source or transfers of property of any kind;

(iv) To enter into, and to authorize the executive officer to execute contracts, grants and cooperative agreements with any federal or state agency or subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the provisions of this chapter, if it finds those actions to be in the public interest and the contracts or agreements do not have a financial cost that exceeds the amounts appropriated for those purposes by the Legislature;

(v) To appoint, upon recommendation of the Executive Officer of the State Department of Health, a Director of Internal Audit who shall be either a Certified Public Accountant or Certified Internal Auditor, and whose employment shall be continued at the discretion of the board, and who shall report directly to the board, or its designee; and

(vi) To discharge such other duties, responsibilities and powers as are necessary to implement the provisions of this chapter.

4254 (c) The Executive Officer of the State Department of
4255 Health shall have the following powers and duties:
4256 (i) To administer the policies of the State Board
4257 of Health within the authority granted by the board;
4258 (ii) To supervise and direct all administrative
4259 and technical activities of the department, except that the
4260 department's internal auditor shall be subject to the sole
4261 supervision and direction of the board;
4262 (iii) To organize the administrative units of the
4263 department in accordance with the plan adopted by the board and,
4264 with board approval, alter the organizational plan and reassign
4265 responsibilities as he or she may deem necessary to carry out the
4266 policies of the board;
4267 (iv) To coordinate the activities of the various
4268 offices of the department;
4269 (v) To employ, subject to regulations of the State
4270 Personnel Board, qualified professional personnel in the subject
4271 matter or fields of each office, and such other technical and
4272 clerical staff as may be required for the operation of the
4273 department. The executive officer shall be the appointing
4274 authority for the department, and shall have the power to delegate
4275 the authority to appoint or dismiss employees to appropriate
4276 subordinates, subject to the rules and regulations of the State
4277 Personnel Board;

(vi) To recommend to the board such studies and investigations as he or she may deem appropriate, and to carry out the approved recommendations in conjunction with the various offices;

(vii) To prepare and deliver to the Legislature and the Governor on or before January 1 of each year, and at such other times as may be required by the Legislature or Governor, a full report of the work of the department and the offices thereof, including a detailed statement of expenditures of the department and any recommendations the board may have;

(viii) To prepare and deliver to the Chairmen of the Public Health and Welfare/Human Services Committees of the Senate and House on or before January 1 of each year, a plan for monitoring infant mortality in Mississippi and a full report of the work of the department on reducing Mississippi's infant mortality and morbidity rates and improving the status of maternal and infant health; and

(ix) To enter into contracts, grants and cooperative agreements with any federal or state agency or subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the provisions of this chapter, if he or she finds those actions to be in the public interest and the contracts or agreements do not have a financial cost that exceeds the amounts appropriated for those

4303 purposes by the Legislature. Each contract or agreement entered
4304 into by the executive officer shall be submitted to the board
4305 before its next meeting.
4306 (2) The State Board of Health shall have the authority to
4307 establish an Office of Rural Health within the department. The
4308 duties and responsibilities of this office shall include the
4309 following:
4310 (a) To collect and evaluate data on rural health
4311 conditions and needs;
4312 (b) To engage in policy analysis, policy development
4313 and economic impact studies with regard to rural health issues;
4314 (c) To develop and implement plans and provide
4315 technical assistance to enable community health systems to respond
4316 to various changes in their circumstances;
4317 (d) To plan and assist in professional recruitment and
4318 retention of medical professionals and assistants; and
4319 (e) To establish information clearinghouses to improve
4320 access to and sharing of rural health care information.
4321 (3) The State Board of Health shall have general supervision
4322 of the health interests of the people of the state and to exercise
4323 the rights, powers and duties of those acts which it is authorized
4324 by law to enforce.
4325 (4) The State Board of Health shall have authority:
4326 (a) To make investigations and inquiries with respect
4327 to the causes of disease and death, and to investigate the effect

of environment, including conditions of employment and other conditions that may affect health, and to make such other investigations as it may deem necessary for the preservation and improvement of health.

(b) To make such sanitary investigations as it may, from time to time, deem necessary for the protection and improvement of health and to investigate nuisance questions that affect the security of life and health within the state.

(c) To direct and control sanitary and quarantine measures for dealing with all diseases within the state possible to suppress same and prevent their spread.

(d) To obtain, collect and preserve such information relative to mortality, morbidity, disease and health as may be useful in the discharge of its duties or may contribute to the prevention of disease or the promotion of health in this state.

(e) To charge and collect reasonable fees for health services, including immunizations, inspections and related activities, and the board shall charge fees for those services; however, if it is determined that a person receiving services is unable to pay the total fee, the board shall collect any amount that the person is able to pay. Any increase in the fees charged by the board under this paragraph shall be in accordance with the provisions of Section 41-3-65.

(f) (i) To establish standards for, issue permits and exercise control over, any cafes, restaurants, food or drink

stands, sandwich manufacturing establishments, and all other establishments, other than churches, church-related and private schools, and other nonprofit or charitable organizations, where food or drink is regularly prepared, handled and served for pay; and

(ii) To require that a permit be obtained from the Department of Health before those persons begin operation. If any such person fails to obtain the permit required in this subparagraph (ii), the State Board of Health, after due notice and opportunity for a hearing, may impose a monetary penalty not to exceed One Thousand Dollars ($1,000.00) for each violation. However, the department is not authorized to impose a monetary penalty against any person whose gross annual prepared food sales are less than Five Thousand Dollars ($5,000.00). Money collected by the board under this subparagraph (ii) shall be deposited to the credit of the State General Fund of the State Treasury.

(g) To promulgate rules and regulations and exercise control over the production and sale of milk pursuant to the provisions of Sections 75-31-41 through 75-31-49.

(h) On presentation of proper authority, to enter into and inspect any public place or building where the State Health Officer or his representative deems it necessary and proper to enter for the discovery and suppression of disease and for the enforcement of any health or sanitary laws and regulations in the state.

4378 (i) To conduct investigations, inquiries and hearings,
4379 and to issue subpoenas for the attendance of witnesses and the
4380 production of books and records at any hearing when authorized and
4381 required by statute to be conducted by the State Health Officer or
4382 the State Board of Health.
4383 (j) To promulgate rules and regulations, and to collect
4384 data and information, on (i) the delivery of services through the
4385 practice of telemedicine; and (ii) the use of electronic records
4386 for the delivery of telemedicine services.
4387 (k) To enforce and regulate domestic and imported fish
4388 as authorized under Section 69-7-601 et seq.
4389 (5) (a) The State Board of Health shall have the authority,
4390 in its discretion, to establish programs to promote the public
4391 health, to be administered by the State Department of Health.
4392 Specifically, those programs may include, but shall not be limited
4393 to, programs in the following areas:
4394 (i) Maternal and child health;
4395 (ii) Family planning;
4396 (iii) Pediatric services;
4397 (iv) Services to crippled and disabled children;
4398 (v) Control of communicable and noncommunicable
4399 disease;
4400 (vi) Chronic disease;
4401 (vii) Accidental deaths and injuries;
4402 (viii) Child care licensure;

(ix) Radiological health;

(x) Dental health;

(xi) Milk sanitation;

(xii) Occupational safety and health;

(xiii) Food, vector control and general sanitation;

(xiv) Protection of drinking water;

(xv) Sanitation in food handling establishments open to the public;

(xvi) Registration of births and deaths and other vital events;

(xvii) Such public health programs and services as may be assigned to the State Board of Health by the Legislature or by executive order; and

(xviii) Regulation of domestic and imported fish for human consumption.

(b) The State Board of Health and State Department of Health shall not be authorized to sell, transfer, alienate or otherwise dispose of any of the home health agencies owned and operated by the department on January 1, 1995, and shall not be authorized to sell, transfer, assign, alienate or otherwise dispose of the license of any of those home health agencies, except upon the specific authorization of the Legislature by an amendment to this section. However, this paragraph (b) shall not prevent the board or the department from closing or terminating

4428 the operation of any home health agency owned and operated by the
4429 department, or closing or terminating any office, branch office or
4430 clinic of any such home health agency, or otherwise discontinuing
4431 the providing of home health services through any such home health
4432 agency, office, branch office or clinic, if the board first
4433 demonstrates that there are other providers of home health
4434 services in the area being served by the department's home health
4435 agency, office, branch office or clinic that will be able to
4436 provide adequate home health services to the residents of the area
4437 if the department's home health agency, office, branch office or
4438 clinic is closed or otherwise discontinues the providing of home
4439 health services. This demonstration by the board that there are
4440 other providers of adequate home health services in the area shall
4441 be spread at length upon the minutes of the board at a regular or
4442 special meeting of the board at least thirty (30) days before a
4443 home health agency, office, branch office or clinic is proposed to
4444 be closed or otherwise discontinue the providing of home health
4445 services.

4446 (c) The State Department of Health may undertake such
4447 technical programs and activities as may be required for the
4448 support and operation of those programs, including maintaining
4449 physical, chemical, bacteriological and radiological laboratories,
4450 and may make such diagnostic tests for diseases and tests for the
4451 evaluation of health hazards as may be deemed necessary for the
4452 protection of the people of the state.

4453 (6) (a) The State Board of Health shall administer the
4454 local governments and rural water systems improvements loan
4455 program in accordance with the provisions of Section 41-3-16.
4456 (b) The State Board of Health shall have authority:
4457 (i) To enter into capitalization grant agreements
4458 with the United States Environmental Protection Agency, or any
4459 successor agency thereto;
4460 (ii) To accept capitalization grant awards made
4461 under the federal Safe Drinking Water Act, as amended;
4462 (iii) To provide annual reports and audits to the
4463 United States Environmental Protection Agency, as may be required
4464 by federal capitalization grant agreements; and
4465 (iv) To establish and collect fees to defray the
4466 reasonable costs of administering the revolving fund or emergency
4467 fund if the State Board of Health determines that those costs will
4468 exceed the limitations established in the federal Safe Drinking
4469 Water Act, as amended. The administration fees may be included in
4470 loan amounts to loan recipients for the purpose of facilitating
4471 payment to the board; however, those fees may not exceed five
4472 percent (5%) of the loan amount.
4473 (7) Notwithstanding any other provision to the contrary, the
4474 State Department of Health shall have the following specific
4475 powers: The department shall issue a license to Alexander Milne
4476 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
4477 construction, conversion, expansion and operation of not more than

4478 forty-five (45) beds for developmentally disabled adults who have
4479 been displaced from New Orleans, Louisiana, with the beds to be
4480 located in a certified ICF-MR facility in the City of Laurel,
4481 Mississippi. There shall be no prohibition or restrictions on
4482 participation in the Medicaid program for the person receiving the
4483 license under this subsection (7). The license described in this
4484 subsection shall expire five (5) years from the date of its issue.
4485 The license authorized by this subsection shall be issued upon the
4486 initial payment by the licensee of an application fee of
4487 Sixty-seven Thousand Dollars ($67,000.00) and a monthly fee of
4488 Sixty-seven Thousand Dollars ($67,000.00) after the issuance of
4489 the license, to be paid as long as the licensee continues to
4490 operate. The initial and monthly licensing fees shall be
4491 deposited by the State Department of Health into the special fund
4492 created under Section 41-7-188.
4493 (8) Notwithstanding any other provision to the contrary, the
4494 State Department of Health shall have the following specific
4495 powers: The State Department of Health is authorized to issue a
4496 license to an existing home health agency for the transfer of a
4497 county from that agency to another existing home health agency,
4498 and to charge a fee for reviewing and making a determination on
4499 the application for such transfer not to exceed one-half (1/2) of
4500 the authorized fee assessed for the original application for the
4501 home health agency, with the revenue to be deposited by the State

4502 Department of Health into the special fund created under Section
4503 41-7-188.
4504 (9) Notwithstanding any other provision to the contrary, the
4505 State Department of Health shall have the following specific
4506 powers: For the period beginning July 1, 2010, through July 1,
4507 2017, the State Department of Health is authorized and empowered
4508 to assess a fee in addition to the fee prescribed in Section
4509 41-7-188 for reviewing applications for certificates of need in an
4510 amount not to exceed twenty-five one-hundredths of one percent
4511 (.25 of 1%) of the amount of a proposed capital expenditure, but
4512 shall be not less than Two Hundred Fifty Dollars ($250.00)
4513 regardless of the amount of the proposed capital expenditure, and
4514 the maximum additional fee permitted shall not exceed Fifty
4515 Thousand Dollars ($50,000.00). Provided that the total
4516 assessments of fees for certificate of need applications under
4517 Section 41-7-188 and this section shall not exceed the actual cost
4518 of operating the certificate of need program.
4519 (10) Notwithstanding any other provision to the contrary,
4520 the State Department of Health shall have the following specific
4521 powers: The State Department of Health is authorized to extend
4522 and renew any certificate of need that has expired, and to charge
4523 a fee for reviewing and making a determination on the application
4524 for such action not to exceed one-half (1/2) of the authorized fee
4525 assessed for the original application for the certificate of need,

with the revenue to be deposited by the State Department of Health into the special fund created under Section 41-7-188.

(11) Notwithstanding any other provision to the contrary, the State Department of Health shall have the following specific powers: The State Department of Health is authorized and empowered, to revoke, immediately, the license and require closure of any institution for the aged or infirm, including any other remedy less than closure to protect the health and safety of the residents of said institution or the health and safety of the general public.

(12) Notwithstanding any other provision to the contrary, the State Department of Health shall have the following specific powers: The State Department of Health is authorized and empowered, to require the temporary detainment of individuals for disease control purposes based upon violation of any order of the State Health Officer, as provided in Section 41-23-5. For the purpose of enforcing such orders of the State Health Officer, persons employed by the department as investigators shall have general arrest powers. All law enforcement officers are authorized and directed to assist in the enforcement of such orders of the State Health Officer.

SECTION 55. Section 41-29-125, Mississippi Code of 1972, is amended as follows:

41-29-125. (1) The State Board of Pharmacy may promulgate rules and regulations relating to the registration and control of

the manufacture, distribution and dispensing of controlled substances within this state and the distribution and dispensing of controlled substances into this state from an out-of-state location.

(a) Every person who manufactures, distributes or dispenses any controlled substance within this state or who distributes or dispenses any controlled substance into this state from an out-of-state location, or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance within this state or the distribution or dispensing of any controlled substance into this state from an out-of-state location, must obtain a registration issued by the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the Mississippi Board of Veterinary Medicine, as appropriate, in accordance with its rules and the law of this state. Such registration shall be obtained annually or biennially, as specified by the issuing board, and a reasonable fee may be charged by the issuing board for such registration.

(b) Persons registered by the State Board of Pharmacy, with the consent of the United States Drug Enforcement Administration and the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the Mississippi Board of Veterinary Medicine to manufacture, distribute, dispense or conduct research with controlled

4576 substances may possess, manufacture, distribute, dispense or
4577 conduct research with those substances to the extent authorized by
4578 their registration and in conformity with the other provisions of
4579 this article.

4580 (c) The following persons need not register and may
4581 lawfully possess controlled substances under this article:

4582 (1) An agent or employee of any registered
4583 manufacturer, distributor or dispenser of any controlled substance
4584 if he is acting in the usual course of his business or employment;

4585 (2) A common or contract carrier or warehouse, or
4586 an employee thereof, whose possession of any controlled substance
4587 is in the usual course of business or employment;

4588 (3) An ultimate user or a person in possession of
4589 any controlled substance pursuant to a valid prescription or in
4590 lawful possession of a Schedule V substance as defined in Section
4591 41-29-121.

4592 (d) The State Board of Pharmacy may waive by rule the
4593 requirement for registration of certain manufacturers,
4594 distributors or dispensers if it finds it consistent with the
4595 public health and safety.

4596 (e) A separate registration is required at each
4597 principal place of business or professional practice where an
4598 applicant within the state manufactures, distributes or dispenses
4599 controlled substances and for each principal place of business or

4600 professional practice located out-of-state from which controlled
4601 substances are distributed or dispensed into the state.
4602 (f) The State Board of Pharmacy, the Mississippi Bureau
4603 of Narcotics, the State Board of Medical Licensure, the State
4604 Board of Dental Examiners, the Mississippi Board of Nursing and
4605 the Mississippi Board of Veterinary Medicine may inspect the
4606 establishment of a registrant or applicant for registration in
4607 accordance with the regulations of these agencies as approved by
4608 the board.
4609 (2) Whenever a pharmacy ships, mails or delivers any
4610 Schedule II controlled substance listed in Section 41-29-115 to a
4611 private residence in this state, the pharmacy shall arrange with
4612 the entity that will actually deliver the controlled substance to
4613 a recipient in this state that the entity will: (a) deliver the
4614 controlled substance only to a person who is eighteen (18) years
4615 of age or older; and (b) obtain the signature of that person
4616 before delivering the controlled substance. The requirements of
4617 this subsection shall not apply to a pharmacy serving a nursing
4618 facility or to a pharmacy owned and/or operated by a hospital,
4619 nursing facility or clinic to which the general public does not
4620 have access to purchase pharmaceuticals on a retail basis.
4621 (3) This section does not apply to any of the actions that
4622 are lawful under the Mississippi Medical Cannabis Act and in
4623 compliance with rules and regulations adopted thereunder.

SECTION 56. Section 41-29-127, Mississippi Code of 1972, is amended as follows:

41-29-127. (a) The State Board of Pharmacy shall register an applicant to manufacture or distribute controlled substances included in Sections 41-29-113 through 41-29-121 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the State Board of Pharmacy shall consider the following factors:

(1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable state and local law;

(3) Any convictions of the applicant under any federal and state laws relating to any controlled substance;

(4) Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion;

(5) Furnishing by the applicant of false or fraudulent material in any application filed under this article;

(6) Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(7) Any other factors relevant to and consistent with the public health and safety.

4649 (b) Registration under subsection (a) does not entitle a
4650 registrant to manufacture and distribute controlled substances in
4651 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,
4652 other than those specified in the registration.
4653 (c) Practitioners must be registered to dispense any
4654 controlled substances or to conduct research with controlled
4655 substances in Schedules II through V, as set out in Sections
4656 41-29-115 through 41-29-121, if they are authorized to dispense or
4657 conduct research under the law of this state. The State Board of
4658 Pharmacy need not require separate registration under this section
4659 for practitioners engaging in research with nonnarcotic controlled
4660 substances in the said Schedules II through V where the registrant
4661 is already registered therein in another capacity. Practitioners
4662 registered under federal law to conduct research with Schedule I
4663 substances, as set out in Section 41-29-113, may conduct research
4664 with Schedule I substances within this state upon furnishing the
4665 State Board of Health evidence of that federal registration.
4666 (d) Compliance by manufacturers and distributors with the
4667 provisions of the federal law respecting registration (excluding
4668 fees) entitles them to be registered under this article.
4669 (e) This section does not apply to any of the actions that
4670 are lawful under the Mississippi Medical Cannabis Act and in
4671 compliance with rules and regulations adopted thereunder.
4672 **SECTION 57.** Section 41-29-136, Mississippi Code of 1972, is
4673 amended as follows:

4674 41-29-136. (1) "CBD solution" means a pharmaceutical
4675 preparation consisting of processed cannabis plant extract in oil
4676 or other suitable vehicle.
4677 (2) (a) CBD solution prepared from (i) cannabis plant
4678 extract that is provided by the National Center for Natural
4679 Products Research at the University of Mississippi under
4680 appropriate federal and state regulatory approvals, or (ii)
4681 cannabis extract from hemp produced pursuant to Sections 69-25-201
4682 through 69-25-221, which is prepared and tested to meet compliance
4683 with regulatory specifications, may be dispensed by the Department
4684 of Pharmacy Services at the University of Mississippi Medical
4685 Center (UMMC Pharmacy) after mixing the extract with a suitable
4686 vehicle. The CBD solution may be prepared by the UMMC Pharmacy or
4687 by another pharmacy or laboratory in the state under appropriate
4688 federal and state regulatory approvals and registrations.
4689 (b) The patient or the patient's parent, guardian or
4690 custodian must execute a hold-harmless agreement that releases
4691 from liability the state and any division, agency, institution or
4692 employee thereof involved in the research, cultivation,
4693 processing, formulating, dispensing, prescribing or administration
4694 of CBD solution obtained from entities authorized under this
4695 section to produce or possess cannabidiol for research under
4696 appropriate federal and state regulatory approvals and
4697 registrations.

4698 (c) The National Center for Natural Products Research
4699 at the University of Mississippi and the Mississippi Agricultural
4700 and Forestry Experiment Station at Mississippi State University
4701 are the only entities authorized to produce cannabis plants for
4702 cannabidiol research.
4703 (d) Research of CBD solution under this section must
4704 comply with the provisions of Section 41-29-125 regarding lawful
4705 possession of controlled substances, of Section 41-29-137
4706 regarding record-keeping requirements relative to the dispensing,
4707 use or administration of controlled substances, and of Section
4708 41-29-133 regarding inventory requirements, insofar as they are
4709 applicable. Authorized entities may enter into public-private
4710 partnerships to facilitate research.
4711 (3) (a) In a prosecution for the unlawful possession of
4712 marijuana under the laws of this state, it is an affirmative and
4713 complete defense to prosecution that:
4714 (i) The defendant suffered from a debilitating
4715 epileptic condition or related illness and the use or possession
4716 of CBD solution was pursuant to the order of a physician as
4717 authorized under this section; or
4718 (ii) The defendant is the parent, guardian or
4719 custodian of an individual who suffered from a debilitating
4720 epileptic condition or related illness and the use or possession
4721 of CBD solution was pursuant to the order of a physician as
4722 authorized under this section.

4723 (b) An agency of this state or a political subdivision
4724 thereof, including any law enforcement agency, may not initiate
4725 proceedings to remove a child from the home based solely upon the
4726 possession or use of CBD solution by the child or parent, guardian
4727 or custodian of the child as authorized under this section.
4728 (c) An employee of the state or any division, agency,
4729 institution thereof involved in the research, cultivation,
4730 processing, formulation, dispensing, prescribing or administration
4731 of CBD solution shall not be subject to prosecution for unlawful
4732 possession, use, distribution or prescription of marijuana under
4733 the laws of this state for activities arising from or related to
4734 the use of CBD solution in the treatment of individuals diagnosed
4735 with a debilitating epileptic condition.
4736 (4) This section does not apply to any of the actions that
4737 are lawful under the Mississippi Medical Cannabis Act and in
4738 compliance with rules and regulations adopted thereunder.
4739 (* * *5) This section shall be known as "Harper Grace's
4740 Law."
4741 (* * *6) This section shall stand repealed from and after
4742 July 1, 2024.
4743 **SECTION 58.** Section 41-29-137, Mississippi Code of 1972, is
4744 amended as follows:
4745 41-29-137. (a) (1) Except when dispensed directly by a
4746 practitioner, other than a pharmacy, to an ultimate user, no
4747 controlled substance in Schedule II, as set out in Section

41-29-115, may be dispensed without the written valid prescription of a practitioner. A practitioner shall keep a record of all controlled substances in Schedule I, II and III administered, dispensed or professionally used by him otherwise than by prescription.

(2) In emergency situations, as defined by rule of the State Board of Pharmacy, Schedule II drugs may be dispensed upon the oral valid prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of Section 41-29-133. No prescription for a Schedule II substance may be refilled unless renewed by prescription issued by a licensed medical doctor.

(b) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV, as set out in Sections 41-29-117 and 41-29-119, shall not be dispensed without a written or oral valid prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner.

(c) A controlled substance included in Schedule V, as set out in Section 41-29-121, shall not be distributed or dispensed other than for a medical purpose.

(d) An optometrist certified to prescribe and use therapeutic pharmaceutical agents under Sections 73-19-153 through

73-19-165 shall be authorized to prescribe oral analgesic controlled substances in Schedule IV or V, as pertains to treatment and management of eye disease by written prescription only.

(e) Administration by injection of any pharmaceutical product authorized in this section is expressly prohibited except when dispensed directly by a practitioner other than a pharmacy.

(f) (1) For the purposes of this article, Title 73, Chapter 21, and Title 73, Chapter 25, Mississippi Code of 1972, as it pertains to prescriptions for controlled substances, a "valid prescription" means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by:

(A) A practitioner who has conducted at least one (1) in-person medical evaluation of the patient, except as otherwise authorized by Section 41-29-137.1; or

(B) A covering practitioner.

(2) (A) "In-person medical evaluation" means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals.

(B) "Covering practitioner" means a practitioner who conducts a medical evaluation other than an in-person medical evaluation at the request of a practitioner who has conducted at least one (1) in-person medical evaluation of the patient or an evaluation of the patient through the practice of telemedicine

4798 within the previous twenty-four (24) months and who is temporarily
4799 unavailable to conduct the evaluation of the patient.
4800 (3) A prescription for a controlled substance based
4801 solely on a consumer's completion of an online medical
4802 questionnaire is not a valid prescription.
4803 (4) Nothing in this subsection (f) shall apply to:
4804 (A) A prescription issued by a practitioner
4805 engaged in the practice of telemedicine as authorized under state
4806 or federal law; or
4807 (B) The dispensing or selling of a controlled
4808 substance pursuant to practices as determined by the United States
4809 Attorney General by regulation.
4810 (g) This section does not apply to any of the actions that
4811 are lawful under the Mississippi Medical Cannabis Act and in
4812 compliance with rules and regulations adopted thereunder.
4813 **SECTION 59.** Section 41-29-139, Mississippi Code of 1972, is
4814 amended as follows:
4815 41-29-139. (a) **Transfer and possession with intent to**
4816 **transfer.** Except as authorized by this article, it is unlawful
4817 for any person knowingly or intentionally:
4818 (1) To sell, barter, transfer, manufacture, distribute,
4819 dispense or possess with intent to sell, barter, transfer,
4820 manufacture, distribute or dispense, a controlled substance; or

(2) To create, sell, barter, transfer, distribute, dispense or possess with intent to create, sell, barter, transfer, distribute or dispense, a counterfeit substance.

(b) **Punishment for transfer and possession with intent to transfer.** Except as otherwise provided in Section 41-29-142, any person who violates subsection (a) of this section shall be, if convicted, sentenced as follows:

(1) For controlled substances classified in Schedule I or II, as set out in Sections 41-29-113 and 41-29-115, other than marijuana or synthetic cannabinoids:

(A) If less than two (2) grams or ten (10) dosage units, by imprisonment for not more than eight (8) years or a fine of not more than Fifty Thousand Dollars ($50,000.00), or both.

(B) If two (2) or more grams or ten (10) or more dosage units, but less than ten (10) grams or twenty (20) dosage units, by imprisonment for not less than three (3) years nor more than twenty (20) years or a fine of not more than Two Hundred Fifty Thousand Dollars ($250,000.00), or both.

(C) If ten (10) or more grams or twenty (20) or more dosage units, but less than thirty (30) grams or forty (40) dosage units, by imprisonment for not less than five (5) years nor more than thirty (30) years or a fine of not more than Five Hundred Thousand Dollars ($500,000.00), or both.

(2) (A) For marijuana:

1. If thirty (30) grams or less, by imprisonment for not more than three (3) years or a fine of not more than Three Thousand Dollars ($3,000.00), or both;

2. If more than thirty (30) grams but less than two hundred fifty (250) grams, by imprisonment for not more than five (5) years or a fine of not more than Five Thousand Dollars ($5,000.00), or both;

3. If two hundred fifty (250) or more grams but less than five hundred (500) grams, by imprisonment for not less than three (3) years nor more than ten (10) years or a fine of not more than Fifteen Thousand Dollars ($15,000.00), or both;

4. If five hundred (500) or more grams but less than one (1) kilogram, by imprisonment for not less than five (5) years nor more than twenty (20) years or a fine of not more than Twenty Thousand Dollars ($20,000.00), or both.

(B) For synthetic cannabinoids:

1. If ten (10) grams or less, by imprisonment for not more than three (3) years or a fine of not more than Three Thousand Dollars ($3,000.00), or both;

2. If more than ten (10) grams but less than twenty (20) grams, by imprisonment for not more than five (5) years or a fine of not more than Five Thousand Dollars ($5,000.00), or both;

3. If twenty (20) or more grams but less than forty (40) grams, by imprisonment for not less than three (3)

years nor more than ten (10) years or a fine of not more than Fifteen Thousand Dollars ($15,000.00), or both;

4. If forty (40) or more grams but less than two hundred (200) grams, by imprisonment for not less than five (5) years nor more than twenty (20) years or a fine of not more than Twenty Thousand Dollars ($20,000.00), or both.

(3) For controlled substances classified in Schedules III and IV, as set out in Sections 41-29-117 and 41-29-119:

(A) If less than two (2) grams or ten (10) dosage units, by imprisonment for not more than five (5) years or a fine of not more than Five Thousand Dollars ($5,000.00), or both;

(B) If two (2) or more grams or ten (10) or more dosage units, but less than ten (10) grams or twenty (20) dosage units, by imprisonment for not more than eight (8) years or a fine of not more than Fifty Thousand Dollars ($50,000.00), or both;

(C) If ten (10) or more grams or twenty (20) or more dosage units, but less than thirty (30) grams or forty (40) dosage units, by imprisonment for not more than fifteen (15) years or a fine of not more than One Hundred Thousand Dollars ($100,000.00), or both;

(D) If thirty (30) or more grams or forty (40) or more dosage units, but less than five hundred (500) grams or two thousand five hundred (2,500) dosage units, by imprisonment for not more than twenty (20) years or a fine of not more than Two Hundred Fifty Thousand Dollars ($250,000.00), or both.

(4) For controlled substances classified in Schedule V, as set out in Section 41-29-121:

(A) If less than two (2) grams or ten (10) dosage units, by imprisonment for not more than one (1) year or a fine of not more than Five Thousand Dollars ($5,000.00), or both;

(B) If two (2) or more grams or ten (10) or more dosage units, but less than ten (10) grams or twenty (20) dosage units, by imprisonment for not more than five (5) years or a fine of not more than Ten Thousand Dollars ($10,000.00), or both;

(C) If ten (10) or more grams or twenty (20) or more dosage units, but less than thirty (30) grams or forty (40) dosage units, by imprisonment for not more than ten (10) years or a fine of not more than Twenty Thousand Dollars ($20,000.00), or both;

(D) For thirty (30) or more grams or forty (40) or more dosage units, but less than five hundred (500) grams or two thousand five hundred (2,500) dosage units, by imprisonment for not more than fifteen (15) years or a fine of not more than Fifty Thousand Dollars ($50,000.00), or both.

(c) **Simple possession.** Except as otherwise provided under subsection (i) of this section for actions that are lawful under the Mississippi Medical Cannabis Act and in compliance with rules and regulations adopted thereunder, it is unlawful for any person knowingly or intentionally to possess any controlled substance unless the substance was obtained directly from, or pursuant to, a

valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this article. The penalties for any violation of this subsection (c) with respect to a controlled substance classified in Schedules I, II, III, IV or V, as set out in Section 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including marijuana or synthetic cannabinoids, shall be based on dosage unit as defined herein or the weight of the controlled substance as set forth herein as appropriate:

"Dosage unit (d.u.)" means a tablet or capsule, or in the case of a liquid solution, one (1) milliliter. In the case of lysergic acid diethylamide (LSD) the term, "dosage unit" means a stamp, square, dot, microdot, tablet or capsule of a controlled substance.

For any controlled substance that does not fall within the definition of the term "dosage unit," the penalties shall be based upon the weight of the controlled substance.

The weight set forth refers to the entire weight of any mixture or substance containing a detectable amount of the controlled substance.

If a mixture or substance contains more than one (1) controlled substance, the weight of the mixture or substance is assigned to the controlled substance that results in the greater punishment.

A person shall be charged and sentenced as follows for a violation of this subsection with respect to:

(1) A controlled substance classified in Schedule I or II, except marijuana and synthetic cannabinoids:

(A) If less than one-tenth (0.1) gram or two (2) dosage units, the violation is a misdemeanor and punishable by imprisonment for not more than one (1) year or a fine of not more than One Thousand Dollars ($1,000.00), or both.

(B) If one-tenth (0.1) gram or more or two (2) or more dosage units, but less than two (2) grams or ten (10) dosage units, by imprisonment for not more than three (3) years or a fine of not more than Fifty Thousand Dollars ($50,000.00), or both.

(C) If two (2) or more grams or ten (10) or more dosage units, but less than ten (10) grams or twenty (20) dosage units, by imprisonment for not more than eight (8) years or a fine of not more than Two Hundred Fifty Thousand Dollars ($250,000.00), or both.

(D) If ten (10) or more grams or twenty (20) or more dosage units, but less than thirty (30) grams or forty (40) dosage units, by imprisonment for not less than three (3) years nor more than twenty (20) years or a fine of not more than Five Hundred Thousand Dollars ($500,000.00), or both.

(2) (A) Marijuana and synthetic cannabinoids:

1. If thirty (30) grams or less of marijuana or ten (10) grams or less of synthetic cannabinoids, by a fine of

not less than One Hundred Dollars ($100.00) nor more than Two Hundred Fifty Dollars ($250.00). The provisions of this paragraph (2)(A) may be enforceable by summons if the offender provides proof of identity satisfactory to the arresting officer and gives written promise to appear in court satisfactory to the arresting officer, as directed by the summons. A second conviction under this section within two (2) years is a misdemeanor punishable by a fine of Two Hundred Fifty Dollars ($250.00), not more than sixty (60) days in the county jail, and mandatory participation in a drug education program approved by the Division of Alcohol and Drug Abuse of the State Department of Mental Health, unless the court enters a written finding that a drug education program is inappropriate. A third or subsequent conviction under this paragraph (2)(A) within two (2) years is a misdemeanor punishable by a fine of not less than Two Hundred Fifty Dollars ($250.00) nor more than One Thousand Dollars ($1,000.00) and confinement for not more than six (6) months in the county jail.

Upon a first or second conviction under this paragraph (2)(A), the courts shall forward a report of the conviction to the Mississippi Bureau of Narcotics which shall make and maintain a private, nonpublic record for a period not to exceed two (2) years from the date of conviction. The private, nonpublic record shall be solely for the use of the courts in determining the penalties which attach upon conviction under this paragraph (2)(A) and shall not constitute a criminal record for the purpose of private or

administrative inquiry and the record of each conviction shall be expunged at the end of the period of two (2) years following the date of such conviction;

2. Additionally, a person who is the operator of a motor vehicle, who possesses on his person or knowingly keeps or allows to be kept in a motor vehicle within the area of the vehicle normally occupied by the driver or passengers, more than one (1) gram, but not more than thirty (30) grams of marijuana or not more than ten (10) grams of synthetic cannabinoids is guilty of a misdemeanor and, upon conviction, may be fined not more than One Thousand Dollars ($1,000.00) or confined for not more than ninety (90) days in the county jail, or both. For the purposes of this subsection, such area of the vehicle shall not include the trunk of the motor vehicle or the areas not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers *** * ***.

(B) Marijuana:

1. If more than thirty (30) grams but less than two hundred fifty (250) grams, by a fine of not more than One Thousand Dollars ($1,000.00), or confinement in the county jail for not more than one (1) year, or both; or by a fine of not more than Three Thousand Dollars ($3,000.00), or imprisonment in the custody of the Department of Corrections for not more than three (3) years, or both;

2. If two hundred fifty (250) or more grams but less than five hundred (500) grams, by imprisonment for not less than two (2) years nor more than eight (8) years or by a fine of not more than Fifty Thousand Dollars ($50,000.00), or both;

3. If five hundred (500) or more grams but less than one (1) kilogram, by imprisonment for not less than four (4) years nor more than sixteen (16) years or a fine of not more than Two Hundred Fifty Thousand Dollars ($250,000.00), or both;

4. If one (1) kilogram or more but less than five (5) kilograms, by imprisonment for not less than six (6) years nor more than twenty-four (24) years or a fine of not more than Five Hundred Thousand Dollars ($500,000.00), or both;

5. If five (5) kilograms or more, by imprisonment for not less than ten (10) years nor more than thirty (30) years or a fine of not more than One Million Dollars ($1,000,000.00), or both.

(C) Synthetic cannabinoids:

1. If more than ten (10) grams but less than twenty (20) grams, by a fine of not more than One Thousand Dollars ($1,000.00), or confinement in the county jail for not more than one (1) year, or both; or by a fine of not more than Three Thousand Dollars ($3,000.00), or imprisonment in the custody of the Department of Corrections for not more than three (3) years, or both;

2. If twenty (20) or more grams but less than forty (40) grams, by imprisonment for not less than two (2) years nor more than eight (8) years or by a fine of not more than Fifty Thousand Dollars ($50,000.00), or both;

3. If forty (40) or more grams but less than two hundred (200) grams, by imprisonment for not less than four (4) years nor more than sixteen (16) years or a fine of not more than Two Hundred Fifty Thousand Dollars ($250,000.00), or both;

4. If two hundred (200) or more grams, by imprisonment for not less than six (6) years nor more than twenty-four (24) years or a fine of not more than Five Hundred Thousand Dollars ($500,000.00), or both.

(3) A controlled substance classified in Schedule III, IV or V as set out in Sections 41-29-117 through 41-29-121, upon conviction, may be punished as follows:

(A) If less than fifty (50) grams or less than one hundred (100) dosage units, the offense is a misdemeanor and punishable by not more than one (1) year or a fine of not more than One Thousand Dollars ($1,000.00), or both.

(B) If fifty (50) or more grams or one hundred (100) or more dosage units, but less than one hundred fifty (150) grams or five hundred (500) dosage units, by imprisonment for not less than one (1) year nor more than four (4) years or a fine of not more than Ten Thousand Dollars ($10,000.00), or both.

5067 (C) If one hundred fifty (150) or more grams or
5068 five hundred (500) or more dosage units, but less than three
5069 hundred (300) grams or one thousand (1,000) dosage units, by
5070 imprisonment for not less than two (2) years nor more than eight
5071 (8) years or a fine of not more than Fifty Thousand Dollars
5072 ($50,000.00), or both.
5073 (D) If three hundred (300) or more grams or one
5074 thousand (1,000) or more dosage units, but less than five hundred
5075 (500) grams or two thousand five hundred (2,500) dosage units, by
5076 imprisonment for not less than four (4) years nor more than
5077 sixteen (16) years or a fine of not more than Two Hundred Fifty
5078 Thousand Dollars ($250,000.00), or both.
5079 (d) **Paraphernalia.** (1) Except as otherwise provided under
5080 subsection (i) of this section for actions that are lawful under
5081 the Mississippi Medical Cannabis Act and in compliance with rules
5082 and regulations adopted thereunder, it is unlawful for a person
5083 who is not authorized by the State Board of Medical Licensure,
5084 State Board of Pharmacy, or other lawful authority to use, or to
5085 possess with intent to use, paraphernalia to plant, propagate,
5086 cultivate, grow, harvest, manufacture, compound, convert, produce,
5087 process, prepare, test, analyze, pack, repack, store, contain,
5088 conceal, inject, ingest, inhale or otherwise introduce into the
5089 human body a controlled substance in violation of the Uniform
5090 Controlled Substances Law. Any person who violates this
5091 subsection (d)(1) is guilty of a misdemeanor and, upon conviction,

may be confined in the county jail for not more than six (6) months, or fined not more than Five Hundred Dollars ($500.00), or both; however, no person shall be charged with a violation of this subsection when such person is also charged with the possession of thirty (30) grams or less of marijuana under subsection (c)(2)(A) of this section.

(2) It is unlawful for any person to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Law. Except as provided in subsection (d)(3), a person who violates this subsection (d)(2) is guilty of a misdemeanor and, upon conviction, may be confined in the county jail for not more than six (6) months, or fined not more than Five Hundred Dollars ($500.00), or both.

(3) Any person eighteen (18) years of age or over who violates subsection (d)(2) of this section by delivering or selling paraphernalia to a person under eighteen (18) years of age who is at least three (3) years his junior is guilty of a misdemeanor and, upon conviction, may be confined in the county

jail for not more than one (1) year, or fined not more than One Thousand Dollars ($1,000.00), or both.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as paraphernalia. Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, may be confined in the county jail for not more than six (6) months, or fined not more than Five Hundred Dollars ($500.00), or both.

(e) It shall be unlawful for any physician practicing medicine in this state to prescribe, dispense or administer any amphetamine or amphetamine-like anorectics and/or central nervous system stimulants classified in Schedule II, pursuant to Section 41-29-115, for the exclusive treatment of obesity, weight control or weight loss. Any person who violates this subsection, upon conviction, is guilty of a misdemeanor and may be confined for a period not to exceed six (6) months, or fined not more than One Thousand Dollars ($1,000.00), or both.

(f) **Trafficking.** (1) Any person trafficking in controlled substances shall be guilty of a felony and, upon conviction, shall be imprisoned for a term of not less than ten (10) years nor more than forty (40) years and shall be fined not less than Five Thousand Dollars ($5,000.00) nor more than One Million Dollars

($1,000,000.00). The ten-year mandatory sentence shall not be reduced or suspended. The person shall not be eligible for probation or parole, the provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

(2) "Trafficking in controlled substances" as used herein means:

(A) A violation of subsection (a) of this section involving thirty (30) or more grams or forty (40) or more dosage units of a Schedule I or II controlled substance except marijuana and synthetic cannabinoids;

(B) A violation of subsection (a) of this section involving five hundred (500) or more grams or two thousand five hundred (2,500) or more dosage units of a Schedule III, IV or V controlled substance;

(C) A violation of subsection (c) of this section involving thirty (30) or more grams or forty (40) or more dosage units of a Schedule I or II controlled substance except marijuana and synthetic cannabinoids;

(D) A violation of subsection (c) of this section involving five hundred (500) or more grams or two thousand five hundred (2,500) or more dosage units of a Schedule III, IV or V controlled substance; or

(E) A violation of subsection (a) of this section involving one (1) kilogram or more of marijuana or two hundred (200) grams or more of synthetic cannabinoids.

(g) **Aggravated trafficking.** Any person trafficking in Schedule I or II controlled substances, except marijuana and synthetic cannabinoids, of two hundred (200) grams or more shall be guilty of aggravated trafficking and, upon conviction, shall be sentenced to a term of not less than twenty-five (25) years nor more than life in prison and shall be fined not less than Five Thousand Dollars ($5,000.00) nor more than One Million Dollars ($1,000,000.00). The twenty-five-year sentence shall be a mandatory sentence and shall not be reduced or suspended. The person shall not be eligible for probation or parole, the provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

(h) **Sentence mitigation.** (1) Notwithstanding any provision of this section, a person who has been convicted of an offense under this section that requires the judge to impose a prison sentence which cannot be suspended or reduced and is ineligible for probation or parole may, at the discretion of the court, receive a sentence of imprisonment that is no less than twenty-five percent (25%) of the sentence prescribed by the applicable statute. In considering whether to apply the departure from the sentence prescribed, the court shall conclude that:

(A) The offender was not a leader of the criminal enterprise;

(B) The offender did not use violence or a weapon during the crime;

5191 (C) The offense did not result in a death or
5192 serious bodily injury of a person not a party to the criminal
5193 enterprise; and
5194 (D) The interests of justice are not served by the
5195 imposition of the prescribed mandatory sentence.
5196 The court may also consider whether information and
5197 assistance were furnished to a law enforcement agency, or its
5198 designee, which, in the opinion of the trial judge, objectively
5199 should or would have aided in the arrest or prosecution of others
5200 who violate this subsection. The accused shall have adequate
5201 opportunity to develop and make a record of all information and
5202 assistance so furnished.
5203 (2) If the court reduces the prescribed sentence
5204 pursuant to this subsection, it must specify on the record the
5205 circumstances warranting the departure.
5206 (i) This section does not apply to any of the actions that
5207 are lawful under the Mississippi Medical Cannabis Act and in
5208 compliance with rules and regulations adopted thereunder.
5209 **SECTION 60.** Section 41-29-141, Mississippi Code of 1972, is
5210 amended as follows:
5211 41-29-141. It is unlawful for any person:
5212 (1) Who is subject to Section 41-29-125 to distribute
5213 or dispense a controlled substance in violation of Section
5214 41-29-137;

(2) Who is a registrant under Section 41-29-125 to manufacture a controlled substance not authorized by his registration, or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;

(3) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this article;

(4) To refuse a lawful entry into any premises for any inspection authorized by this article; or

(5) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this article for the purpose of using these substances, or which is used for keeping or selling them in violation of this article.

Any person who violates this section shall, with respect to such violation, be subject to a civil penalty payable to the State of Mississippi of not more than Twenty-five Thousand Dollars ($25,000.00).

In addition to the civil penalty provided in the preceding paragraph, any person who knowingly or intentionally violates this section shall be guilty of a crime and upon conviction thereof may be confined for a period of not more than one (1) year or fined not more than One Thousand Dollars ($1,000.00), or both.

5240 This section does not apply to any of the actions that are
5241 lawful under the Mississippi Medical Cannabis Act and in
5242 compliance with rules and regulations adopted thereunder.
5243 **SECTION 61.** Section 41-29-143, Mississippi Code of 1972, is
5244 amended as follows:
5245 41-29-143. It is unlawful for any person knowingly or
5246 intentionally:
5247 (1) To distribute as a registrant a controlled
5248 substance classified in Schedule I or II, as set out in Sections
5249 41-29-113 and 41-29-115, except pursuant to an order form as
5250 required by Section 41-29-135;
5251 (2) To use in the course of the manufacture or
5252 distribution of a controlled substance a registration number which
5253 is fictitious, revoked, suspended, or issued to another
5254 person *** * ***;
5255 (3) To furnish false or fraudulent material information
5256 in, or omit any material information from, any application,
5257 report, or other document required to be kept or filed under this
5258 article, or any record required to be kept by this article; or
5259 (4) To make, distribute, or possess any punch, die,
5260 plate, stone, or other thing designed to print, imprint, or
5261 reproduce the trademark, trade name, or other identifying mark,
5262 imprint or device of another or any likeness of any of the
5263 foregoing upon any drug or container or labeling thereof so as to
5264 render the drug a counterfeit substance.

Any person who violates this section is guilty of a crime and upon conviction may be confined for not more than one (1) year or fined not more than One Thousand Dollars ($1,000.00) or both.

This section does not apply to any of the actions that are lawful under the Mississippi Medical Cannabis Act and in compliance with rules and regulations adopted thereunder.

SECTION 62. Section 43-21-301, Mississippi Code of 1972, is amended as follows:

43-21-301. (1) No court other than the youth court shall issue an arrest warrant or custody order for a child in a matter in which the youth court has exclusive original jurisdiction but shall refer the matter to the youth court.

(2) Except as otherwise provided, no child in a matter in which the youth court has exclusive original jurisdiction shall be taken into custody by a law enforcement officer, the Department of Human Services, the Department of Child Protection Services, or any other person unless the judge or his designee has issued a custody order to take the child into custody.

(3) The judge or his designee may require a law enforcement officer, the Department of Human Services, the Department of Child Protection Services, or any suitable person to take a child into custody for a period not longer than forty-eight (48) hours, excluding Saturdays, Sundays, and statutory state holidays.

(a) Custody orders under this subsection may be issued if it appears that there is probable cause to believe that:

5290 (i) The child is within the jurisdiction of the
5291 court;
5292 (ii) Custody is necessary because of any of the
5293 following reasons: the child is in danger of a significant risk
5294 of harm, any person would be in danger of a significant risk of
5295 harm by the child, to ensure the child's attendance in court at
5296 such time as required, or a parent, guardian or custodian is not
5297 available to provide for the care and supervision of the child;
5298 and
5299 (iii) There is no reasonable alternative to
5300 custody.
5301 A finding of probable cause under this subsection (3)(a)
5302 shall not be based solely upon a positive drug test of a newborn
5303 or parent for marijuana <u>or solely upon the status of a parent as a</u>
5304 <u>cardholder under the Mississippi Medical Cannabis Act</u>; however, a
5305 finding of probable cause may be based upon an evidence-based
5306 finding of harm to the child or a parent's inability to provide
5307 for the care and supervision of the child due to the parent's use
5308 of marijuana. Probable cause for unlawful use of any controlled
5309 substance, except as otherwise provided in this subsection (3)(a)
5310 for marijuana, may be based: 1. upon a parent's positive drug
5311 test for unlawful use of a controlled substance only if the child
5312 is in danger of a significant risk of harm or the parent is unable
5313 to provide proper care or supervision of the child because of the
5314 unlawful use and there is no reasonable alternative to custody;

and 2. upon a newborn's positive drug screen for a controlled substance that was used unlawfully only if the child is in danger of a significant risk of harm or the parent is unable to provide proper care or supervision of the child because of the unlawful use and there is no reasonable alternative to custody.

(b) Custody orders under this subsection shall be written. In emergency cases, a judge or his designee may issue an oral custody order, but the order shall be reduced to writing within forty-eight (48) hours of its issuance.

(c) Each youth court judge shall develop and make available to law enforcement a list of designees who are available after hours, on weekends and on holidays.

(4) The judge or his designee may order, orally or in writing, the immediate release of any child in the custody of any person or agency. Except as otherwise provided in subsection (3) of this section, custody orders as provided by this chapter and authorizations of temporary custody may be written or oral, but, if oral, reduced to writing within forty-eight (48) hours, excluding Saturdays, Sundays and statutory state holidays. The written order shall:

(a) Specify the name and address of the child, or, if unknown, designate him or her by any name or description by which he or she can be identified with reasonable certainty;

(b) Specify the age of the child, or, if unknown, that he or she is believed to be of an age subject to the jurisdiction of the youth court;

(c) Except in cases where the child is alleged to be a delinquent child or a child in need of supervision, state that the effect of the continuation of the child's residing within his or her own home would be contrary to the welfare of the child, that the placement of the child in foster care is in the best interests of the child, and unless the reasonable efforts requirement is bypassed under Section 43-21-603(7)(c), also state that (i) reasonable efforts have been made to maintain the child within his or her own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody; or (ii) the circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home, and that there is no reasonable alternative to custody. If the court makes a finding in accordance with (ii) of this paragraph, the court shall order that reasonable efforts be made toward the reunification of the child with his or her family;

(d) State that the child shall be brought immediately before the youth court or be taken to a place designated by the order to be held pending review of the order;

(e) State the date issued and the youth court by which the order is issued; and

5362 (f) Be signed by the judge or his designee with the
5363 title of his office.
5364 (5) The taking of a child into custody shall not be
5365 considered an arrest except for evidentiary purposes.
5366 (6) (a) No child who has been accused or adjudicated of any
5367 offense that would not be a crime if committed by an adult shall
5368 be placed in an adult jail or lockup. An accused status offender
5369 shall not be held in secure detention longer than twenty-four (24)
5370 hours prior to and twenty-four (24) hours after an initial court
5371 appearance, excluding Saturdays, Sundays and statutory state
5372 holidays, except under the following circumstances: a status
5373 offender may be held in secure detention for violating a valid
5374 court order pursuant to the criteria as established by the federal
5375 Juvenile Justice and Delinquency Prevention Act of 2002, and any
5376 subsequent amendments thereto, and out-of-state runaways may be
5377 detained pending return to their home state.
5378 (b) No accused or adjudicated juvenile offender, except
5379 for an accused or adjudicated juvenile offender in cases where
5380 jurisdiction is waived to the adult criminal court, shall be
5381 detained or placed into custody of any adult jail or lockup for a
5382 period in excess of six (6) hours.
5383 (c) If any county violates the provisions of paragraph
5384 (a) or (b) of this subsection, the state agency authorized to
5385 allocate federal funds received pursuant to the Juvenile Justice
5386 and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in

scattered Sections of 5, 18, 42 USCS), shall withhold the county's share of such funds.

(d) Any county that does not have a facility in which to detain its juvenile offenders in compliance with the provisions of paragraphs (a) and (b) of this subsection may enter into a contractual agreement to detain or place into custody the juvenile offenders of that county with any county or municipality that does have such a facility, or with the State of Mississippi, or with any private entity that maintains a juvenile correctional facility.

(e) Notwithstanding the provisions of paragraphs (a), (b), (c) and (d) of this subsection, all counties shall be allowed a one-year grace period from March 27, 1993, to comply with the provisions of this subsection.

SECTION 63. Section 43-21-303, Mississippi Code of 1972, is amended as follows:

43-21-303. (1) No child in a matter in which the youth court has original exclusive jurisdiction shall be taken into custody by any person without a custody order except that:

(a) A law enforcement officer may take a child in custody if:

(i) Grounds exist for the arrest of an adult in identical circumstances; and

(ii) Such law enforcement officer has probable cause to believe that custody is necessary as defined in Section 43-21-301; and

(iii) Such law enforcement officer can find no reasonable alternative to custody; or

(b) A law enforcement officer or an agent of the Department of Child Protection Services or the Department of Human Services may take a child into immediate custody if:

(i) There is probable cause to believe that the child is in immediate danger of personal harm; however, probable cause shall not be based solely upon a positive drug test of a newborn or parent for marijuana <u>or solely upon the status of a parent as a cardholder under the Mississippi Medical Cannabis Act</u>, but a finding of probable cause may be based upon an evidence-based finding of harm to the child or a parent's inability to provide for the care and supervision of the child due to the parent's use of marijuana. Probable cause for unlawful use of any controlled substance, except as otherwise provided in this subparagraph (i) for marijuana, may be based: 1. upon a parent's positive drug test for unlawful use of a controlled substance only if the child is in danger of a significant risk of harm or the parent is unable to provide proper care or supervision of the child because of the unlawful use and there is no reasonable alternative to custody; and 2. upon a newborn's positive drug screen for a controlled substance that was used unlawfully only if

5435 the child is in danger of a significant risk of harm or the parent
5436 is unable to provide proper care or supervision of the child
5437 because of the unlawful use and there is no reasonable alternative
5438 to custody; and
5439 (ii) There is probable cause to believe that
5440 immediate custody is necessary as set forth in Section
5441 43-21-301(3); and
5442 (iii) There is no reasonable alternative to
5443 custody; and
5444 (c) Any other person may take a child into custody if
5445 grounds exist for the arrest of an adult in identical
5446 circumstances. Such other person shall immediately surrender
5447 custody of the child to the proper law enforcement officer who
5448 shall thereupon continue custody only as provided in subsection
5449 (1)(a) of this section.
5450 (2) When it is necessary to take a child into custody, the
5451 least restrictive custody should be selected.
5452 (3) Unless the child is immediately released, the person
5453 taking the child into custody shall immediately notify the judge
5454 or his designee. A person taking a child into custody shall also
5455 make continuing reasonable efforts to notify the child's parent,
5456 guardian or custodian and invite the parent, guardian or custodian
5457 to be present during any questioning.
5458 (4) A child taken into custody shall not be held in custody
5459 for a period longer than reasonably necessary, but not to exceed

5460 twenty-four (24) hours, and shall be released to his parent,
5461 guardian or custodian unless the judge or his designee authorizes
5462 temporary custody.

5463 **SECTION 64.** Section 45-9-101, Mississippi Code of 1972, is
5464 amended as follows:

5465 45-9-101. (1) (a) Except as otherwise provided, the
5466 Department of Public Safety is authorized to issue licenses to
5467 carry stun guns, concealed pistols or revolvers to persons
5468 qualified as provided in this section. Such licenses shall be
5469 valid throughout the state for a period of five (5) years from the
5470 date of issuance, except as provided in subsection (25) of this
5471 section. Any person possessing a valid license issued pursuant to
5472 this section may carry a stun gun, concealed pistol or concealed
5473 revolver.

5474 (b) The licensee must carry the license, together with
5475 valid identification, at all times in which the licensee is
5476 carrying a stun gun, concealed pistol or revolver and must display
5477 both the license and proper identification upon demand by a law
5478 enforcement officer. A violation of the provisions of this
5479 paragraph (b) shall constitute a noncriminal violation with a
5480 penalty of Twenty-five Dollars ($25.00) and shall be enforceable
5481 by summons.

5482 (2) The Department of Public Safety shall issue a license if
5483 the applicant:

(a) Is a resident of the state. However, this residency requirement may be waived if the applicant possesses a valid permit from another state, is a member of any active or reserve component branch of the United States of America Armed Forces stationed in Mississippi, is the spouse of a member of any active or reserve component branch of the United States of America Armed Forces stationed in Mississippi, or is a retired law enforcement officer establishing residency in the state;

(b) (i) Is twenty-one (21) years of age or older; or

(ii) Is at least eighteen (18) years of age but not yet twenty-one (21) years of age and the applicant:

1. Is a member or veteran of the United States Armed Forces, including National Guard or Reserve; and

2. Holds a valid Mississippi driver's license or identification card issued by the Department of Public Safety or a valid and current tribal identification card issued by a federally recognized Indian tribe containing a photograph of the holder;

(c) Does not suffer from a physical infirmity which prevents the safe handling of a stun gun, pistol or revolver;

(d) Is not ineligible to possess a firearm by virtue of having been convicted of a felony in a court of this state, of any other state, or of the United States without having been pardoned or without having been expunged for same;

5508 (e) Does not chronically or habitually abuse controlled
5509 substances to the extent that his normal faculties are impaired.
5510 It shall be presumed that an applicant chronically and habitually
5511 uses controlled substances to the extent that his faculties are
5512 impaired if the applicant has been voluntarily or involuntarily
5513 committed to a treatment facility for the abuse of a controlled
5514 substance or been found guilty of a crime under the provisions of
5515 the Uniform Controlled Substances Law or similar laws of any other
5516 state or the United States relating to controlled substances
5517 within a three-year period immediately preceding the date on which
5518 the application is submitted;
5519 (f) Does not chronically and habitually use alcoholic
5520 beverages to the extent that his normal faculties are impaired.
5521 It shall be presumed that an applicant chronically and habitually
5522 uses alcoholic beverages to the extent that his normal faculties
5523 are impaired if the applicant has been voluntarily or
5524 involuntarily committed as an alcoholic to a treatment facility or
5525 has been convicted of two (2) or more offenses related to the use
5526 of alcohol under the laws of this state or similar laws of any
5527 other state or the United States within the three-year period
5528 immediately preceding the date on which the application is
5529 submitted;
5530 (g) Desires a legal means to carry a stun gun,
5531 concealed pistol or revolver to defend himself;

(h) Has not been adjudicated mentally incompetent, or has waited five (5) years from the date of his restoration to capacity by court order;

(i) Has not been voluntarily or involuntarily committed to a mental institution or mental health treatment facility unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of five (5) years;

(j) Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony unless three (3) years have elapsed since probation or any other conditions set by the court have been fulfilled;

(k) Is not a fugitive from justice; and

(l) Is not disqualified to possess a weapon based on federal law.

(3) The Department of Public Safety may deny a license if the applicant has been found guilty of one or more crimes of violence constituting a misdemeanor unless three (3) years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred prior to the date on which the application is submitted, or may revoke a license if the licensee has been found guilty of one or more crimes of violence within the preceding three (3) years. The department shall, upon notification by a law enforcement agency or a court and subsequent written verification, suspend a license or the

processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime which would disqualify such person from having a license under this section, until final disposition of the case. The provisions of subsection (7) of this section shall apply to any suspension or revocation of a license pursuant to the provisions of this section.

(4) The application shall be completed, under oath, on a form promulgated by the Department of Public Safety and shall include only:

(a) The name, address, place and date of birth, race, sex and occupation of the applicant;

(b) The driver's license number or social security number of applicant;

(c) Any previous address of the applicant for the two (2) years preceding the date of the application;

(d) A statement that the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(e) A statement that the applicant has been furnished a copy of this section and is knowledgeable of its provisions;

(f) A conspicuous warning that the application is executed under oath and that a knowingly false answer to any question, or the knowing submission of any false document by the applicant, subjects the applicant to criminal prosecution; and

5581 (g) A statement that the applicant desires a legal
5582 means to carry a stun gun, concealed pistol or revolver to defend
5583 himself.
5584 (5) The applicant shall submit only the following to the
5585 Department of Public Safety:
5586 (a) A completed application as described in subsection
5587 (4) of this section;
5588 (b) A full-face photograph of the applicant taken
5589 within the preceding thirty (30) days in which the head, including
5590 hair, in a size as determined by the Department of Public Safety,
5591 except that an applicant who is younger than twenty-one (21) years
5592 of age must submit a photograph in profile of the applicant;
5593 (c) A nonrefundable license fee of Eighty Dollars
5594 ($80.00). Costs for processing the set of fingerprints as
5595 required in paragraph (d) of this subsection shall be borne by the
5596 applicant. Honorably retired law enforcement officers, disabled
5597 veterans and active duty members of the Armed Forces of the United
5598 States, and law enforcement officers employed with a law
5599 enforcement agency of a municipality, county or state at the time
5600 of application for the license, shall be exempt from the payment
5601 of the license fee;
5602 (d) A full set of fingerprints of the applicant
5603 administered by the Department of Public Safety; and
5604 (e) A waiver authorizing the Department of Public
5605 Safety access to any records concerning commitments of the

5606 applicant to any of the treatment facilities or institutions
5607 referred to in subsection (2) of this section and permitting
5608 access to all the applicant's criminal records.
5609 (6) (a) The Department of Public Safety, upon receipt of
5610 the items listed in subsection (5) of this section, shall forward
5611 the full set of fingerprints of the applicant to the appropriate
5612 agencies for state and federal processing.
5613 (b) The Department of Public Safety shall forward a
5614 copy of the applicant's application to the sheriff of the
5615 applicant's county of residence and, if applicable, the police
5616 chief of the applicant's municipality of residence. The sheriff
5617 of the applicant's county of residence, and, if applicable, the
5618 police chief of the applicant's municipality of residence may, at
5619 his discretion, participate in the process by submitting a
5620 voluntary report to the Department of Public Safety containing any
5621 readily discoverable prior information that he feels may be
5622 pertinent to the licensing of any applicant. The reporting shall
5623 be made within thirty (30) days after the date he receives the
5624 copy of the application. Upon receipt of a response from a
5625 sheriff or police chief, such sheriff or police chief shall be
5626 reimbursed at a rate set by the department.
5627 (c) The Department of Public Safety shall, within
5628 forty-five (45) days after the date of receipt of the items listed
5629 in subsection (5) of this section:
5630 (i) Issue the license;

(ii) Deny the application based solely on the ground that the applicant fails to qualify under the criteria listed in subsections (2) and (3) of this section. If the Department of Public Safety denies the application, it shall notify the applicant in writing, stating the ground for denial, and the denial shall be subject to the appeal process set forth in subsection (7); or

(iii) Notify the applicant that the department is unable to make a determination regarding the issuance or denial of a license within the forty-five-day period prescribed by this subsection, and provide an estimate of the amount of time the department will need to make the determination.

(d) In the event a legible set of fingerprints, as determined by the Department of Public Safety and the Federal Bureau of Investigation, cannot be obtained after a minimum of two (2) attempts, the Department of Public Safety shall determine eligibility based upon a name check by the Mississippi Highway Safety Patrol and a Federal Bureau of Investigation name check conducted by the Mississippi Highway Safety Patrol at the request of the Department of Public Safety.

(7) (a) If the Department of Public Safety denies the issuance of a license, or suspends or revokes a license, the party aggrieved may appeal such denial, suspension or revocation to the Commissioner of Public Safety, or his authorized agent, within thirty (30) days after the aggrieved party receives written notice

of such denial, suspension or revocation. The Commissioner of Public Safety, or his duly authorized agent, shall rule upon such appeal within thirty (30) days after the appeal is filed and failure to rule within this thirty-day period shall constitute sustaining such denial, suspension or revocation. Such review shall be conducted pursuant to such reasonable rules and regulations as the Commissioner of Public Safety may adopt.

(b) If the revocation, suspension or denial of issuance is sustained by the Commissioner of Public Safety, or his duly authorized agent pursuant to paragraph (a) of this subsection, the aggrieved party may file within ten (10) days after the rendition of such decision a petition in the circuit or county court of his residence for review of such decision. A hearing for review shall be held and shall proceed before the court without a jury upon the record made at the hearing before the Commissioner of Public Safety or his duly authorized agent. No such party shall be allowed to carry a stun gun, concealed pistol or revolver pursuant to the provisions of this section while any such appeal is pending.

(8) The Department of Public Safety shall maintain an automated listing of license holders and such information shall be available online, upon request, at all times, to all law enforcement agencies through the Mississippi Crime Information Center. However, the records of the department relating to applications for licenses to carry stun guns, concealed pistols or

revolvers and records relating to license holders shall be exempt from the provisions of the Mississippi Public Records Act of 1983, and shall be released only upon order of a court having proper jurisdiction over a petition for release of the record or records.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after having a license lost or destroyed, the licensee shall notify the Department of Public Safety in writing of such change or loss. Failure to notify the Department of Public Safety pursuant to the provisions of this subsection shall constitute a noncriminal violation with a penalty of Twenty-five Dollars ($25.00) and shall be enforceable by a summons.

(10) In the event that a stun gun, concealed pistol or revolver license is lost or destroyed, the person to whom the license was issued shall comply with the provisions of subsection (9) of this section and may obtain a duplicate, or substitute thereof, upon payment of Fifteen Dollars ($15.00) to the Department of Public Safety, and furnishing a notarized statement to the department that such license has been lost or destroyed.

(11) A license issued under this section shall be revoked if the licensee becomes ineligible under the criteria set forth in subsection (2) of this section.

(12) (a) Except as provided in subsection (25) of this section, no less than ninety (90) days prior to the expiration date of the license, the Department of Public Safety shall mail to

each licensee a written notice of the expiration and a renewal form prescribed by the department. The licensee must renew his license on or before the expiration date by filing with the department the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and a full set of fingerprints administered by the Department of Public Safety or the sheriff of the county of residence of the licensee. The first renewal may be processed by mail and the subsequent renewal must be made in person. Thereafter every other renewal may be processed by mail to assure that the applicant must appear in person every ten (10) years for the purpose of obtaining a new photograph.

(i) Except as provided in this subsection, a renewal fee of Forty Dollars ($40.00) shall also be submitted along with costs for processing the fingerprints;

(ii) Honorably retired law enforcement officers, disabled veterans, active duty members of the Armed Forces of the United States and law enforcement officers employed with a law enforcement agency of a municipality, county or state at the time of renewal, shall be exempt from the renewal fee; and

(iii) The renewal fee for a Mississippi resident aged sixty-five (65) years of age or older shall be Twenty Dollars ($20.00).

(b) The Department of Public Safety shall forward the full set of fingerprints of the applicant to the appropriate agencies for state and federal processing. The license shall be renewed upon receipt of the completed renewal application and appropriate payment of fees.

(c) A licensee who fails to file a renewal application on or before its expiration date must renew his license by paying a late fee of Fifteen Dollars ($15.00). No license shall be renewed six (6) months or more after its expiration date, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure; however, an application for licensure and fees pursuant to subsection (5) of this section must be submitted, and a background investigation shall be conducted pursuant to the provisions of this section.

(13) No license issued pursuant to this section shall authorize any person, except a law enforcement officer as defined in Section 45-6-3 with a distinct license authorized by the Department of Public Safety, to carry a stun gun, concealed pistol or revolver into any place of nuisance as defined in Section 95-3-1, Mississippi Code of 1972; any police, sheriff or highway patrol station; any detention facility, prison or jail; any courthouse; any courtroom, except that nothing in this section shall preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his courtroom;

any polling place; any meeting place of the governing body of any governmental entity; any meeting of the Legislature or a committee thereof; any school, college or professional athletic event not related to firearms; any portion of an establishment, licensed to dispense alcoholic beverages for consumption on the premises, that is primarily devoted to dispensing alcoholic beverages; any portion of an establishment in which beer, light spirit product or light wine is consumed on the premises, that is primarily devoted to such purpose; any elementary or secondary school facility; any junior college, community college, college or university facility unless for the purpose of participating in any authorized firearms-related activity; inside the passenger terminal of any airport, except that no person shall be prohibited from carrying any legal firearm into the terminal if the firearm is encased for shipment, for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; any church or other place of worship, except as provided in Section 45-9-171; or any place where the carrying of firearms is prohibited by federal law. In addition to the places enumerated in this subsection, the carrying of a stun gun, concealed pistol or revolver may be disallowed in any place in the discretion of the person or entity exercising control over the physical location of such place by the placing of a written notice clearly readable at a distance of not less than ten (10) feet that the "carrying of a pistol or revolver is prohibited." No license issued pursuant to this section shall

authorize the participants in a parade or demonstration for which a permit is required to carry a stun gun, concealed pistol or revolver.

(14) A law enforcement officer as defined in Section 45-6-3, chiefs of police, sheriffs and persons licensed as professional bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of 1972, shall be exempt from the licensing requirements of this section.

(a) The Commissioner of Public Safety shall promulgate rules and regulations to provide licenses to law enforcement officers as defined in Section 45-6-3 who choose to obtain a license under the provisions of this section, which shall include a distinction that the officer is an "active duty" law enforcement officer and an endorsement that such officer is authorized to carry in the locations listed in subsection (13). A law enforcement officer shall provide the following information to receive the license described in this subsection: (i) a letter, with the official letterhead of the agency or department for which the officer is employed at the time of application and (ii) a letter with the official letterhead of the agency or department, which explains that such officer has completed a certified law enforcement training academy.

(b) The licensing requirements of this section do not apply to the carrying by any person of a stun gun, pistol or

revolver, knife, or other deadly weapon that is not concealed as defined in Section 97-37-1.

(15) Any person who knowingly submits a false answer to any question on an application for a license issued pursuant to this section, or who knowingly submits a false document when applying for a license issued pursuant to this section, shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in Section 99-19-31, Mississippi Code of 1972.

(16) All fees collected by the Department of Public Safety pursuant to this section shall be deposited into a special fund hereby created in the State Treasury and shall be used for implementation and administration of this section. After the close of each fiscal year, the balance in this fund shall be certified to the Legislature and then may be used by the Department of Public Safety as directed by the Legislature.

(17) All funds received by a sheriff or police chief pursuant to the provisions of this section shall be deposited into the general fund of the county or municipality, as appropriate, and shall be budgeted to the sheriff's office or police department as appropriate.

(18) Nothing in this section shall be construed to require or allow the registration, documentation or providing of serial numbers with regard to any stun gun or firearm.

(19) Any person holding a valid unrevoked and unexpired license to carry stun guns, concealed pistols or revolvers issued

in another state shall have such license recognized by this state to carry stun guns, concealed pistols or revolvers. The Department of Public Safety is authorized to enter into a reciprocal agreement with another state if that state requires a written agreement in order to recognize licenses to carry stun guns, concealed pistols or revolvers issued by this state.

(20) The provisions of this section shall be under the supervision of the Commissioner of Public Safety. The commissioner is authorized to promulgate reasonable rules and regulations to carry out the provisions of this section.

(21) For the purposes of this section, the term "stun gun" means a portable device or weapon from which an electric current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to incapacitate temporarily, injure, momentarily stun, knock out, cause mental disorientation or paralyze.

(22) (a) From and after January 1, 2016, the Commissioner of Public Safety shall promulgate rules and regulations which provide that licenses authorized by this section for honorably retired law enforcement officers and honorably retired correctional officers from the Mississippi Department of Corrections shall (i) include the words "retired law enforcement officer" on the front of the license, and (ii) unless the licensee chooses to have this license combined with a driver's license or identification card under subsection (25) of this section, that

the license itself have a red background to distinguish it from other licenses issued under this section.

(b) An honorably retired law enforcement officer and honorably retired correctional officer shall provide the following information to receive the license described in this section: (i) a letter, with the official letterhead of the agency or department from which such officer is retiring, which explains that such officer is honorably retired, and (ii) a letter with the official letterhead of the agency or department, which explains that such officer has completed a certified law enforcement training academy.

(23) A disabled veteran who seeks to qualify for an exemption under this section shall be required to provide a veterans health services identification card issued by the United States Department of Veterans Affairs indicating a service-connected disability, which shall be sufficient proof of such service-connected disability.

(24) A license under this section is not required for a loaded or unloaded pistol or revolver to be carried upon the person in a sheath, belt holster or shoulder holster or in a purse, handbag, satchel, other similar bag or briefcase or fully enclosed case if the person is not engaged in criminal activity other than a misdemeanor traffic offense, is not otherwise prohibited from possessing a pistol or revolver under state or federal law, and is not in a location prohibited under subsection

5879 (13) of this section. However, the medical use of medical
5880 cannabis by a cardholder who is a registered qualifying patient
5881 which is lawful under the provisions of the Mississippi Medical
5882 Cannabis Act and in compliance with rules and regulations adopted
5883 thereunder shall not disqualify a person under this subsection
5884 (24) solely because the person is prohibited from possessing a
5885 firearm under 18 USCS Section 922(g)(3) due to such medical use of
5886 medical cannabis.
5887 (25) An applicant for a license under this section shall
5888 have the option of, instead of being issued a separate card for
5889 the license, having the license appear as a notation on the
5890 individual's driver's license or identification card. If the
5891 applicant chooses this option, the license issued under this
5892 section shall have the same expiration date as the driver's
5893 license or identification card, and renewal shall take place at
5894 the same time and place as renewal of the driver's license or
5895 identification card. The Commissioner of Public Safety shall have
5896 the authority to promulgate rules and regulations which may be
5897 necessary to ensure the effectiveness of the concurrent
5898 application and renewal processes.
5899 **SECTION 65.** Section 59-23-7, Mississippi Code of 1972, is
5900 amended as follows:
5901 59-23-7. (1) It is unlawful for any person to operate a
5902 watercraft on the public waters of this state who:
5903 (a) Is under the influence of intoxicating liquor;

(b) Is under the influence of any other substance which has impaired such person's ability to operate a watercraft; or

(c) Has eight one-hundredths percent (.08%) or more by weight volume of alcohol in the person's blood based upon milligrams of alcohol per one hundred (100) cubic centimeters of blood as shown by a chemical analysis of such person's breath, blood or urine administered as authorized by this chapter.

(2) (a) Upon conviction of any person for the first offense of violating subsection (1) of this section where chemical tests provided for under Section 59-23-5 were given, or where chemical test results are not available, such person shall be fined not less than Two Hundred Fifty Dollars ($250.00) nor more than One Thousand Dollars ($1,000.00), or imprisoned for not more than twenty-four (24) hours in jail, or both; and the court shall order such person to attend and complete a boating safety education course developed by the Department of Wildlife, Fisheries and Parks.

(b) Upon any second conviction of any person violating subsection (1) of this section, the offenses being committed within a period of five (5) years, the person shall be fined not less than Six Hundred Dollars ($600.00) nor more than One Thousand Dollars ($1,000.00) and shall be imprisoned not less than forty-eight (48) consecutive hours nor more than one (1) year or sentenced to community service work for not less than ten (10)

days nor more than one (1) year. The court shall order the person not to operate a watercraft for one (1) year.

(c) For any third conviction of any person violating subsection (1) of this section, the offenses being committed within a period of five (5) years, the person shall be fined not less than Eight Hundred Dollars ($800.00) nor more than One Thousand Dollars ($1,000.00) and shall be imprisoned not less than thirty (30) days nor more than one (1) year. The court shall order the person not to operate a watercraft for two (2) years.

(d) Any fourth or subsequent violation of subsection (1) of this section shall be a felony offense and, upon conviction, the offenses being committed within a period of five (5) years, the person shall be fined not less than Two Thousand Dollars ($2,000.00) nor more than Five Thousand Dollars ($5,000.00) and shall be imprisoned not less than ninety (90) days nor more than five (5) years in the custody of the Department of Corrections. The court shall order the person not to operate a watercraft for three (3) years.

(3) Any person convicted of operating any watercraft in violation of subsection (1) of this section where the person (a) refused a law enforcement officer's request to submit to a chemical test, or (b) was unconscious at the time of a chemical test and refused to consent to the introduction of the results of such test in any prosecution, shall be punished consistent with the penalties prescribed herein for persons submitting to the test

and the court shall order the person not to operate a watercraft for the time periods specified in subsection (2) of this section.

(4) Any person who operates any watercraft in violation of the provisions of subsection (1) of this section and who in a negligent manner causes the death of another or mutilates, disfigures, permanently disables or destroys the tongue, eye, lip, nose or any other member or limb of another shall, upon conviction, be guilty of a felony and shall be committed to the custody of the Department of Corrections for a period of time not to exceed ten (10) years.

(5) Upon conviction of any violation of subsection (1) of this section, the judge shall cause a copy of the citation and any other pertinent documents concerning the conviction to be sent immediately to the Mississippi Department of Wildlife, Fisheries and Parks and the Department of Marine Resources. A copy of the citation or other pertinent documents, having been attested as true and correct by the Director of the Mississippi Department of Wildlife, Fisheries and Parks, or his designee, or the Director of the Department of Marine Resources, or his designee, shall be sufficient proof of the conviction for purposes of determining the enhanced penalty for any subsequent convictions of violations of subsection (1) of this section.

<u>(6) The provisions of this section are fully applicable to any person who is under the influence of medical cannabis that is lawful under the Mississippi Medical Cannabis Act and in</u>

5978 compliance with rules and regulations adopted thereunder which has
5979 impaired the person's ability to operate a watercraft.
5980 **SECTION 66.** Section 63-11-30, Mississippi Code of 1972, is
5981 amended as follows:
5982 63-11-30. (1) It is unlawful for a person to drive or
5983 otherwise operate a vehicle within this state if the person:
5984 (a) Is under the influence of intoxicating liquor;
5985 (b) Is under the influence of any other substance that
5986 has impaired the person's ability to operate a motor vehicle;
5987 (c) Is under the influence of any drug or controlled
5988 substance, the possession of which is unlawful under the
5989 Mississippi Controlled Substances Law; or
5990 (d) Has an alcohol concentration in the person's blood,
5991 based upon grams of alcohol per one hundred (100) milliliters of
5992 blood, or grams of alcohol per two hundred ten (210) liters of
5993 breath, as shown by a chemical analysis of the person's breath,
5994 blood or urine administered as authorized by this chapter, of:
5995 (i) Eight one-hundredths percent (.08%) or more
5996 for a person who is above the legal age to purchase alcoholic
5997 beverages under state law;
5998 (ii) Two one-hundredths percent (.02%) or more for
5999 a person who is below the legal age to purchase alcoholic
6000 beverages under state law; or
6001 (iii) Four one-hundredths percent (.04%) or more
6002 for a person operating a commercial motor vehicle.

(2) Except as otherwise provided in subsection (3) of this section (Zero Tolerance for Minors):

(a) **First offense DUI.** (i) Upon conviction of any person for the first offense of violating subsection (1) of this section where chemical tests under Section 63-11-5 were given, or where chemical test results are not available, the person shall be fined not less than Two Hundred Fifty Dollars ($250.00) nor more than One Thousand Dollars ($1,000.00), or imprisoned for not more than forty-eight (48) hours in jail, or both; the court shall order the person to attend and complete an alcohol safety education program as provided in Section 63-11-32 within six (6) months of sentencing. The court may substitute attendance at a victim impact panel instead of forty-eight (48) hours in jail.

(ii) Suspension of commercial driving privileges is governed by Section 63-1-216.

(iii) A qualifying first offense may be nonadjudicated by the court under subsection (14) of this section. The holder of a commercial driver's license or a commercial learning permit at the time of the offense is ineligible for nonadjudication.

(iv) Eligibility for an interlock-restricted license is governed by Section 63-11-31 and suspension of regular driving privileges is governed by Section 63-11-23.

(b) **Second offense DUI.** (i) Upon any second conviction of any person violating subsection (1) of this section,

the offenses being committed within a period of five (5) years, the person shall be guilty of a misdemeanor, fined not less than Six Hundred Dollars ($600.00) nor more than One Thousand Five Hundred Dollars ($1,500.00), shall be imprisoned not less than five (5) days nor more than six (6) months and sentenced to community service work for not less than ten (10) days nor more than six (6) months. The minimum penalties shall not be suspended or reduced by the court and no prosecutor shall offer any suspension or sentence reduction as part of a plea bargain.

(ii) Suspension of commercial driving privileges is governed by Section 63-1-216.

(iii) Eligibility for an interlock-restricted license is governed by Section 63-11-31 and suspension of regular driving privileges is governed by Section 63-11-23.

(c) **Third offense DUI.** (i) For a third conviction of a person for violating subsection (1) of this section, the offenses being committed within a period of five (5) years, the person shall be guilty of a felony and fined not less than Two Thousand Dollars ($2,000.00) nor more than Five Thousand Dollars ($5,000.00), and shall serve not less than one (1) year nor more than five (5) years in the custody of the Department of Corrections. For any offense that does not result in serious injury or death to any person, the sentence of incarceration may be served in the county jail rather than in the State Penitentiary at the discretion of the circuit court judge. The minimum

6053 penalties shall not be suspended or reduced by the court and no
6054 prosecutor shall offer any suspension or sentence reduction as
6055 part of a plea bargain.
6056 (ii) The suspension of commercial driving
6057 privileges is governed by Section 63-1-216.
6058 (iii) The suspension of regular driving privileges
6059 is governed by Section 63-11-23.
6060 (d) **Fourth and subsequent offense DUI.** (i) For any
6061 fourth or subsequent conviction of a violation of subsection (1)
6062 of this section, without regard to the time period within which
6063 the violations occurred, the person shall be guilty of a felony
6064 and fined not less than Three Thousand Dollars ($3,000.00) nor
6065 more than Ten Thousand Dollars ($10,000.00), and shall serve not
6066 less than two (2) years nor more than ten (10) years in the
6067 custody of the Department of Corrections.
6068 (ii) The suspension of commercial driving
6069 privileges is governed by Section 63-1-216.
6070 (iii) A person convicted of a fourth or subsequent
6071 offense is ineligible to exercise the privilege to operate a motor
6072 vehicle that is not equipped with an ignition-interlock device for
6073 ten (10) years.
6074 (e) Any person convicted of a second or subsequent
6075 violation of subsection (1) of this section shall receive an
6076 in-depth diagnostic assessment, and if as a result of the
6077 assessment is determined to be in need of treatment for alcohol or

drug abuse, the person must successfully complete treatment at a program site certified by the Department of Mental Health. Each person who receives a diagnostic assessment shall pay a fee representing the cost of the assessment. Each person who participates in a treatment program shall pay a fee representing the cost of treatment.

(f) The use of ignition-interlock devices is governed by Section 63-11-31.

(3) **Zero Tolerance for Minors.** (a) This subsection shall be known and may be cited as Zero Tolerance for Minors. The provisions of this subsection shall apply only when a person under the age of twenty-one (21) years has a blood alcohol concentration of two one-hundredths percent (.02%) or more, but lower than eight one-hundredths percent (.08%). If the person's blood alcohol concentration is eight one-hundredths percent (.08%) or more, the provisions of subsection (2) shall apply.

(b) (i) A person under the age of twenty-one (21) is eligible for nonadjudication of a qualifying first offense by the court pursuant to subsection (14) of this section.

(ii) Upon conviction of any person under the age of twenty-one (21) years for the first offense of violating subsection (1) of this section where chemical tests provided for under Section 63-11-5 were given, or where chemical test results are not available, the person shall be fined Two Hundred Fifty Dollars ($250.00); the court shall order the person to attend and

complete an alcohol safety education program as provided in Section 63-11-32 within six (6) months. The court may also require attendance at a victim impact panel.

(c) A person under the age of twenty-one (21) years who is convicted of a second violation of subsection (1) of this section, the offenses being committed within a period of five (5) years, shall be fined not more than Five Hundred Dollars ($500.00).

(d) A person under the age of twenty-one (21) years who is convicted of a third or subsequent violation of subsection (1) of this section, the offenses being committed within a period of five (5) years, shall be fined not more than One Thousand Dollars ($1,000.00).

(e) License suspension is governed by Section 63-11-23 and ignition interlock is governed by Section 63-11-31.

(f) Any person under the age of twenty-one (21) years convicted of a third or subsequent violation of subsection (1) of this section must complete treatment of an alcohol or drug abuse program at a site certified by the Department of Mental Health.

(4) **DUI test refusal.** In addition to the other penalties provided in this section, every person refusing a law enforcement officer's request to submit to a chemical test of the person's breath as provided in this chapter, or who was unconscious at the time of a chemical test and refused to consent to the introduction of the results of the test in any prosecution, shall suffer an

additional administrative suspension of driving privileges as set forth in Section 63-11-23.

(5) **Aggravated DUI.** (a) Every person who operates any motor vehicle in violation of the provisions of subsection (1) of this section and who in a negligent manner causes the death of another or mutilates, disfigures, permanently disables or destroys the tongue, eye, lip, nose or any other limb, organ or member of another shall, upon conviction, be guilty of a separate felony for each victim who suffers death, mutilation, disfigurement or other injury and shall be committed to the custody of the State Department of Corrections for a period of time of not less than five (5) years and not to exceed twenty-five (25) years for each death, mutilation, disfigurement or other injury, and the imprisonment for the second or each subsequent conviction, in the discretion of the court, shall commence either at the termination of the imprisonment for the preceding conviction or run concurrently with the preceding conviction. Any person charged with causing the death of another as described in this subsection shall be required to post bail before being released after arrest.

(b) A holder of a commercial driver's license who is convicted of operating a commercial motor vehicle with an alcohol concentration of eight one- *** * ***<u>hundredths</u> percent (.08%) or more shall be guilty of a felony and shall be committed to the custody of the Department of Corrections for not less than two (2) years and not more than ten (10) years.

(c) The court shall order an ignition-interlock restriction on the offender's privilege to drive as a condition of probation or post-release supervision not to exceed five (5) years unless a longer restriction is required under other law. The ignition-interlock restriction shall not be applied to commercial license privileges until the driver serves the full disqualification period required by Section 63-1-216.

(6) **DUI citations.** (a) Upon conviction of a violation of subsection (1) of this section, the trial judge shall sign in the place provided on the traffic ticket, citation or affidavit stating that the person arrested either employed an attorney or waived his right to an attorney after having been properly advised. If the person arrested employed an attorney, the name, address and telephone number of the attorney shall be written on the ticket, citation or affidavit. The court clerk must immediately send a copy of the traffic ticket, citation or affidavit, and any other pertinent documents concerning the conviction or other order of the court, to the Department of Public Safety as provided in Section 63-11-37.

(b) A copy of the traffic ticket, citation or affidavit and any other pertinent documents, having been attested as true and correct by the Commissioner of Public Safety, or his designee, shall be sufficient proof of the conviction for purposes of determining the enhanced penalty for any subsequent convictions of violations of subsection (1) of this section. The Department of

Public Safety shall maintain a central database for verification of prior offenses and convictions.

(7) **Out-of-state prior convictions.** Convictions in another state, territory or possession of the United States, or under the law of a federally recognized Native American tribe, of violations for driving or operating a vehicle while under the influence of an intoxicating liquor or while under the influence of any other substance that has impaired the person's ability to operate a motor vehicle occurring within five (5) years before an offense shall be counted for the purposes of determining if a violation of subsection (1) of this section is a second, third, fourth or subsequent offense and the penalty that shall be imposed upon conviction for a violation of subsection (1) of this section.

(8) **Charging of subsequent offenses.** (a) For the purposes of determining how to impose the sentence for a second, third, fourth or subsequent conviction under this section, the affidavit or indictment shall not be required to enumerate previous convictions. It shall only be necessary that the affidavit or indictment states the number of times that the defendant has been convicted and sentenced within the past five (5) years for a second or third offense, or without a time limitation for a fourth or subsequent offense, under this section to determine if an enhanced penalty shall be imposed. The amount of fine and imprisonment imposed in previous convictions shall not be

6202 considered in calculating offenses to determine a second, third,
6203 fourth or subsequent offense of this section.
6204 (b) Before a defendant enters a plea of guilty to an
6205 offense under this section, law enforcement must submit
6206 certification to the prosecutor that the defendant's driving
6207 record, the confidential registry and National Crime Information
6208 Center record have been searched for all prior convictions,
6209 nonadjudications, pretrial diversions and arrests for driving or
6210 operating a vehicle while under the influence of an intoxicating
6211 liquor or while under the influence of any other substance that
6212 has impaired the person's ability to operate a motor vehicle. The
6213 results of the search must be included in the certification.
6214 (9) **License eligibility for underage offenders.** A person
6215 who is under the legal age to obtain a license to operate a motor
6216 vehicle at the time of the offense and who is convicted under this
6217 section shall not be eligible to receive a driver's license until
6218 the person reaches the age of eighteen (18) years.
6219 (10) **License suspensions and restrictions to run**
6220 **consecutively.** Suspension or restriction of driving privileges
6221 for any person convicted of or nonadjudicated for violations of
6222 subsection (1) of this section shall run consecutively to and not
6223 concurrently with any other administrative license suspension.
6224 (11) **Ignition interlock.** If the court orders installation
6225 and use of an ignition-interlock device as provided in Section
6226 63-11-31 for every vehicle operated by a person convicted or

nonadjudicated under this section, each device shall be installed, maintained and removed as provided in Section 63-11-31.

(12) **DUI child endangerment.** A person over the age of twenty-one (21) who violates subsection (1) of this section while transporting in a motor vehicle a child under the age of sixteen (16) years is guilty of the separate offense of endangering a child by driving under the influence of alcohol or any other substance which has impaired the person's ability to operate a motor vehicle. The offense of endangering a child by driving under the influence of alcohol or any other substance which has impaired the person's ability to operate a motor vehicle shall not be merged with an offense of violating subsection (1) of this section for the purposes of prosecution and sentencing. An offender who is convicted of a violation of this subsection shall be punished as follows:

(a) A person who commits a violation of this subsection which does not result in the serious injury or death of a child and which is a first conviction shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than One Thousand Dollars ($1,000.00) or shall be imprisoned for not more than twelve (12) months, or both;

(b) A person who commits a violation of this subsection which does not result in the serious injury or death of a child and which is a second conviction shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than One Thousand

Dollars ($1,000.00) nor more than Five Thousand Dollars ($5,000.00) or shall be imprisoned for one (1) year, or both;

(c) A person who commits a violation of this subsection which does not result in the serious injury or death of a child and which is a third or subsequent conviction shall be guilty of a felony and, upon conviction, shall be fined not less than Ten Thousand Dollars ($10,000.00) or shall be imprisoned for not less than one (1) year nor more than five (5) years, or both; and

(d) A person who commits a violation of this subsection which results in the serious injury or death of a child, without regard to whether the offense was a first, second, third or subsequent offense, shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than Ten Thousand Dollars ($10,000.00) and shall be imprisoned for not less than five (5) years nor more than twenty-five (25) years.

(13) **Expunction.** (a) Any person convicted under subsection (2) or (3) of this section of a first offense of driving under the influence and who was not the holder of a commercial driver's license or a commercial learning permit at the time of the offense may petition the circuit court of the county in which the conviction was had for an order to expunge the record of the conviction at least five (5) years after successful completion of all terms and conditions of the sentence imposed for the conviction. Expunction under this subsection will only be available to a person:

(i) Who has successfully completed all terms and conditions of the sentence imposed for the conviction;

(ii) Who did not refuse to submit to a test of his blood or breath;

(iii) Whose blood alcohol concentration tested below sixteen one-hundredths percent (.16%) if test results are available;

(iv) Who has not been convicted of and does not have pending any other offense of driving under the influence;

(v) Who has provided the court with justification as to why the conviction should be expunged; and

(vi) Who has not previously had a nonadjudication or expunction of a violation of this section.

(b) A person is eligible for only one (1) expunction under this subsection, and the Department of Public Safety shall maintain a permanent confidential registry of all cases of expunction under this subsection for the sole purpose of determining a person's eligibility for expunction, for nonadjudication, or as a first offender under this section.

(c) The court in its order of expunction shall state in writing the justification for which the expunction was granted and forward the order to the Department of Public Safety within five (5) days of the entry of the order.

(14) **Nonadjudication.** (a) For the purposes of this chapter, "nonadjudication" means that the court withholds

adjudication of guilt and sentencing, either at the conclusion of a trial on the merits or upon the entry of a plea of guilt by a defendant, and places the defendant in a nonadjudication program conditioned upon the successful completion of the requirements imposed by the court under this subsection.

(b) A person is eligible for nonadjudication of an offense under this Section 63-11-30 only one (1) time under any provision of a law that authorizes nonadjudication and only for an offender:

(i) Who has successfully completed all terms and conditions imposed by the court after placement of the defendant in a nonadjudication program;

(ii) Who was not the holder of a commercial driver's license or a commercial learning permit at the time of the offense;

(iii) Who has not previously been convicted of and does not have pending any former or subsequent charges under this section; and

(iv) Who has provided the court with justification as to why nonadjudication is appropriate.

(c) Nonadjudication may be initiated upon the filing of a petition for nonadjudication or at any stage of the proceedings in the discretion of the court; the court may withhold adjudication of guilt, defer sentencing, and upon the agreement of the offender to participate in a nonadjudication program, enter an

order imposing requirements on the offender for a period of court supervision before the order of nonadjudication is entered. Failure to successfully complete a nonadjudication program subjects the person to adjudication of the charges against him and to imposition of all penalties previously withheld due to entrance into a nonadjudication program. The court shall immediately inform the commissioner of the conviction as required in Section 63-11-37.

(i) The court shall order the person to:

1. Pay the nonadjudication fee imposed under Section 63-11-31 if applicable;

2. Pay all fines, penalties and assessments that would have been imposed for conviction;

3. Attend and complete an alcohol safety education program as provided in Section 63-11-32 within six (6) months of the date of the order;

4. a. If the court determines that the person violated this section with respect to alcohol or intoxicating liquor, the person must install an ignition-interlock device on every motor vehicle operated by the person, obtain an interlock-restricted license, and maintain that license for one hundred twenty (120) days or suffer a one-hundred-twenty-day suspension of the person's regular driver's license, during which time the person must not operate any vehicle.

b. If the court determines that the person violated this section by operating a vehicle when under the influence of a substance other than alcohol that has impaired the person's ability to operate a motor vehicle, including any drug or controlled substance which is unlawful to possess under the Mississippi Controlled Substances Law, the person must submit to a one-hundred-twenty-day period of a nonadjudication program that includes court-ordered drug testing at the person's own expense not less often than every thirty (30) days, during which time the person may drive if compliant with the terms of the program, or suffer a one-hundred-twenty-day suspension of the person's regular driver's license, during which time the person will not operate any vehicle.

(ii) Other conditions that may be imposed by the court include, but are not limited to, alcohol or drug screening, or both, proof that the person has not committed any other traffic violations while under court supervision, proof of immobilization or impoundment of vehicles owned by the offender if required, and attendance at a victim-impact panel.

(d) The court may enter an order of nonadjudication only if the court finds, after a hearing or after ex parte examination of reliable documentation of compliance, that the offender has successfully completed all conditions imposed by law and previous orders of the court. The court shall retain

jurisdiction over cases involving nonadjudication for a period of not more than two (2) years.

(e) (i) The clerk shall immediately forward a record of every person placed in a nonadjudication program and of every nonadjudication order to the Department of Public Safety for inclusion in the permanent confidential registry of all cases that are nonadjudicated under this subsection (14).

(ii) Judges, clerks and prosecutors involved in the trial of implied consent violations and law enforcement officers involved in the issuance of citations for implied consent violations shall have secure online access to the confidential registry for the purpose of determining whether a person has previously been the subject of a nonadjudicated case and 1. is therefore ineligible for another nonadjudication; 2. is ineligible as a first offender for a violation of this section; or 3. is ineligible for expunction of a conviction of a violation of this section.

(iii) The Driver Services Bureau of the department shall have access to the confidential registry for the purpose of determining whether a person is eligible for a form of license not restricted to operating a vehicle equipped with an ignition-interlock device.

(iv) The Mississippi Alcohol Safety Education Program shall have secure online access to the confidential registry for research purposes only.

6400 (15) The provisions of this section are fully applicable to
6401 any person who is under the influence of medical cannabis that is
6402 lawful under the Mississippi Medical Cannabis Act and in
6403 compliance with rules and regulations adopted thereunder which has
6404 impaired the person's ability to operate a motor vehicle.
6405 **SECTION 67.** Section 71-3-7, Mississippi Code of 1972, is
6406 amended as follows:
6407 71-3-7. (1) Compensation shall be payable for disability or
6408 death of an employee from injury or occupational disease arising
6409 out of and in the course of employment, without regard to fault as
6410 to the cause of the injury or occupational disease. An
6411 occupational disease shall be deemed to arise out of and in the
6412 course of employment when there is evidence that there is a direct
6413 causal connection between the work performed and the occupational
6414 disease. In all claims in which no benefits, including
6415 disability, death and medical benefits, have been paid, the
6416 claimant shall file medical records in support of his claim for
6417 benefits when filing a petition to controvert. If the claimant is
6418 unable to file the medical records in support of his claim for
6419 benefits at the time of filing the petition to controvert because
6420 of a limitation of time established by Section 71-3-35 or Section
6421 71-3-53, the claimant shall file medical records in support of his
6422 claim within sixty (60) days after filing the petition to
6423 controvert.

6424 (2) Where a preexisting physical handicap, disease, or
6425 lesion is shown by medical findings to be a material contributing
6426 factor in the results following injury, the compensation which,
6427 but for this subsection, would be payable shall be reduced by that
6428 proportion which such preexisting physical handicap, disease, or
6429 lesion contributed to the production of the results following the
6430 injury. The preexisting condition does not have to be
6431 occupationally disabling for this apportionment to apply.
6432 (3) The following provisions shall apply to subsections (1)
6433 and (2) of this section:
6434 (a) Apportionment shall not be applied until the
6435 claimant has reached maximum medical recovery.
6436 (b) The employer or carrier does not have the power to
6437 determine the date of maximum medical recovery or percentage of
6438 apportionment. This must be done by the attorney-referee, subject
6439 to review by the commission as the ultimate finder of fact.
6440 (c) After the date the claimant reaches maximum medical
6441 recovery, weekly compensation benefits and maximum recovery shall
6442 be reduced by that proportion which the preexisting physical
6443 handicap, disease, or lesion contributes to the results following
6444 injury.
6445 (d) If maximum medical recovery has occurred before the
6446 hearing and order of the attorney-referee, credit for excess
6447 payments shall be allowed in future payments. Such allowances and
6448 method of accomplishment of the same shall be determined by the

attorney-referee, subject to review by the commission. However, no actual repayment of such excess shall be made to the employer or carrier.

(4) No compensation shall be payable if the use of drugs illegally, or the use of a valid prescription medication(s) taken contrary to the prescriber's instructions and/or contrary to label warnings, <u>or the use of medical cannabis in accordance with the Mississippi Medical Cannabis Act and rules and regulations adopted thereunder,</u> or intoxication due to the use of alcohol of the employee was the proximate cause of the injury, or if it was the willful intention of the employee to injure or kill himself or another.

(5) Every employer to whom this chapter applies shall be liable for and shall secure the payment to his employees of the compensation payable under its provisions.

(6) In the case of an employer who is a subcontractor, the contractor shall be liable for and shall secure the payment of such compensation to employees of the subcontractor, unless the subcontractor has secured such payment.

SECTION 68. Section 71-3-121, Mississippi Code of 1972, is amended as follows:

71-3-121. (1) In the event that an employee sustains an injury at work or asserts a work-related injury, the employer shall have the right to administer drug and alcohol testing or require that the employee submit himself to drug and alcohol

testing. If the employee has a positive test indicating the presence, at the time of injury, of any drug illegally used or the use of a valid prescription medication(s) taken contrary to the prescriber's instructions and/or contrary to label warnings, or the use of medical cannabis in accordance with the Mississippi Medical Cannabis Act and rules and regulations adopted thereunder, or eight one-hundredths percent (.08%) or more by weight volume of alcohol in the person's blood, it shall be presumed that the proximate cause of the injury was the use of a drug illegally, or the use of a valid prescription medication(s) taken contrary to the prescriber's instructions and/or contrary to label warnings, or the use of medical cannabis in accordance with the Mississippi Medical Cannabis Act and rules and regulations adopted thereunder, or the intoxication due to the use of alcohol by the employee. If the employee refuses to submit himself to drug and alcohol testing immediately after the alleged work-related injury, then it shall be presumed that the employee was using a drug illegally, or was using a valid prescription medication(s) contrary to the prescriber's instructions and/or contrary to label warnings, or the use of medical cannabis in accordance with the Mississippi Medical Cannabis Act and rules and regulations adopted thereunder, or was intoxicated due to the use of alcohol at the time of the accident and that the proximate cause of the injury was the use of a drug illegally, or the use of a valid prescription medication(s) taken contrary to the prescriber's instructions and/or contrary to

label warnings, or the use of medical cannabis in accordance with the Mississippi Medical Cannabis Act and rules and regulations adopted thereunder, or the intoxication due to the use of alcohol of the employee. The burden of proof will then be placed upon the employee to prove that the use of drugs illegally, or the use of a valid prescription medication(s) taken contrary to the prescriber's instructions and/or contrary to label warnings, or the use of medical cannabis in accordance with the Mississippi Medical Cannabis Act and rules and regulations adopted thereunder, or intoxication due to the use of alcohol was not a contributing cause of the accident in order to defeat the defense of the employer provided under Section 71-3-7.

(2) The results of the drug and alcohol tests, employer-administered or otherwise, shall be considered admissible evidence solely on the issue of causation in the determination of the use of drugs illegally, or the use of a valid prescription medication(s) taken contrary to the prescriber's instructions and/or contrary to label warnings, or the use of medical cannabis in accordance with the Mississippi Medical Cannabis Act and rules and regulations adopted thereunder, or the intoxication due to the use of alcohol of an employee at the time of injury for workers' compensation purposes under Section 71-3-7.

(3) No cause of action for defamation of character, libel, slander or damage to reputation arises in favor of any person against an employer under the provisions of this section.

SECTION 69. Section 73-15-29, Mississippi Code of 1972, is amended as follows:

73-15-29. (1) The board shall have power to revoke, suspend or refuse to renew any license issued by the board, or to revoke or suspend any privilege to practice, or to deny an application for a license, or to fine, place on probation and/or discipline a licensee, in any manner specified in this article, upon proof that such person:

(a) Has committed fraud or deceit in securing or attempting to secure such license;

(b) Has been convicted of a felony, or a crime involving moral turpitude or has had accepted by a court a plea of nolo contendere to a felony or a crime involving moral turpitude (a certified copy of the judgment of the court of competent jurisdiction of such conviction or pleas shall be prima facie evidence of such conviction);

(c) Has negligently or willfully acted in a manner inconsistent with the health or safety of the persons under the licensee's care;

(d) Has had a license or privilege to practice as a registered nurse or a licensed practical nurse suspended or revoked in any jurisdiction, has voluntarily surrendered such license or privilege to practice in any jurisdiction, has been placed on probation as a registered nurse or licensed practical nurse in any jurisdiction or has been placed under a disciplinary

order(s) in any manner as a registered nurse or licensed practical nurse in any jurisdiction, (a certified copy of the order of suspension, revocation, probation or disciplinary action shall be prima facie evidence of such action);

(e) Has negligently or willfully practiced nursing in a manner that fails to meet generally accepted standards of such nursing practice;

(f) Has negligently or willfully violated any order, rule or regulation of the board pertaining to nursing practice or licensure;

(g) Has falsified or in a repeatedly negligent manner made incorrect entries or failed to make essential entries on records;

(h) Is addicted to or dependent on alcohol or other habit-forming drugs or is a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effect, or has misappropriated any medication;

(i) Has a physical, mental or emotional condition that renders the licensee unable to perform nursing services or duties with reasonable skill and safety;

(j) Has engaged in any other conduct, whether of the same or of a different character from that specified in this article, that would constitute a crime as defined in Title 97 of the Mississippi Code of 1972, as now or hereafter amended, and

that relates to such person's employment as a registered nurse or licensed practical nurse;

(k) Engages in conduct likely to deceive, defraud or harm the public;

(l) Engages in any unprofessional conduct as identified by the board in its rules;

(m) Has violated any provision of this article; or

(n) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2025.

(2) When the board finds any person unqualified because of any of the grounds set forth in subsection (1) of this section, it may enter an order imposing one or more of the following penalties:

(a) Denying application for a license or other authorization to practice nursing or practical nursing;

(b) Administering a reprimand;

(c) Suspending or restricting the license or other authorization to practice as a registered nurse or licensed practical nurse for up to two (2) years without review;

(d) Revoking the license or other authorization to practice nursing or practical nursing;

(e) Requiring the disciplinee to submit to care, counseling or treatment by persons and/or agencies approved or

designated by the board as a condition for initial, continued or renewed licensure or other authorization to practice nursing or practical nursing;

(f) Requiring the disciplinee to participate in a program of education prescribed by the board as a condition for initial, continued or renewed licensure or other authorization to practice;

(g) Requiring the disciplinee to practice under the supervision of a registered nurse for a specified period of time; or

(h) Imposing a fine not to exceed Five Hundred Dollars ($500.00).

(3) In addition to the grounds specified in subsection (1) of this section, the board shall be authorized to suspend the license or privilege to practice of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license or privilege to practice for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license or privilege to practice suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license or privilege to practice suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this article, the

provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

(4) If the public health, safety or welfare imperatively requires emergency action and the board incorporates a finding to that effect in an order, the board may order summary suspension of a license pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined by the board.

(5) The board may establish by rule an alternative to discipline program for licensees who have an impairment as a result of substance abuse or a mental health condition, which program shall include at least the following components:

(a) Participation in the program is voluntary with the licensee, and the licensee must enter the program before the board holds a disciplinary action hearing regarding the licensee;

(b) The full cost of participation in the program, including the cost of any care, counseling, treatment and/or education received by the licensee, shall be borne by the licensee;

(c) All of the procedures and records regarding the licensee's participation in the program shall be confidential, shall not be disclosed and shall be exempt from the provisions of the Mississippi Public Records Act of 1983; and

(d) A licensee may not participate in the program more often than one (1) time during any period of five (5) years or such longer period as set by the board.

(6) A nurse practitioner who provides a written certification as authorized under the Mississippi Medical Cannabis Act and in compliance with rules and regulations adopted thereunder shall not be subject to any disciplinary action under this section solely due to providing the written certification.

SECTION 70. Section 73-19-23, Mississippi Code of 1972, is amended as follows:

73-19-23. (1) (a) The board shall refuse to grant a certificate of licensure to any applicant and may cancel, revoke or suspend the operation of any certificate by it granted for any or all of the following reasons: unprofessional and unethical conduct or the conviction of a crime involving moral turpitude, habitual intemperance in the use of ardent spirits, or stimulants, narcotics, or any other substance that impairs the intellect and judgment to such an extent as to incapacitate one for the performance of the duties of an optometrist. The certificate of licensure of any person can be revoked for violating any section of this chapter.

(b) The board shall conduct a criminal history records check on licensure applicants and on licensees whose licenses are subject to investigation.

(i) The applicant or licensee shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant or licensee shall submit a full set of the applicant's fingerprints in a form or manner prescribed by the board, which shall be forwarded to the Bureau of Investigation Identification Division for this purpose.

(ii) Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or licensee or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

(iii) The board shall provide to the department the fingerprints of the applicant or licensee, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal

records and to the use of the fingerprints and other identifying information required by the state or national repositories.

(iv) The board shall charge and collect from the applicant or licensee, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant or licensee.

(2) The board shall further be authorized to take disciplinary action against a licensee for any unlawful acts, which shall include violations of regulations promulgated by the board, as well as the following acts:

(a) Fraud or misrepresentation in applying for or procuring an optometric license or in connection with applying for or procuring periodic renewal of an optometric license.

(b) Cheating on or attempting to subvert the optometric licensing examination(s).

(c) The conviction of a felony in this state or any other jurisdiction, or the entry of a guilty or nolo contendere plea to a felony charge.

(d) The conviction of a felony as defined by federal law, or the entry of a guilty or nolo contendere plea to a felony charge.

(e) Conduct likely to deceive, defraud or harm the public.

(f) Making a false or misleading statement regarding his or her skill or the efficacy or value of the medicine, device, treatment or remedy prescribed by him or her or used at his or her direction in the treatment of any disease or other condition.

(g) Willfully or negligently violating the confidentiality between doctor and patient, except as required by law.

(h) Negligence or gross incompetence in the practice of optometry as determined by the board.

(i) Being found to be a person with mental illness or with an intellectual disability by any court of competent jurisdiction.

(j) The use of any false, fraudulent, deceptive or misleading statement in any document connected with the practice of optometry.

(k) Aiding or abetting the practice of optometry by an unlicensed, incompetent or impaired person.

(l) Commission of any act of sexual abuse, misconduct or exploitation related to the licensee's practice of optometry.

(m) Being addicted or habituated to a drug or intoxicant.

(n) Violating any state or federal law or regulation relating to a drug legally classified as a controlled substance.

(o) Obtaining any fee by fraud, deceit or misrepresentation.

(p) Disciplinary action of another state or jurisdiction against a licensee or other authorization to practice optometry based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this chapter, a certified copy of the record of the action taken by the other state or jurisdiction being conclusive evidence thereof.

(q) Failure to report to the board the relocation of his or her office in or out of the jurisdiction, or to furnish floor plans as required by regulation.

(r) Violation of any provision(s) of the Optometry Practice Act or the rules and regulations of the board or of an action, stipulation or agreement of the board.

(s) To advertise in a manner that tends to deceive, mislead or defraud the public.

(t) The designation of any person licensed under this chapter, other than by the terms "optometrist," "Doctor of Optometry" or "O.D.," which through June 30, 2025, shall include any violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners.

(u) To knowingly submit or cause to be submitted any misleading, deceptive or fraudulent representation on a claim form, bill or statement.

6768 (v) To practice or attempt to practice optometry while
6769 his or her license is suspended.
6770 (3) Any person who is a holder of a certificate of licensure
6771 or who is an applicant for examination for a certificate of
6772 licensure, against whom is preferred any charges, shall be
6773 furnished by the board with a copy of the complaint and shall have
6774 a hearing in Jackson, Mississippi, before the board, at which
6775 hearing he may be represented by counsel. At the hearing,
6776 witnesses may be examined for and against the accused respecting
6777 those charges, and the hearing orders or appeals will be conducted
6778 according to the procedure now provided in Section 73-25-27. The
6779 suspension of a certificate of licensure by reason of the use of
6780 stimulants or narcotics may be removed when the holder of the
6781 certificate has been adjudged by the board to be cured and capable
6782 of practicing optometry.
6783 (4) In addition to the reasons specified in subsections (1)
6784 and (2) of this section, the board shall be authorized to suspend
6785 the license of any licensee for being out of compliance with an
6786 order for support, as defined in Section 93-11-153. The procedure
6787 for suspension of a license for being out of compliance with an
6788 order for support, and the procedure for the reissuance or
6789 reinstatement of a license suspended for that purpose, and the
6790 payment of any fees for the reissuance or reinstatement of a
6791 license suspended for that purpose, shall be governed by Section
6792 93-11-157 or 93-11-163, as the case may be. If there is any

conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

(5) A licensee who provides a written certification as authorized under the Mississippi Medical Cannabis Act and in compliance with rules and regulations adopted thereunder shall not be subject to any disciplinary action under this section solely due to providing the written certification.

SECTION 71. Section 73-21-127, Mississippi Code of 1972, is amended as follows:

73-21-127. (1) The Board of Pharmacy shall develop and implement a computerized program to track prescriptions for controlled substances and to report suspected abuse and misuse of controlled substances in compliance with the federal regulations promulgated under authority of the National All Schedules Prescription Electronic Reporting Act of 2005 and in compliance with the federal HIPAA law, under the following conditions:

(a) Submission or reporting of dispensing information shall be mandatory and required by the State Board of Pharmacy for any entity dispensing controlled substances in or into the State of Mississippi, except for the dispensing of controlled substance drugs by a veterinarian residing in the State of Mississippi.

(b) The prescriptions tracked shall be prescriptions for controlled substances listed in Schedule II, III, IV or V and specified noncontrolled substances identified by the State Board

6818 of Pharmacy that are dispensed to residents in the State of
6819 Mississippi by licensed pharmacies, nonresident pharmacies,
6820 institutions and dispensing practitioners, regardless of dispenser
6821 location.

6822 (c) The Board of Pharmacy shall report any activity it
6823 reasonably suspects may be fraudulent or illegal to the
6824 appropriate law enforcement agency or occupational licensing board
6825 and provide them with the relevant information obtained for
6826 further investigation.

6827 (d) The program shall provide information regarding the
6828 potential inappropriate use of controlled substances and the
6829 specified noncontrolled substances to practitioners,
6830 pharmacists-in-charge and appropriate state agencies in order to
6831 prevent the inappropriate or illegal use of these controlled
6832 substances. The specific purposes of the program shall be to: be
6833 proactive in safeguarding public health and safety; support the
6834 legitimate use of controlled substances; facilitate and encourage
6835 the identification, intervention with and treatment of individuals
6836 addicted to controlled substances and specified noncontrolled
6837 drugs; identify and prevent drug diversion; provide assistance to
6838 those state and federal law enforcement and regulatory agencies
6839 investigating cases of drug diversion or other misuse; and inform
6840 the public and health care professionals of the use and abuse
6841 trends related to controlled substance and specified noncontrolled
6842 drugs.

6843 (e) (i) Access to collected data shall be confidential
6844 and not subject to the provisions of the federal Freedom of
6845 Information Act or the Mississippi Public Records Act. Upon
6846 request, the State Board of Pharmacy shall provide collected
6847 information to: pharmacists or practitioners who are properly
6848 registered with the State Board of Pharmacy and are authorized to
6849 prescribe or dispense controlled substances for the purpose of
6850 providing medical and pharmaceutical care for their patients;
6851 local, state and federal law enforcement officials engaged in the
6852 administration, investigation or enforcement of the laws governing
6853 illicit drug use; regulatory and licensing boards in this state;
6854 Division of Medicaid regarding Medicaid and Medicare Program
6855 recipients; judicial authorities under grand jury subpoena; an
6856 individual who requests the individual's own prescription
6857 monitoring information; and prescription monitoring programs in
6858 other states through mutual agreement adhering to State Board of
6859 Pharmacy policies.
6860 (ii) The Director of the Mississippi Bureau of
6861 Narcotics, or his designee, shall have access to the Prescription
6862 Monitoring Program (PMP) database for the purpose of investigating
6863 the potential illegal acquisition, distribution, dispensing,
6864 prescribing or administering of the controlled and noncontrolled
6865 substances monitored by the program, subject to all legal
6866 restrictions on further dissemination of the information obtained.

(iii) The State Board of Pharmacy may also provide statistical data for research or educational purposes if the board determines the use of the data to be of significant benefit to public health and safety. The board maintains the right to refuse any request for PMP data.

(iv) A pharmacist licensed by the Mississippi Board of Pharmacy must be a registered user of the PMP. Failure of a pharmacist licensed by the Mississippi Board of Pharmacy to register as a user of the PMP is grounds for disciplinary action by the board.

(v) All licensed practitioners as defined under Section 73-21-73(ee) holding an active DEA number shall register as users of the PMP.

(f) The Prescription Monitoring Program through the Board of Pharmacy may:

(i) Establish the cost of administration, maintenance, and operation of the program and charge to like agencies a fee based on a formula to be determined by the board with collaboration and input from participating agencies; and

(ii) Assess charges for information and/or statistical data provided to agencies, institutions and individuals. The amounts of those fees shall be set by the Executive Director of the Board of Pharmacy based on the recommendation of the Director of the PMP.

All such fees collected shall be deposited into the special fund of the State Board of Pharmacy and used to support the operations of the PMP.

(g) A dispenser pharmacist or practitioner licensed to dispense controlled substances and specified noncontrolled substance drugs who knowingly fails to submit drug-monitoring information or knowingly submits incorrect dispensing information shall be subject to actions against the pharmacist's or practitioner's license, registrations or permit and/or an administrative penalty as provided in Sections 73-21-97 and 73-21-103. Any misuse of the PMP is subject to penalties as provided in Sections 73-21-97 and 73-21-103.

(h) The Board of Pharmacy and the Prescription Monitoring Program shall be immune from civil liability arising from inaccuracy of any of the information submitted to the program.

(i) "Practitioner," as used in this section, shall include any person licensed, registered or otherwise permitted to distribute, dispense, prescribe or administer a controlled substance, as defined under Section 41-29-105(y), and any person defined as a "practitioner" under Section 73-21-73(ee).

(j) In addition to any funds appropriated by the Legislature, the State Board of Pharmacy may apply for any available grants and accept any gifts, grants or donations to assist in future development or in maintaining the program.

6916 (2) In addition to receiving the dispensing information
6917 regarding controlled substances as provided in subsection (1) of
6918 this section, the State Board of Pharmacy shall receive and
6919 maintain in the Prescription Monitoring Program (a) the medical
6920 cannabis dispensing information that medical cannabis dispensaries
6921 under the Mississippi Medical Cannabis Act are required to report
6922 to the PMP under Section 17 of this act, and (b) any other medical
6923 cannabis dispensing information that dispensaries are required to
6924 report to the PMP. The medical cannabis dispensing information
6925 reported by medical cannabis dispensaries under Section 17 of this
6926 act shall not be considered to be a prescription for the purposes
6927 of the Mississippi Pharmacy Practice Act or the Uniform Controlled
6928 Substances Law.
6929 **SECTION 72.** Section 73-25-29, Mississippi Code of 1972, is
6930 amended as follows:
6931 73-25-29. The grounds for the nonissuance, suspension,
6932 revocation or restriction of a license or the denial of
6933 reinstatement or renewal of a license are:
6934 (1) Habitual personal use of narcotic drugs, or any
6935 other drug having addiction-forming or addiction-sustaining
6936 liability.
6937 (2) Habitual use of intoxicating liquors, or any
6938 beverage, to an extent which affects professional competency.
6939 (3) Administering, dispensing or prescribing any
6940 narcotic drug, or any other drug having addiction-forming or

addiction-sustaining liability otherwise than in the course of legitimate professional practice.

(4) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(5) Procuring, or attempting to procure, or aiding in, an abortion that is not medically indicated.

(6) Conviction of a felony or misdemeanor involving moral turpitude, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(7) Obtaining or attempting to obtain a license by fraud or deception.

(8) Unprofessional conduct, which includes, but is not limited to:

(a) Practicing medicine under a false or assumed name or impersonating another practitioner, living or dead.

(b) Knowingly performing any act which in any way assists an unlicensed person to practice medicine.

(c) Making or willfully causing to be made any flamboyant claims concerning the licensee's professional excellence.

6966 (d) Being guilty of any dishonorable or unethical
6967 conduct likely to deceive, defraud or harm the public.
6968 (e) Obtaining a fee as personal compensation or
6969 gain from a person on fraudulent representation of a disease or
6970 injury condition generally considered incurable by competent
6971 medical authority in the light of current scientific knowledge and
6972 practice can be cured or offering, undertaking, attempting or
6973 agreeing to cure or treat the same by a secret method, which he
6974 refuses to divulge to the board upon request.
6975 (f) Use of any false, fraudulent or forged
6976 statement or document, or the use of any fraudulent, deceitful,
6977 dishonest or immoral practice in connection with any of the
6978 licensing requirements, including the signing in his professional
6979 capacity any certificate that is known to be false at the time he
6980 makes or signs such certificate.
6981 (g) Failing to identify a physician's school of
6982 practice in all professional uses of his name by use of his earned
6983 degree or a description of his school of practice.
6984 (9) The refusal of a licensing authority of another
6985 state or jurisdiction to issue or renew a license, permit or
6986 certificate to practice medicine in that jurisdiction or the
6987 revocation, suspension or other restriction imposed on a license,
6988 permit or certificate issued by such licensing authority which
6989 prevents or restricts practice in that jurisdiction, a certified
6990 copy of the disciplinary order or action taken by the other state

6991 or jurisdiction being prima facie evidence thereof,
6992 notwithstanding the pendency of any appeal.
6993 (10) Surrender of a license or authorization to
6994 practice medicine in another state or jurisdiction or surrender of
6995 membership on any medical staff or in any medical or professional
6996 association or society while under disciplinary investigation by
6997 any of those authorities or bodies for acts or conduct similar to
6998 acts or conduct which would constitute grounds for action as
6999 defined in this section.
7000 (11) Final sanctions imposed by the United States
7001 Department of Health and Human Services, Office of Inspector
7002 General or any successor federal agency or office, based upon a
7003 finding of incompetency, gross misconduct or failure to meet
7004 professionally recognized standards of health care; a certified
7005 copy of the notice of final sanction being prima facie evidence
7006 thereof. As used in this paragraph, the term "final sanction"
7007 means the written notice to a physician from the United States
7008 Department of Health and Human Services, Officer of Inspector
7009 General or any successor federal agency or office, which
7010 implements the exclusion.
7011 (12) Failure to furnish the board, its investigators or
7012 representatives information legally requested by the board.
7013 (13) Violation of any provision(s) of the Medical
7014 Practice Act or the rules and regulations of the board or of any
7015 order, stipulation or agreement with the board.

(14) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners.

(15) Performing or inducing an abortion on a woman in violation of any provision of Sections 41-41-131 through 41-41-145.

(16) Performing an abortion on a pregnant woman after determining that the unborn human individual that the pregnant woman is carrying has a detectable fetal heartbeat as provided in Section 41-41-34.1.

In addition to the grounds specified above, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

A physician who provides a written certification as authorized under the Mississippi Medical Cannabis Act and in

7041 compliance with rules and regulations adopted thereunder shall not
7042 be subject to any disciplinary action under this section solely
7043 due to providing the written certification.

7044 **SECTION 73.** Section 83-9-22, Mississippi Code of 1972, is
7045 amended as follows:

7046 83-9-22. (1) (a) Notwithstanding any other provision of
7047 the law to the contrary, except as otherwise provided in
7048 subsection (3) of this section, no health coverage plan shall
7049 restrict coverage for medically appropriate treatment prescribed
7050 by a physician and agreed to by a fully informed insured, or if
7051 the insured lacks legal capacity to consent by a person who has
7052 legal authority to consent on his or her behalf, based on an
7053 insured's diagnosis with a terminal condition. Refusing to pay
7054 for treatment rendered to an insured near the end of life that is
7055 consistent with best practices for treatment of a disease or
7056 condition, approved uses of a drug or device, or uses supported by
7057 peer reviewed medical literature, is a per se violation of this
7058 section.

7059 (b) Violations of this section shall constitute an
7060 unfair trade practice and subject the violator to the penalties
7061 provided by law.

7062 (c) As used in this section "terminal condition" means
7063 any aggressive malignancy, chronic end-stage cardiovascular or
7064 cerebral vascular disease, or any other disease, illness or
7065 condition which a physician diagnoses as terminal.

7066 (d) As used in this section, a "health coverage plan"
7067 shall mean any hospital, health or medical expense insurance
7068 policy, hospital or medical service contract, employee welfare
7069 benefit plan, contract or agreement with a health maintenance
7070 organization or a preferred provider organization, health and
7071 accident insurance policy, or any other insurance contract of this
7072 type, including a group insurance plan and the State Health and
7073 Life Insurance Plan.
7074 (2) (a) Notwithstanding any other provision of the law to
7075 the contrary, no health benefit paid directly or indirectly with
7076 state funds, specifically Medicaid, shall restrict coverage for
7077 medically appropriate treatment prescribed by a physician and
7078 agreed to by a fully informed individual, or if the individual
7079 lacks legal capacity to consent by a person who has legal
7080 authority to consent on his or her behalf, based on an
7081 individual's diagnosis with a terminal condition.
7082 (b) Refusing to pay for treatment rendered to an
7083 individual near the end of life that is consistent with best
7084 practices for treatment of a disease or condition, approved uses
7085 of a drug or device, or uses supported by peer reviewed medical
7086 literature, is a per se violation of this section.
7087 (c) As used in this section "terminal condition" means
7088 any aggressive malignancy, chronic end-stage cardiovascular or
7089 cerebral vascular disease, or any other disease, illness or
7090 condition which a physician diagnoses as terminal.

7091 (3) This section does not require a health coverage plan to
7092 cover and pay for the treatment of a person who is a cardholder
7093 and registered qualifying patient with medical cannabis that is
7094 lawful under the Mississippi Medical Cannabis Act and in
7095 compliance with rules and regulations adopted thereunder.
7096 **SECTION 74.** Sections 1 through 28 and Sections 30 through 33
7097 of this act shall be codified as a new chapter in Title 41,
7098 Mississippi Code of 1972. Section 29 of this act shall be
7099 codified as a new chapter in Title 27, Mississippi Code of 1972.
7100 **SECTION 75.** Section 27-7-22.5, Mississippi Code of 1972, is
7101 amended as follows:
7102 27-7-22.5. (1) (a) For any manufacturer, distributor,
7103 wholesale or retail merchant who pays to a county, municipality,
7104 school district, levee district or any other taxing authority of
7105 the state or a political subdivision thereof, ad valorem taxes
7106 imposed on commodities, raw materials, works-in-process, products,
7107 goods, wares and merchandise held for resale, a credit against the
7108 income taxes imposed under this chapter shall be allowed for the
7109 portion of the ad valorem taxes so paid in the amounts prescribed
7110 in subsection (2).
7111 (b) (i) For any person, firm or corporation who pays
7112 to a county, municipality, school district, levee district or any
7113 other taxing authority of the state or a political subdivision
7114 thereof, ad valorem taxes imposed on rental equipment, a credit
7115 against the income taxes imposed under this chapter shall be

allowed for the portion of the ad valorem taxes so paid in the amounts prescribed in subsection (2).

(ii) As used in this paragraph, "rental equipment" means any rental equipment or other rental items which are held for short-term rental to the public:

1. Under rental agreements with no specific term;

2. Under at-will or open-ended agreements; or

3. Under rental agreements with terms ordinarily of less than three hundred sixty-five (365) days; and

4. Is not subject to privilege taxes imposed in Chapter 19, Title 27, Mississippi Code of 1972.

<u>(c) The tax credit allowed by this section may not be claimed by a taxpayer that is a medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.</u>

(2) The tax credit allowed by this section shall not exceed the amounts set forth in paragraphs (a) through (g) of this subsection; and may be claimed for each location where such commodities, raw material, works-in-process, products, goods, wares, merchandise and/or rental equipment are found and upon which the ad valorem taxes have been paid. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credit was earned.

(a) For the 1994 taxable year, the tax credit for each location of the taxpayer shall not exceed the lesser of Two Thousand Dollars ($2,000.00) or the amount of income taxes due the State of Mississippi that are attributable to such location.

(b) For the 1995 taxable year, the tax credit for each location of the taxpayer shall not exceed the lesser of Three Thousand Dollars ($3,000.00) or the amount of income taxes due the State of Mississippi that are attributable to such location.

(c) For the 1996 taxable year, the tax credit for each location of the taxpayer shall not exceed the lesser of Four Thousand Dollars ($4,000.00) or the amount of income taxes due the State of Mississippi that are attributable to such location.

(d) For the 1997 taxable year and each taxable year thereafter through taxable year 2013, the tax credit for each location of the taxpayer shall not exceed the lesser of Five Thousand Dollars ($5,000.00) or the amount of income taxes due the State of Mississippi that are attributable to such location.

(e) For the 2014 taxable year, the tax credit for each location of the taxpayer shall not exceed the lesser of Ten Thousand Dollars ($10,000.00) or the amount of income taxes due the State of Mississippi that are attributable to such location.

(f) For the 2015 taxable year, the tax credit for each location of the taxpayer shall not exceed the lesser of Fifteen Thousand Dollars ($15,000.00) or the amount of income taxes due the State of Mississippi that are attributable to such location.

(g) For the 2016 taxable year and each taxable year thereafter, the tax credit of the taxpayer shall be the lesser of the amount of the ad valorem taxes described in subsection (1) paid or the amount of income taxes due the State of Mississippi that are attributable to such location.

(3) Any amount of ad valorem taxes paid by a taxpayer that is applied toward the tax credit allowed in this section may not be used as a deduction by the taxpayer for state income tax purposes. In the case of a taxpayer that is a partnership, limited liability company or S corporation, the credit may be applied only to the tax attributable to partnership, limited liability company or S corporation income derived from the taxpayer.

SECTION 76. Section 27-7-22.30, Mississippi Code of 1972, is amended as follows:

27-7-22.30. (1) As used in this section:

(a) "Manufacturing enterprise" means an enterprise that:

(i) Falls within the definition of the term "manufacturer" in Section 27-65-11; and

(ii) Has operated in this state for not less than two (2) years prior to application for the credit authorized by this section *** * ***.

7188 (b) "Eligible investment" means an investment of at
7189 least One Million Dollars ($1,000,000.00) in buildings and/or
7190 equipment for the manufacturing enterprise.
7191 The term "manufacturing enterprise" does not include any
7192 medical cannabis establishment as defined in the Mississippi
7193 Medical Cannabis Act.
7194 (2) A manufacturing enterprise is allowed a manufacturing
7195 investment tax credit for taxes imposed by Section 27-7-5 equal to
7196 five percent (5%) of the eligible investments made by the
7197 manufacturing enterprise.
7198 (3) Any tax credit claimed under this section but not used
7199 in any taxable year may be carried forward for five (5) years from
7200 the close of the tax year in which the eligible investment was
7201 made, but the credit established by this section taken in any one
7202 tax year shall not exceed fifty percent (50%) of the taxpayer's
7203 state income tax liability which is attributable to income derived
7204 from operations in the state for that year reduced by the sum of
7205 all other income tax credits allowable to the taxpayer, except
7206 credit for tax payments made by or on behalf of the taxpayer.
7207 (4) The maximum credit that may be claimed by a taxpayer on
7208 any project shall be limited to One Million Dollars
7209 ($1,000,000.00).
7210 (5) The credit received under this section is subject to
7211 recapture if the property for which the tax credit was received is
7212 disposed of, or converted to, other than business use. The amount

of the credit subject to recapture is one hundred percent (100%) of the credit in the first year and fifty percent (50%) of the credit in the second year. This subsection shall not apply in cases in which an entire facility is sold.

(6) The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any manufacturing enterprise may not create new eligibility in any succeeding business entity, but any unused manufacturing investment tax credit may be transferred and continued by any transferee of the enterprise. The *** * *** department shall determine whether or not qualifying net increases or decreases have occurred or proper transfers of credit have been made and may require reports, promulgate regulations, and hold hearings as needed for substantiation and qualification.

(7) No manufacturing enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive the tax credits provided in this section.

(8) The credits allowed under this section shall not be used by any business enterprise or corporation other than the manufacturing enterprise actually qualifying for the credits.

SECTION 77. Section 27-31-51, Mississippi Code of 1972, is amended as follows:

27-31-51. (1) As used in Sections 27-31-51 through 27-31-61:

7237 (a) "Warehouse" or "storage facility" shall not apply
7238 to caves or cavities in the earth, whether natural or artificial;
7239 (b) "Governing authorities" means the board of
7240 supervisors of the county wherein the warehouse or storage
7241 facility is located or the governing authorities of the
7242 municipality wherein the warehouse or storage facility is located,
7243 as the case may be;
7244 (c) "Tax assessor" means the tax assessor of each
7245 taxing jurisdiction in which the warehouse or storage facility may
7246 be located.
7247 (2) All warehouses, public or private, or other storage
7248 facilities in the State of Mississippi regularly engaged in the
7249 handling and storage of personal property in structures or in
7250 places adopted for such handling and storage which is consigned or
7251 transferred to such warehouse or storage facility for storage and
7252 handling shall be eligible for licensing under the provisions of
7253 Sections 27-31-51 through 27-31-61 as a "free port warehouse." A
7254 manufacturer of personal property that maintains separate
7255 facilities, structures, places or areas for the temporary storage
7256 and handling of such personal property pending transit to a final
7257 destination outside the State of Mississippi shall be eligible for
7258 licensing under Sections 27-31-51 through 27-31-61 as a "free port
7259 warehouse," and any license issued to such a manufacturer before
7260 January 1, 2012, is hereby ratified, approved and confirmed. No
7261 medical cannabis establishment, as defined in the Mississippi

7262 Medical Cannabis Act, or warehouses, facilities, structures,
7263 places or areas belonging to or used by a medical cannabis
7264 establishment may be licensed as a free port warehouse.
7265 (3) Such licenses shall be issued by the governing
7266 authorities to such warehouse or storage facility as will qualify
7267 under the definition of "free port warehouse" as herein defined,
7268 upon application by the warehouse or storage facility operator.
7269 **SECTION 78.** Section 27-31-53, Mississippi Code of 1972, is
7270 amended as follows:
7271 27-31-53. All personal property in transit through this
7272 state which is (a) moving in interstate commerce through or over
7273 the territory of the State of Mississippi, (b) which was consigned
7274 or transferred to a licensed "free port warehouse," public or
7275 private, within the State of Mississippi for storage in transit to
7276 a final destination outside the State of Mississippi, whether
7277 specified when transportation begins or afterward, (c)
7278 manufactured in the State of Mississippi and stored in separate
7279 facilities, structures, places or areas maintained by a
7280 manufacturer, licensed as a free port warehouse, for temporary
7281 storage or handling pending transit to a final destination outside
7282 the State of Mississippi, or (d) consigned or transferred to a
7283 licensed free port warehouse, public or private, within the State
7284 of Mississippi, for storage pending transit to not more than one
7285 (1) other location in this state for production or processing into
7286 a component or part that is then transported to a final

destination outside of the State of Mississippi, may, in the discretion of the board of supervisors of the county wherein the warehouse or storage facility is located, and in the discretion of the governing authorities of the municipality wherein the warehouse or storage facility is located, as the case may be, be exempt from all ad valorem taxes imposed by the respective county or municipality and the property exempted therefrom shall not be deemed to have acquired a situs in the State of Mississippi for the purposes of such taxation. Any exemption granted to a licensed "free port warehouse" pursuant to this section shall be effective as of the first calendar day of the taxable year in which the warehouse applied for the exemption by virtue of submitting the application for licensure, and shall remain in effect for such period of time as the respective governing authority may prescribe. Such property shall not be deprived of exemption because while in a warehouse the property is bound, divided, broken in bulk, labeled, relabeled or repackaged. Any exemption from ad valorem taxes granted before January 1, 2012, is hereby ratified, approved and confirmed.

The exemption provided for in this section shall not be authorized for any personal property of a medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

SECTION 79. Section 27-31-101, Mississippi Code of 1972, is amended as follows:

[Through June 30, 2022, this section shall read as follows:]

7312 27-31-101. (1) County boards of supervisors and municipal
7313 authorities are hereby authorized and empowered, in their
7314 discretion, to grant exemptions from ad valorem taxation, except
7315 state ad valorem taxation; however, such governing authorities
7316 shall not exempt ad valorem taxes for school district purposes on
7317 tangible property used in, or necessary to, the operation of the
7318 manufacturers and other new enterprises enumerated by classes in
7319 this section, except to the extent authorized in Sections
7320 27-31-104 and 27-31-105(2), nor shall they exempt from ad valorem
7321 taxes the products of the manufacturers or other new enterprises
7322 or automobiles and trucks belonging to the manufacturers or other
7323 new enterprises operating on and over the highways of the State of
7324 Mississippi. The time of such exemption shall be for a period not
7325 to exceed a total of ten (10) years which shall begin on the date
7326 of completion of the new enterprise for which the exemption is
7327 granted; however, boards of supervisors and municipal authorities,
7328 in lieu of granting the exemption for one (1) period of ten (10)
7329 years, may grant the exemption in a period of less than ten (10)
7330 years. When the initial exemption period granted is less than ten
7331 (10) years, the boards of supervisors and municipal authorities
7332 may grant a subsequent consecutive period or periods to follow the
7333 initial period of exemption, provided that the total of all
7334 periods of exemption shall not exceed ten (10) years. The date of
7335 completion of the new enterprise, from which the initial period of
7336 exemption shall begin, shall be the date on which operations of

the new enterprise begin. The initial request for an exemption must be made in writing by June 1 of the year immediately following the year in which the date of completion of a new enterprise occurs. If the initial request for the exemption is not timely made, the board of supervisors or municipal authorities may grant a subsequent request for the exemption and, in such case, the exemption shall begin on the anniversary date of completion of the enterprise in the year in which the request is made and may be for a period of time extending not more than ten (10) years from the date of completion of the new enterprise. Any subsequent request for the exemption must be made in writing by June 1 of the year in which it is granted.

(2) Any board of supervisors or municipal authority which has granted an exemption for a period of less than ten (10) years may grant subsequent periods of exemption to run consecutively with the initial exemption period, or a subsequently granted exemption period, but in no case shall the total of the exemption periods granted for a new enterprise exceed ten (10) years. Any consecutive period of exemption shall be granted by entry of an order by the board or the authority granting the consecutive exemption on its minutes, reflecting the granting of the consecutive exemption period and the dates upon which such consecutive exemption period begins and expires. The entry of this order granting the consecutive period of exemption shall be

made before the expiration of the exemption period immediately preceding the consecutive exemption period being granted.

(3) (a) The new enterprises for which any or all of the tangible property described in paragraph (b) of this subsection (3) may be exempt from ad valorem taxation, except state ad valorem taxation, ad valorem taxes for school district purposes, and ad valorem taxes on the products thereof or on automobiles and trucks belonging thereto and operating on and over the highways of the State of Mississippi, are enumerated as and limited to the following, as determined by the Department of Revenue:

(i) Warehouse and/or distribution centers;

(ii) Manufacturing, processors and refineries;

(iii) Research facilities;

(iv) Corporate regional and national headquarters meeting minimum criteria established by the Mississippi Development Authority;

(v) Movie industry studios meeting minimum criteria established by the Mississippi Development Authority;

(vi) Air transportation and maintenance facilities meeting minimum criteria established by the Mississippi Development Authority;

(vii) Recreational facilities that impact tourism meeting minimum criteria established by the Mississippi Development Authority;

7385 (viii) Data/information processing enterprises
7386 meeting minimum criteria established by the Mississippi
7387 Development Authority;
7388 (ix) Technology intensive enterprises or
7389 facilities meeting criteria established by the Mississippi
7390 Development Authority;
7391 (x) Health care industry facilities as defined in
7392 Section 57-117-3;
7393 (xi) Data centers as defined in Section 57-113-21;
7394 and
7395 (xii) Telecommunications enterprises meeting
7396 minimum criteria established by the Mississippi Development
7397 Authority. The term "telecommunications enterprises" means
7398 entities engaged in the creation, display, management, storage,
7399 processing, transmission or distribution for compensation of
7400 images, text, voice, video or data by wire or by wireless means,
7401 or entities engaged in the construction, design, development,
7402 manufacture, maintenance or distribution for compensation of
7403 devices, products, software or structures used in the above
7404 activities. Companies organized to do business as commercial
7405 broadcast radio stations, television stations or news
7406 organizations primarily serving in-state markets shall not be
7407 included within the definition of the term "telecommunications
7408 enterprises."

7409 The new enterprises enumerated in this paragraph (a) do not
7410 include medical cannabis establishments as defined in the
7411 Mississippi Medical Cannabis Act.
7412 (b) An exemption from ad valorem taxes granted under
7413 this section may include any or all tangible property, real or
7414 personal, including any leasehold interests therein but excluding
7415 automobiles and trucks operating on and over the highways of the
7416 State of Mississippi, used in connection with, or necessary to,
7417 the operation of an enterprise enumerated in paragraph (a) of this
7418 subsection (3), whether or not such property is owned, leased,
7419 subleased, licensed or otherwise obtained by such enterprise,
7420 irrespective of the taxpayer to which any such leased property is
7421 assessed for ad valorem tax purposes. If an exemption is granted
7422 pursuant to this section with respect to any leasehold interest
7423 under a lease, sublease or license of tangible property used in
7424 connection with, or necessary to, the operation of an enterprise
7425 enumerated in paragraph (a) of this subsection (3), the
7426 corresponding ownership interest of the owner, lessor and
7427 sublessor of such tangible property shall similarly and
7428 automatically be exempt without any action being required to be
7429 taken by such owner, lessor or sublessor.
7430 (4) Any exemption from ad valorem taxes granted under this
7431 section before March 28, 2019, and consistent herewith, is hereby
7432 ratified, approved and confirmed.

[From and after July 1, 2022, this section shall read as follows:]

27-31-101. (1) County boards of supervisors and municipal authorities are hereby authorized and empowered, in their discretion, to grant exemptions from ad valorem taxation, except state ad valorem taxation; however, such governing authorities shall not exempt ad valorem taxes for school district purposes on tangible property used in, or necessary to, the operation of the manufacturers and other new enterprises enumerated by classes in this section, except to the extent authorized in Sections 27-31-104 and 27-31-105(2), nor shall they exempt from ad valorem taxes the products of the manufacturers or other new enterprises or automobiles and trucks belonging to the manufacturers or other new enterprises operating on and over the highways of the State of Mississippi. The time of such exemption shall be for a period not to exceed a total of ten (10) years which shall begin on the date of completion of the new enterprise for which the exemption is granted; however, boards of supervisors and municipal authorities, in lieu of granting the exemption for one (1) period of ten (10) years, may grant the exemption in a period of less than ten (10) years. When the initial exemption period granted is less than ten (10) years, the boards of supervisors and municipal authorities may grant a subsequent consecutive period or periods to follow the initial period of exemption, provided that the total of all periods of exemption shall not exceed ten (10) years. The date of

7458 completion of the new enterprise, from which the initial period of
7459 exemption shall begin, shall be the date on which operations of
7460 the new enterprise begin. The initial request for an exemption
7461 must be made in writing by June 1 of the year immediately
7462 following the year in which the date of completion of a new
7463 enterprise occurs. If the initial request for the exemption is
7464 not timely made, the board of supervisors or municipal authorities
7465 may grant a subsequent request for the exemption and, in such
7466 case, the exemption shall begin on the anniversary date of
7467 completion of the enterprise in the year in which the request is
7468 made and may be for a period of time extending not more than ten
7469 (10) years from the date of completion of the new enterprise. Any
7470 subsequent request for the exemption must be made in writing by
7471 June 1 of the year in which it is granted.
7472 (2) Any board of supervisors or municipal authority which
7473 has granted an exemption for a period of less than ten (10) years
7474 may grant subsequent periods of exemption to run consecutively
7475 with the initial exemption period, or a subsequently granted
7476 exemption period, but in no case shall the total of the exemption
7477 periods granted for a new enterprise exceed ten (10) years. Any
7478 consecutive period of exemption shall be granted by entry of an
7479 order by the board or the authority granting the consecutive
7480 exemption on its minutes, reflecting the granting of the
7481 consecutive exemption period and the dates upon which such
7482 consecutive exemption period begins and expires. The entry of

this order granting the consecutive period of exemption shall be made before the expiration of the exemption period immediately preceding the consecutive exemption period being granted.

(3) (a) The new enterprises for which any or all of the tangible property described in paragraph (b) of this subsection (3) may be exempt from ad valorem taxation, except state ad valorem taxation, ad valorem taxes for school district purposes, and ad valorem taxes on the products thereof or on automobiles and trucks belonging thereto and operating on and over the highways of the State of Mississippi, are enumerated as and limited to the following, as determined by the Department of Revenue:

(i) Warehouse and/or distribution centers;

(ii) Manufacturing, processors and refineries;

(iii) Research facilities;

(iv) Corporate regional and national headquarters meeting minimum criteria established by the Mississippi Development Authority;

(v) Movie industry studios meeting minimum criteria established by the Mississippi Development Authority;

(vi) Air transportation and maintenance facilities meeting minimum criteria established by the Mississippi Development Authority;

(vii) Recreational facilities that impact tourism meeting minimum criteria established by the Mississippi Development Authority;

7508 (viii) Data/information processing enterprises
7509 meeting minimum criteria established by the Mississippi
7510 Development Authority;
7511 (ix) Technology intensive enterprises or
7512 facilities meeting criteria established by the Mississippi
7513 Development Authority;
7514 (x) Data centers as defined in Section 57-113-21;
7515 and
7516 (xi) Telecommunications enterprises meeting
7517 minimum criteria established by the Mississippi Development
7518 Authority. The term "telecommunications enterprises" means
7519 entities engaged in the creation, display, management, storage,
7520 processing, transmission or distribution for compensation of
7521 images, text, voice, video or data by wire or by wireless means,
7522 or entities engaged in the construction, design, development,
7523 manufacture, maintenance or distribution for compensation of
7524 devices, products, software or structures used in the above
7525 activities. Companies organized to do business as commercial
7526 broadcast radio stations, television stations or news
7527 organizations primarily serving in-state markets shall not be
7528 included within the definition of the term "telecommunications
7529 enterprises."
7530 The new enterprises enumerated in this paragraph (a) do not
7531 include medical cannabis establishments as defined in the
7532 Mississippi Medical Cannabis Act.

7533 (b) An exemption from ad valorem taxes granted under
7534 this section may include any or all tangible property, real or
7535 personal, including any leasehold interests therein but excluding
7536 automobiles and trucks operating on and over the highways of the
7537 State of Mississippi, used in connection with, or necessary to,
7538 the operation of an enterprise enumerated in paragraph (a) of this
7539 subsection (3), whether or not such property is owned, leased,
7540 subleased, licensed or otherwise obtained by such enterprise,
7541 irrespective of the taxpayer to which any such leased property is
7542 assessed for ad valorem tax purposes. If an exemption is granted
7543 pursuant to this section with respect to any leasehold interest
7544 under a lease, sublease or license of tangible property used in
7545 connection with, or necessary to, the operation of an enterprise
7546 enumerated in paragraph (a) of this subsection (3), the
7547 corresponding ownership interest of the owner, lessor and
7548 sublessor of such tangible property shall similarly and
7549 automatically be exempt without any action being required to be
7550 taken by such owner, lessor or sublessor.
7551 (4) Any exemption from ad valorem taxes granted under this
7552 section before March 28, 2019, and consistent herewith, is hereby
7553 ratified, approved and confirmed.
7554 **SECTION 80.** Section 27-31-104, Mississippi Code of 1972, is
7555 amended as follows:
7556 **[Through June 30, 2022, this section shall read as follows:]**

7557 27-31-104. (1) (a) County boards of supervisors and
7558 municipal authorities are each hereby authorized and empowered to
7559 enter into an agreement with an enterprise granting, and pursuant
7560 to such agreement grant a fee-in-lieu of ad valorem taxes,
7561 including ad valorem taxes levied for school purposes, for the
7562 following:
7563 (i) Projects totaling over Sixty Million Dollars
7564 ($60,000,000.00) by any new enterprises enumerated in Section
7565 27-31-101;
7566 (ii) Projects by a private company (as such term
7567 is defined in Section 57-61-5) having a minimum capital investment
7568 of Sixty Million Dollars ($60,000,000.00);
7569 (iii) Projects by a qualified business (as such
7570 term is defined in Section 57-117-3) meeting minimum criteria
7571 established by the Mississippi Development Authority;
7572 (iv) Projects, in addition to those projects
7573 referenced in Section 27-31-105, totaling over Sixty Million
7574 Dollars ($60,000,000.00) by an existing enterprise that has been
7575 doing business in the county or municipality for twenty-four (24)
7576 months. For purposes of this subparagraph (iv), the term
7577 "existing enterprise" includes those enterprises enumerated in
7578 Section 27-31-101; or
7579 (v) A private company (as such term is defined in
7580 Section 57-61-5) having a minimum capital investment of One
7581 Hundred Million Dollars ($100,000,000.00) from any source or

7582 combination of sources, provided that a majority of the capital
7583 investment is from private sources, when such project is located
7584 within a geographic area for which a Presidential Disaster
7585 Declaration was issued on or after January 1, 2014.
7586 County boards of supervisors and municipal authorities may
7587 not enter into an agreement with an enterprise that is a medical
7588 cannabis establishment, as defined in the Mississippi Medical
7589 Cannabis Act, granting, and pursuant to such agreement grant a
7590 fee-in-lieu of ad valorem taxes.
7591 (b) A fee-in-lieu of ad valorem taxes granted in
7592 accordance with this section may include any or all tangible
7593 property, real or personal, including any leasehold interests
7594 therein but excluding automobiles and trucks operating on and over
7595 the highways of the State of Mississippi, used in connection with,
7596 or necessary to, the operation of any enterprise, private company
7597 or business described in paragraph (a) of this subsection (1), as
7598 applicable, whether or not such property is owned, leased,
7599 subleased, licensed or otherwise obtained by such enterprise,
7600 private company or business, as applicable, irrespective of the
7601 taxpayer to which any such leased property is assessed for ad
7602 valorem tax purposes. If a fee-in-lieu of ad valorem taxes is
7603 granted pursuant to this section with respect to any leasehold
7604 interest under a lease, sublease or license of tangible property
7605 used in connection with, or necessary to, the operation of an
7606 enterprise, private company or business described in paragraph (a)

of this subsection (1), as applicable, the corresponding ownership interest of the owner, lessor and sublessor of such tangible property shall similarly and automatically be exempt and subject to the fee-in-lieu granted in accordance herewith without any action being required to be taken by such owner, lessor or sublessor.

(2) A county board of supervisors may enter into a fee-in-lieu agreement on behalf of the county and any county school district, and a municipality may enter into such a fee-in-lieu agreement on behalf of the municipality and any municipal school district located in the municipality; however, if the project is located outside the limits of a municipality but within the boundaries of the municipal school district, then the county board of supervisors may enter into such a fee-in-lieu agreement on behalf of the school district granting a fee-in-lieu of ad valorem taxes for school district purposes.

(3) Any grant of a fee-in-lieu of ad valorem taxes shall be evidenced by a written agreement negotiated by the enterprise and the county board of supervisors and/or municipal authority, as the case may be, and given final approval by the Mississippi Development Authority as satisfying the requirements of this section.

(4) The minimum sum allowable as a fee-in-lieu shall not be less than one-third (1/3) of the ad valorem levy, including ad valorem taxes for school district purposes, and except as

otherwise provided, the sum allowed shall be apportioned between the county or municipality, as appropriate, and the school districts in such amounts as may be determined by the county board of supervisors or municipal governing authority, as the case may be, however, except as otherwise provided in this section, from the sum allowed the apportionment to school districts shall not be less than the school districts' pro rata share based upon the proportion that the millage imposed for the school districts by the appropriate levying authority bears to the millage imposed by such levying authority for all other county or municipal purposes. Any fee-in-lieu agreement entered into under this section shall become a binding obligation of the parties to the agreement, be effective upon its execution by the parties and approval by the Mississippi Development Authority and, except as otherwise provided in Section 17-25-23 or Section 57-75-33, or any other provision of law, continue in effect for a period not to exceed thirty (30) years commencing on the date that the fee-in-lieu granted thereunder begins in accordance with the agreement; however, no particular parcel of land, real property improvement or item of personal property shall be subject to a fee-in-lieu for a duration of more than ten (10) years. Any such agreement shall be binding, according to its terms, on future boards of supervisors of the county and/or governing authorities of a municipality, as the case may be, for the duration of the agreement.

(5) The fee-in-lieu may be a stated fraction or percentage of the ad valorem taxes otherwise payable or a stated dollar amount. If the fee is a fraction or percentage of the ad valorem tax levy, it shall be annually computed on all ad valorem taxes otherwise payable, including school taxes, as the same may vary from year to year based upon changes in the millage rate or assessed value and shall not be less than one-third (1/3) of that amount. If the fee is a stated dollar amount, said amount shall be the higher of the sum provided for fixed payment or one-third (1/3) of the total of all ad valorem taxes otherwise payable as annually determined during each year of the fee-in-lieu.

(6) Notwithstanding Section 27-31-111, the parties to a fee-in-lieu may agree on terms and conditions providing for the reduction, suspension, termination or reinstatement of a fee-in-lieu agreement or any fee-in-lieu period granted thereunder upon the cessation of operations by project for twelve (12) or more consecutive months or due to other conditions set forth in the agreement.

(7) For a project as defined in Section 57-75-5(f)(xxi) and located in a county that is a member of a regional economic development alliance created under Section 57-64-1 et seq., the members of the regional economic development alliance may divide the sum allowed as a fee-in-lieu in a manner as determined by the alliance agreement, and the boards of supervisors of the member

counties may then apportion the sum allowed between school district purposes and all other county purposes.

(8) For a project as defined in Section 57-75-5(f)(xxvi), the board of supervisors of the county in which the project is located may negotiate with the school district in which the project is located and apportion to the school district an amount of the fee-in-lieu that is agreed upon in the negotiations different than the amount provided for in subsection (3) of this section.

(9) For a project as defined in Section 57-75-5(f)(xxviii), the annual amount of the fee-in-lieu apportioned to the county shall not be less than the amount necessary to pay the debt service on bonds issued by the county pursuant to Section 57-75-37(3)(c).

(10) Any fee-in-lieu of ad valorem taxes granted under this section before the effective date of this act, and consistent herewith, is hereby ratified, approved and confirmed.

[From and after July 1, 2022, this section shall read as follows:]

27-31-104. (1) (a) County boards of supervisors and municipal authorities are each hereby authorized and empowered to enter into an agreement with an enterprise granting, and pursuant to such agreement grant a fee-in-lieu of ad valorem taxes, including ad valorem taxes levied for school purposes, for the following:

7706 (i) Projects totaling over Sixty Million Dollars
7707 ($60,000,000.00) by any new enterprises enumerated in Section
7708 27-31-101;
7709 (ii) Projects by a private company (as such term
7710 is defined in Section 57-61-5, Mississippi Code of 1972) having a
7711 minimum capital investment of Sixty Million Dollars
7712 ($60,000,000.00);
7713 (iii) Projects, in addition to those projects
7714 referenced in Section 27-31-105, totaling over Sixty Million
7715 Dollars ($60,000,000.00) by an existing enterprise that has been
7716 doing business in the county or municipality for twenty-four (24)
7717 months. For purposes of this subparagraph (iii), the term
7718 "existing enterprise" includes those enterprises enumerated in
7719 Section 27-31-101; or
7720 (iv) A private company (as such term is defined in
7721 Section 57-61-5) having a minimum capital investment of One
7722 Hundred Million Dollars ($100,000,000.00) from any source or
7723 combination of sources, provided that a majority of the capital
7724 investment is from private sources, when such project is located
7725 within a geographic area for which a Presidential Disaster
7726 Declaration was issued on or after January 1, 2014.
7727 County boards of supervisors and municipal authorities may
7728 not enter into an agreement with an enterprise that is a medical
7729 cannabis establishment, as defined in the Mississippi Medical

7730 Cannabis Act, granting, and pursuant to such agreement grant a
7731 fee-in-lieu of ad valorem taxes.
7732 (b) A fee-in-lieu of ad valorem taxes granted in
7733 accordance with this section may include any or all tangible
7734 property, real or personal, including any leasehold interests
7735 therein but excluding automobiles and trucks operating on and over
7736 the highways of the State of Mississippi, used in connection with,
7737 or necessary to, the operation of any enterprise, private company
7738 or business described in paragraph (a) of this subsection (1), as
7739 applicable, whether or not such property is owned, leased,
7740 subleased, licensed or otherwise obtained by such enterprise,
7741 private company or business, as applicable, irrespective of the
7742 taxpayer to which any such leased property is assessed for ad
7743 valorem tax purposes. If a fee-in-lieu of ad valorem taxes is
7744 granted pursuant to this section with respect to any leasehold
7745 interest under a lease, sublease or license of tangible property
7746 used in connection with, or necessary to, the operation of an
7747 enterprise, private company or business described in paragraph (a)
7748 of this subsection (1), as applicable, the corresponding ownership
7749 interest of the owner, lessor and sublessor of such tangible
7750 property shall similarly and automatically be exempt and subject
7751 to the fee-in-lieu granted in accordance herewith without any
7752 action being required to be taken by such owner, lessor or
7753 sublessor.

(2) A county board of supervisors may enter into a fee-in-lieu agreement on behalf of the county and any county school district, and a municipality may enter into such a fee-in-lieu agreement on behalf of the municipality and any municipal school district located in the municipality; however, if the project is located outside the limits of a municipality but within the boundaries of the municipal school district, then the county board of supervisors may enter into such a fee-in-lieu agreement on behalf of the school district granting a fee-in-lieu of ad valorem taxes for school district purposes.

(3) Any grant of a fee-in-lieu of ad valorem taxes shall be evidenced by a written agreement negotiated by the enterprise and the county board of supervisors and/or municipal authority, as the case may be, and given final approval by the Mississippi Development Authority as satisfying the requirements of this section.

(4) The minimum sum allowable as a fee-in-lieu shall not be less than one-third (1/3) of the ad valorem levy, including ad valorem taxes for school district purposes, and except as otherwise provided, the sum allowed shall be apportioned between the county or municipality, as appropriate, and the school districts in such amounts as may be determined by the county board of supervisors or municipal governing authority, as the case may be, however, except as otherwise provided in this section, from the sum allowed the apportionment to school districts shall not be

less than the school districts' pro rata share based upon the proportion that the millage imposed for the school districts by the appropriate levying authority bears to the millage imposed by such levying authority for all other county or municipal purposes. Any fee-in-lieu agreement entered into under this section shall become a binding obligation of the parties to the agreement, be effective upon its execution by the parties and approval by the Mississippi Development Authority and, except as otherwise provided in Section 17-25-23 or Section 57-75-33, or any other provision of law, continue in effect for a period not to exceed thirty (30) years commencing on the date that the fee-in-lieu granted thereunder begins in accordance with the agreement; however, no particular parcel of land, real property improvement or item of personal property shall be subject to a fee-in-lieu for a duration of more than ten (10) years. Any such agreement shall be binding, according to its terms, on future boards of supervisors of the county and/or governing authorities of a municipality, as the case may be, for the duration of the agreement.

(5) The fee-in-lieu may be a stated fraction or percentage of the ad valorem taxes otherwise payable or a stated dollar amount. If the fee is a fraction or percentage of the ad valorem tax levy, it shall be annually computed on all ad valorem taxes otherwise payable, including school taxes, as the same may vary from year to year based upon changes in the millage rate or

assessed value and shall not be less than one-third (1/3) of that amount. If the fee is a stated dollar amount, said amount shall be the higher of the sum provided for fixed payment or one-third (1/3) of the total of all ad valorem taxes otherwise payable as annually determined during each year of the fee-in-lieu.

(6) Notwithstanding Section 27-31-111, the parties to a fee-in-lieu may agree on terms and conditions providing for the reduction, suspension, termination or reinstatement of a fee-in-lieu agreement or any fee-in-lieu period granted thereunder upon the cessation of operations by project for twelve (12) or more consecutive months or due to other conditions set forth in the agreement.

(7) For a project as defined in Section 57-75-5(f)(xxi) and located in a county that is a member of a regional economic development alliance created under Section 57-64-1 et seq., the members of the regional economic development alliance may divide the sum allowed as a fee-in-lieu in a manner as determined by the alliance agreement, and the boards of supervisors of the member counties may then apportion the sum allowed between school district purposes and all other county purposes.

(8) For a project as defined in Section 57-75-5(f)(xxvi), the board of supervisors of the county in which the project is located may negotiate with the school district in which the project is located and apportion to the school district an amount of the fee-in-lieu that is agreed upon in the negotiations

7829 different than the amount provided for in subsection (3) of this
7830 section.
7831 (9) For a project as defined in Section 57-75-5(f)(xxviii),
7832 the annual amount of the fee-in-lieu apportioned to the county
7833 shall not be less than the amount necessary to pay the annual debt
7834 service on bonds issued by the county pursuant to Section
7835 57-75-37(3)(c).
7836 (10) Any fee-in-lieu of ad valorem taxes granted under this
7837 section before the effective date of this act, and consistent
7838 herewith, is hereby ratified, approved and confirmed.
7839 **SECTION 81.** Section 27-65-17, Mississippi Code of 1972, is
7840 amended as follows:
7841 27-65-17. (1) (a) Except as otherwise provided in this
7842 section, upon every person engaging or continuing within this
7843 state in the business of selling any tangible personal property
7844 whatsoever there is hereby levied, assessed and shall be collected
7845 a tax equal to seven percent (7%) of the gross proceeds of the
7846 retail sales of the business.
7847 (b) Retail sales of farm tractors and parts and labor
7848 used to maintain and/or repair such tractors shall be taxed at the
7849 rate of one and one-half percent (1-1/2%) when made to farmers for
7850 agricultural purposes.
7851 (c) (i) Retail sales of farm implements sold to
7852 farmers and used directly in the production of poultry, ratite,
7853 domesticated fish as defined in Section 69-7-501, livestock,

livestock products, agricultural crops or ornamental plant crops or used for other agricultural purposes, and parts and labor used to maintain and/or repair such implements, shall be taxed at the rate of one and one-half percent (1-1/2%) when used on the farm.

(ii) The one and one-half percent (1-1/2%) rate shall also apply to all equipment used in logging, pulpwood operations or tree farming, and parts and labor used to maintain and/or repair such equipment, which is either:

1. Self-propelled, or

2. Mounted so that it is permanently attached to other equipment which is self-propelled or attached to other equipment drawn by a vehicle which is self-propelled.

In order to be eligible for the rate of tax provided for in this subparagraph (ii), such sales must be made to a professional logger. For the purposes of this subparagraph (ii), a "professional logger" is a person, corporation, limited liability company or other entity, or an agent thereof, who possesses a professional logger's permit issued by the Department of Revenue and who presents the permit to the seller at the time of purchase. The department shall establish an application process for a professional logger's permit to be issued, which shall include a requirement that the applicant submit a copy of documentation verifying that the applicant is certified according to Sustainable Forestry Initiative guidelines. Upon a determination that an

applicant is a professional logger, the department shall issue the applicant a numbered professional logger's permit.

(d) Except as otherwise provided in subsection (3) of this section, retail sales of aircraft, automobiles, trucks, truck-tractors, semitrailers and manufactured or mobile homes shall be taxed at the rate of three percent (3%).

(e) Sales of manufacturing machinery or manufacturing machine parts when made to a manufacturer or custom processor for plant use only when the machinery and machine parts will be used exclusively and directly within this state in manufacturing a commodity for sale, rental or in processing for a fee shall be taxed at the rate of one and one-half percent (1-1/2%).

(f) Sales of machinery and machine parts when made to a technology intensive enterprise for plant use only when the machinery and machine parts will be used exclusively and directly within this state for industrial purposes, including, but not limited to, manufacturing or research and development activities, shall be taxed at the rate of one and one-half percent (1-1/2%). In order to be considered a technology intensive enterprise for purposes of this paragraph:

(i) The enterprise shall meet minimum criteria established by the Mississippi Development Authority;

(ii) The enterprise shall employ at least ten (10) persons in full-time jobs;

(iii) At least ten percent (10%) of the workforce in the facility operated by the enterprise shall be scientists, engineers or computer specialists;

(iv) The enterprise shall manufacture plastics, chemicals, automobiles, aircraft, computers or electronics; or shall be a research and development facility, a computer design or related facility, or a software publishing facility or other technology intensive facility or enterprise as determined by the Mississippi Development Authority;

(v) The average wage of all workers employed by the enterprise at the facility shall be at least one hundred fifty percent (150%) of the state average annual wage; and

(vi) The enterprise must provide a basic health care plan to all employees at the facility.

A medical cannabis establishment, as defined in the Mississippi Medical Cannabis Act, shall not be considered to be a technology intensive enterprise for the purposes of this paragraph (f).

(g) Sales of materials for use in track and track structures to a railroad whose rates are fixed by the Interstate Commerce Commission or the Mississippi Public Service Commission shall be taxed at the rate of three percent (3%).

(h) Sales of tangible personal property to electric power associations for use in the ordinary and necessary operation

of their generating or distribution systems shall be taxed at the rate of one percent (1%).

(i) Wholesale sales of beer shall be taxed at the rate of seven percent (7%), and the retailer shall file a return and compute the retail tax on retail sales but may take credit for the amount of the tax paid to the wholesaler on said return covering the subsequent sales of same property, provided adequate invoices and records are maintained to substantiate the credit.

(j) Wholesale sales of food and drink for human consumption to full-service vending machine operators to be sold through vending machines located apart from and not connected with other taxable businesses shall be taxed at the rate of eight percent (8%).

(k) Sales of equipment used or designed for the purpose of assisting disabled persons, such as wheelchair equipment and lifts, that is mounted or attached to or installed on a private carrier of passengers or light carrier of property, as defined in Section 27-51-101, at the time when the private carrier of passengers or light carrier of property is sold shall be taxed at the same rate as the sale of such vehicles under this section.

(l) Sales of the factory-built components of modular homes, panelized homes and precut homes, and panel constructed homes consisting of structural insulated panels, shall be taxed at the rate of three percent (3%).

(m) Sales of materials used in the repair, renovation, addition to, expansion and/or improvement of buildings and related facilities used by a dairy producer shall be taxed at the rate of three and one-half percent (3-1/2%). For the purposes of this paragraph (m), "dairy producer" means any person engaged in the production of milk for commercial use.

(2) From and after January 1, 1995, retail sales of private carriers of passengers and light carriers of property, as defined in Section 27-51-101, shall be taxed an additional two percent (2%).

(3) A manufacturer selling at retail in this state shall be required to make returns of the gross proceeds of such sales and pay the tax imposed in this section.

SECTION 82. Section 27-65-101, Mississippi Code of 1972, is amended as follows:

27-65-101. (1) The exemptions from the provisions of this chapter which are of an industrial nature or which are more properly classified as industrial exemptions than any other exemption classification of this chapter shall be confined to those persons or property exempted by this section or by the provisions of the Constitution of the United States or the State of Mississippi. No industrial exemption as now provided by any other section except Section 57-3-33 shall be valid as against the tax herein levied. Any subsequent industrial exemption from the tax levied hereunder shall be provided by amendment to this

7975 section. No exemption provided in this section shall apply to
7976 taxes levied by Section 27-65-15 or 27-65-21.
7977 The tax levied by this chapter shall not apply to the
7978 following:
7979 (a) Sales of boxes, crates, cartons, cans, bottles and
7980 other packaging materials to manufacturers and wholesalers for use
7981 as containers or shipping materials to accompany goods sold by
7982 said manufacturers or wholesalers where possession thereof will
7983 pass to the customer at the time of sale of the goods contained
7984 therein and sales to anyone of containers or shipping materials
7985 for use in ships engaged in international commerce.
7986 (b) Sales of raw materials, catalysts, processing
7987 chemicals, welding gases or other industrial processing gases
7988 (except natural gas) to a manufacturer for use directly in
7989 manufacturing or processing a product for sale or rental or
7990 repairing or reconditioning vessels or barges of fifty (50) tons
7991 load displacement and over. For the purposes of this exemption,
7992 electricity used directly in the electrolysis process in the
7993 production of sodium chlorate shall be considered a raw material.
7994 This exemption shall not apply to any property used as fuel except
7995 to the extent that such fuel comprises by-products which have no
7996 market value.
7997 (c) The gross proceeds of sales of dry docks, offshore
7998 drilling equipment for use in oil or natural gas exploration or
7999 production, vessels or barges of fifty (50) tons load displacement

and over, when the vessels or barges are sold by the manufacturer or builder thereof. In addition to other types of equipment, offshore drilling equipment for use in oil or natural gas exploration or production shall include aircraft used predominately to transport passengers or property to or from offshore oil or natural gas exploration or production platforms or vessels, and engines, accessories and spare parts for such aircraft.

(d) Sales to commercial fishermen of commercial fishing boats of over five (5) tons load displacement and not more than fifty (50) tons load displacement as registered with the United States Coast Guard and licensed by the Mississippi Commission on Marine Resources.

(e) The gross income from repairs to vessels and barges engaged in foreign trade or interstate transportation.

(f) Sales of petroleum products to vessels or barges for consumption in marine international commerce or interstate transportation businesses.

(g) Sales and rentals of rail rolling stock (and component parts thereof) for ultimate use in interstate commerce and gross income from services with respect to manufacturing, repairing, cleaning, altering, reconditioning or improving such rail rolling stock (and component parts thereof).

(h) Sales of raw materials, catalysts, processing chemicals, welding gases or other industrial processing gases

8025 (except natural gas) used or consumed directly in manufacturing,
8026 repairing, cleaning, altering, reconditioning or improving such
8027 rail rolling stock (and component parts thereof). This exemption
8028 shall not apply to any property used as fuel.

8029 (i) Sales of machinery or tools or repair parts
8030 therefor or replacements thereof, fuel or supplies used directly
8031 in manufacturing, converting or repairing ships, vessels or barges
8032 of three thousand (3,000) tons load displacement and over, but not
8033 to include office and plant supplies or other equipment not
8034 directly used on the ship, vessel or barge being built, converted
8035 or repaired. For purposes of this exemption, "ships, vessels or
8036 barges" shall not include floating structures described in Section
8037 27-65-18.

8038 (j) Sales of tangible personal property to persons
8039 operating ships in international commerce for use or consumption
8040 on board such ships. This exemption shall be limited to cases in
8041 which procedures satisfactory to the commissioner, ensuring
8042 against use in this state other than on such ships, are
8043 established.

8044 (k) Sales of materials used in the construction of a
8045 building, or any addition or improvement thereon, and sales of any
8046 machinery and equipment not later than three (3) months after the
8047 completion of construction of the building, or any addition
8048 thereon, to be used therein, to qualified businesses, as defined
8049 in Section 57-51-5, which are located in a county or portion

thereof designated as an enterprise zone pursuant to Sections 57-51-1 through 57-51-15.

(l) Sales of materials used in the construction of a building, or any addition or improvement thereon, and sales of any machinery and equipment not later than three (3) months after the completion of construction of the building, or any addition thereon, to be used therein, to qualified businesses, as defined in Section 57-54-5.

(m) Income from storage and handling of perishable goods by a public storage warehouse.

(n) The value of natural gas lawfully injected into the earth for cycling, repressuring or lifting of oil, or lawfully vented or flared in connection with the production of oil; however, if any gas so injected into the earth is sold for such purposes, then the gas so sold shall not be exempt.

(o) The gross collections from self-service commercial laundering, drying, cleaning and pressing equipment.

(p) Sales of materials used in the construction of a building, or any addition or improvement thereon, and sales of any machinery and equipment not later than three (3) months after the completion of construction of the building, or any addition thereon, to be used therein, to qualified companies, certified as such by the Mississippi Development Authority under Section 57-53-1.

8074 (q) Sales of component materials used in the
8075 construction of a building, or any addition or improvement
8076 thereon, sales of machinery and equipment to be used therein, and
8077 sales of manufacturing or processing machinery and equipment which
8078 is permanently attached to the ground or to a permanent foundation
8079 and which is not by its nature intended to be housed within a
8080 building structure, not later than three (3) months after the
8081 initial start-up date, to permanent business enterprises engaging
8082 in manufacturing or processing in Tier Three areas (as such term
8083 is defined in Section 57-73-21), which businesses are certified by
8084 the Department of Revenue as being eligible for the exemption
8085 granted in this paragraph (q). The exemption provided in this
8086 paragraph (q) shall not apply to sales to any business enterprise
8087 that is a medical cannabis establishment as defined in the
8088 Mississippi Medical Cannabis Act.
8089 (r) (i) Sales of component materials used in the
8090 construction of a building, or any addition or improvement
8091 thereon, and sales of any machinery and equipment not later than
8092 three (3) months after the completion of the building, addition or
8093 improvement thereon, to be used therein, for any company
8094 establishing or transferring its national or regional headquarters
8095 from within or outside the State of Mississippi and creating a
8096 minimum of twenty (20) jobs at the new headquarters in this state.
8097 The exemption provided in this subparagraph (i) shall not apply to
8098 sales for any company that is a medical cannabis establishment as

8099 defined in the Mississippi Medical Cannabis Act. The Department
8100 of Revenue shall establish criteria and prescribe procedures to
8101 determine if a company qualifies as a national or regional
8102 headquarters for the purpose of receiving the exemption provided
8103 in this subparagraph (i).
8104 (ii) Sales of component materials used in the
8105 construction of a building, or any addition or improvement
8106 thereon, and sales of any machinery and equipment not later than
8107 three (3) months after the completion of the building, addition or
8108 improvement thereon, to be used therein, for any company expanding
8109 or making additions after January 1, 2013, to its national or
8110 regional headquarters within the State of Mississippi and creating
8111 a minimum of twenty (20) new jobs at the headquarters as a result
8112 of the expansion or additions. The exemption provided in this
8113 subparagraph (ii) shall not apply to sales for any company that is
8114 a medical cannabis establishment as defined in the Mississippi
8115 Medical Cannabis Act. The Department of Revenue shall establish
8116 criteria and prescribe procedures to determine if a company
8117 qualifies as a national or regional headquarters for the purpose
8118 of receiving the exemption provided in this subparagraph (ii).
8119 (s) The gross proceeds from the sale of semitrailers,
8120 trailers, boats, travel trailers, motorcycles, all-terrain cycles
8121 and rotary-wing aircraft if exported from this state within
8122 forty-eight (48) hours and registered and first used in another
8123 state.

(t) Gross income from the storage and handling of natural gas in underground salt domes and in other underground reservoirs, caverns, structures and formations suitable for such storage.

(u) Sales of machinery and equipment to nonprofit organizations if the organization:

(i) Is tax exempt pursuant to Section 501(c)(4) of the Internal Revenue Code of 1986, as amended;

(ii) Assists in the implementation of the contingency plan or area contingency plan, and which is created in response to the requirements of Title IV, Subtitle B of the Oil Pollution Act of 1990, Public Law 101-380; and

(iii) Engages primarily in programs to contain, clean up and otherwise mitigate spills of oil or other substances occurring in the United States coastal and tidal waters.

For purposes of this exemption, "machinery and equipment" means any ocean-going vessels, barges, booms, skimmers and other capital equipment used primarily in the operations of nonprofit organizations referred to herein.

(v) Sales or leases of materials and equipment to approved business enterprises as provided under the Growth and Prosperity Act.

(w) From and after July 1, 2001, sales of pollution control equipment to manufacturers or custom processors for industrial use. For the purposes of this exemption, "pollution

control equipment" means equipment, devices, machinery or systems used or acquired to prevent, control, monitor or reduce air, water or groundwater pollution, or solid or hazardous waste as required by federal or state law or regulation.

(x) Sales or leases to a manufacturer of motor vehicles or powertrain components operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) of machinery and equipment; special tooling such as dies, molds, jigs and similar items treated as special tooling for federal income tax purposes; or repair parts therefor or replacements thereof; repair services thereon; fuel, supplies, electricity, coal and natural gas used directly in the manufacture of motor vehicles or motor vehicle parts or used to provide climate control for manufacturing areas.

(y) Sales or leases of component materials, machinery and equipment used in the construction of a building, or any addition or improvement thereon to an enterprise operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi), Section 57-75-5(f)(xxii) or Section 57-75-5(f)(xxviii) and any other sales or leases required to establish or operate such project.

(z) Sales of component materials and equipment to a business enterprise as provided under Section 57-64-33.

(aa) The gross income from the stripping and painting of commercial aircraft engaged in foreign or interstate transportation business.

(bb) [Repealed]

(cc) Sales or leases to an enterprise owning or operating a project that has been designated by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xviii) of machinery and equipment; special tooling such as dies, molds, jigs and similar items treated as special tooling for federal income tax purposes; or repair parts therefor or replacements thereof; repair services thereon; fuel, supplies, electricity, coal and natural gas used directly in the manufacturing/production operations of the project or used to provide climate control for manufacturing/production areas.

(dd) Sales or leases of component materials, machinery and equipment used in the construction of a building, or any addition or improvement thereon to an enterprise owning or operating a project that has been designated by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xviii) and any other sales or leases required to establish or operate such project.

(ee) Sales of parts used in the repair and servicing of aircraft not registered in Mississippi engaged exclusively in the business of foreign or interstate transportation to businesses engaged in aircraft repair and maintenance.

(ff) Sales of component materials used in the construction of a facility, or any addition or improvement thereon, and sales or leases of machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition or improvement thereto, to be used in the building or any addition or improvement thereto, to a permanent business enterprise operating a data/information enterprise in Tier Three areas (as such areas are designated in accordance with Section 57-73-21), meeting minimum criteria established by the Mississippi Development Authority. The exemption provided in this paragraph (ff) shall not apply to sales to any business enterprise that is a medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(gg) Sales of component materials used in the construction of a facility, or any addition or improvement thereto, and sales of machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition or improvement thereto, to be used in the facility or any addition or improvement thereto, to technology intensive enterprises for industrial purposes in Tier Three areas (as such areas are designated in accordance with Section 57-73-21), as certified by the Department of Revenue. For purposes of this paragraph, an enterprise must meet the criteria provided for in Section 27-65-17(1)(f) in order to be considered a technology intensive enterprise.

8224 (hh) Sales of component materials used in the
8225 replacement, reconstruction or repair of a building or facility
8226 that has been destroyed or sustained extensive damage as a result
8227 of a disaster declared by the Governor, sales of machinery and
8228 equipment to be used therein to replace machinery or equipment
8229 damaged or destroyed as a result of such disaster, including, but
8230 not limited to, manufacturing or processing machinery and
8231 equipment which is permanently attached to the ground or to a
8232 permanent foundation and which is not by its nature intended to be
8233 housed within a building structure, to enterprises or companies
8234 that were eligible for the exemptions authorized in paragraph (q),
8235 (r), (ff) or (gg) of this subsection during initial construction
8236 of the building that was destroyed or damaged, which enterprises
8237 or companies are certified by the Department of Revenue as being
8238 eligible for the exemption granted in this paragraph.
8239 (ii) Sales of software or software services transmitted
8240 by the Internet to a destination outside the State of Mississippi
8241 where the first use of such software or software services by the
8242 purchaser occurs outside the State of Mississippi.
8243 (jj) Gross income of public storage warehouses derived
8244 from the temporary storage of raw materials that are to be used in
8245 an eligible facility as defined in Section 27-7-22.35.
8246 (kk) Sales of component building materials and
8247 equipment for initial construction of facilities or expansion of

8248 facilities as authorized under Sections 57-113-1 through 57-113-7
8249 and Sections 57-113-21 through 57-113-27.
8250 (ll) Sales and leases of machinery and equipment
8251 acquired in the initial construction to establish facilities as
8252 authorized in Sections 57-113-1 through 57-113-7.
8253 (mm) Sales and leases of replacement hardware, software
8254 or other necessary technology to operate a data center as
8255 authorized under Sections 57-113-21 through 57-113-27.
8256 (nn) Sales of component materials used in the
8257 construction of a building, or any addition or improvement
8258 thereon, and sales or leases of machinery and equipment not later
8259 than three (3) months after the completion of the construction of
8260 the facility, to be used in the facility, to permanent business
8261 enterprises operating a facility producing renewable crude oil
8262 from biomass harvested or produced, in whole or in part, in
8263 Mississippi, which businesses meet minimum criteria established by
8264 the Mississippi Development Authority. As used in this paragraph,
8265 the term "biomass" shall have the meaning ascribed to such term in
8266 Section 57-113-1.
8267 (oo) Sales of supplies, equipment and other personal
8268 property to an organization that is exempt from taxation under
8269 Section 501(c)(3) of the Internal Revenue Code and is the host
8270 organization coordinating a professional golf tournament played or
8271 to be played in this state and the supplies, equipment or other

personal property will be used for purposes related to the golf tournament and related activities.

(pp) Sales of materials used in the construction of a health care industry facility, as defined in Section 57-117-3, or any addition or improvement thereon, and sales of any machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition thereon, to be used therein, to qualified businesses, as defined in Section 57-117-3. This paragraph shall be repealed from and after July 1, 2022.

(qq) Sales or leases to a manufacturer of automotive parts operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xxviii) of machinery and equipment; or repair parts therefor or replacements thereof; repair services thereon; fuel, supplies, electricity, coal, nitrogen and natural gas used directly in the manufacture of automotive parts or used to provide climate control for manufacturing areas.

(rr) Gross collections derived from guided tours on any navigable waters of this state, which include providing accommodations, guide services and/or related equipment operated by or under the direction of the person providing the tour, for the purposes of outdoor tourism. The exemption provided in this paragraph (rr) does not apply to the sale of tangible personal property by a person providing such tours.

8297 (ss) Retail sales of truck-tractors and semitrailers
8298 used in interstate commerce and registered under the International
8299 Registration Plan (IRP) or any similar reciprocity agreement or
8300 compact relating to the proportional registration of commercial
8301 vehicles entered into as provided for in Section 27-19-143.
8302 (tt) Sales exempt under the Facilitating Business Rapid
8303 Response to State Declared Disasters Act of 2015 (Sections
8304 27-113-1 through 27-113-9).
8305 (uu) Sales or leases to an enterprise and its
8306 affiliates operating a project that has been certified by the
8307 Mississippi Major Economic Impact Authority as a project as
8308 defined in Section 57-75-5(f)(xxix) of:
8309 (i) All personal property and fixtures, including
8310 without limitation, sales or leases to the enterprise and its
8311 affiliates of:
8312 1. Manufacturing machinery and equipment;
8313 2. Special tooling such as dies, molds, jigs
8314 and similar items treated as special tooling for federal income
8315 tax purposes;
8316 3. Component building materials, machinery
8317 and equipment used in the construction of buildings, and any other
8318 additions or improvements to the project site for the project;
8319 4. Nonmanufacturing furniture, fixtures and
8320 equipment (inclusive of all communications, computer, server,
8321 software and other hardware equipment); and

5. Fuel, supplies (other than nonmanufacturing consumable supplies and water), electricity, nitrogen gas and natural gas used directly in the manufacturing/production operations of such project or used to provide climate control for manufacturing/production areas of such project;

(ii) All replacements of, repair parts for or services to repair items described in subparagraph (i)1, 2 and 3 of this paragraph; and

(iii) All services taxable pursuant to Section 27-65-23 required to establish, support, operate, repair and/or maintain such project.

(vv) Sales or leases to an enterprise operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xxx) of:

(i) Purchases required to establish and operate the project, including, but not limited to, sales of component building materials, machinery and equipment required to establish the project facility and any additions or improvements thereon; and

(ii) Machinery, special tools (such as dies, molds, and jigs) or repair parts thereof, or replacements and lease thereof, repair services thereon, fuel, supplies and electricity, coal and natural gas used in the manufacturing

process and purchased by the enterprise owning or operating the project for the benefit of the project.

(ww) Sales of component materials used in the construction of a building, or any expansion or improvement thereon, sales of machinery and/or equipment to be used therein, and sales of processing machinery and equipment which is permanently attached to the ground or to a permanent foundation which is not by its nature intended to be housed in a building structure, no later than three (3) months after initial startup, expansion or improvement of a permanent enterprise solely engaged in the conversion of natural sand into proppants used in oil and gas exploration and development with at least ninety-five percent (95%) of such proppants used in the production of oil and/or gas from horizontally drilled wells and/or horizontally drilled recompletion wells as defined in Sections 27-25-501 and 27-25-701.

(2) Sales of component materials used in the construction of a building, or any addition or improvement thereon, sales of machinery and equipment to be used therein, and sales of manufacturing or processing machinery and equipment which is permanently attached to the ground or to a permanent foundation and which is not by its nature intended to be housed within a building structure, not later than three (3) months after the initial start-up date, to permanent business enterprises engaging in manufacturing or processing in Tier Two areas and Tier One areas (as such areas are designated in accordance with Section

57-73-21), which businesses are certified by the Department of Revenue as being eligible for the exemption granted in this subsection, shall be exempt from one-half (1/2) of the taxes imposed on such transactions under this chapter. The exemption provided in this subsection (2) shall not apply to sales to any business enterprise that is a medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(3) Sales of component materials used in the construction of a facility, or any addition or improvement thereon, and sales or leases of machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition or improvement thereto, to be used in the building or any addition or improvement thereto, to a permanent business enterprise operating a data/information enterprise in Tier Two areas and Tier One areas (as such areas are designated in accordance with Section 57-73-21), which businesses meet minimum criteria established by the Mississippi Development Authority, shall be exempt from one-half (1/2) of the taxes imposed on such transaction under this chapter. The exemption provided in this subsection (3) shall not apply to sales to any business enterprise that is a medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(4) Sales of component materials used in the construction of a facility, or any addition or improvement thereto, and sales of machinery and equipment not later than three (3) months after the

completion of construction of the facility, or any addition or improvement thereto, to be used in the building or any addition or improvement thereto, to technology intensive enterprises for industrial purposes in Tier Two areas and Tier One areas (as such areas are designated in accordance with Section 57-73-21), which businesses are certified by the Department of Revenue as being eligible for the exemption granted in this subsection, shall be exempt from one-half (1/2) of the taxes imposed on such transactions under this chapter. For purposes of this subsection, an enterprise must meet the criteria provided for in Section 27-65-17(1)(f) in order to be considered a technology intensive enterprise.

(5) (a) For purposes of this subsection:

(i) "Telecommunications enterprises" shall have the meaning ascribed to such term in Section 57-73-21;

(ii) "Tier One areas" mean counties designated as Tier One areas pursuant to Section 57-73-21;

(iii) "Tier Two areas" mean counties designated as Tier Two areas pursuant to Section 57-73-21;

(iv) "Tier Three areas" mean counties designated as Tier Three areas pursuant to Section 57-73-21; and

(v) "Equipment used in the deployment of broadband technologies" means any equipment capable of being used for or in connection with the transmission of information at a rate, prior to taking into account the effects of any signal degradation, that

is not less than three hundred eighty-four (384) kilobits per second in at least one (1) direction, including, but not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optics and related equipment.

(b) Sales of equipment to telecommunications enterprises after June 30, 2003, and before July 1, 2025, that is installed in Tier One areas and used in the deployment of broadband technologies shall be exempt from one-half (1/2) of the taxes imposed on such transactions under this chapter.

(c) Sales of equipment to telecommunications enterprises after June 30, 2003, and before July 1, 2025, that is installed in Tier Two and Tier Three areas and used in the deployment of broadband technologies shall be exempt from the taxes imposed on such transactions under this chapter.

(6) Sales of component materials used in the replacement, reconstruction or repair of a building that has been destroyed or sustained extensive damage as a result of a disaster declared by the Governor, sales of machinery and equipment to be used therein to replace machinery or equipment damaged or destroyed as a result of such disaster, including, but not limited to, manufacturing or processing machinery and equipment which is permanently attached to the ground or to a permanent foundation and which is not by its nature intended to be housed within a building structure, to enterprises that were eligible for the partial exemptions provided

8447 for in subsections (2), (3) and (4) of this section during initial
8448 construction of the building that was destroyed or damaged, which
8449 enterprises are certified by the Department of Revenue as being
8450 eligible for the partial exemption granted in this subsection,
8451 shall be exempt from one-half (1/2) of the taxes imposed on such
8452 transactions under this chapter.

8453 **SECTION 83.** Section 37-148-3, Mississippi Code of 1972, is
8454 amended as follows:

8455 37-148-3. As used in this chapter, the following words and
8456 phrases have the meanings ascribed in this section unless the
8457 context clearly indicates otherwise:

8458 (a) "College" means the state institutions of higher
8459 learning in Mississippi which are accredited by the Southern
8460 Association of Colleges and Schools.

8461 (b) "Investor" means a natural person, partnership,
8462 limited liability company, association, corporation, business
8463 trust or other business entity, not formed for the specific
8464 purpose of acquiring the rebate offered, which is subject to
8465 Mississippi income tax. <u>The term "investor" does not include any</u>
8466 <u>medical cannabis establishment as defined in the Mississippi</u>
8467 <u>Medical Cannabis Act.</u>

8468 (c) "Qualified research" means the systematic
8469 investigative process that is undertaken for the purpose of
8470 discovering information. The term "qualified research" does not
8471 include research conducted outside the State of Mississippi or

research expenses that are already being funded by any grant, contract or otherwise by another person or governmental entity.

(d) "Research agreement" means a written contract, grant or cooperative agreement entered into between a person and a college or research corporation for the performance of qualified research. All qualified research costs generating a SMART Business Rebate must be spent by the college or research corporation on qualified research undertaken according to a research agreement.

(e) "Research corporation" means any research corporation formed under Section 37-147-15 if the corporation is wholly owned by or affiliated with a college and all income and profits of the corporation inure to the benefit of the college.

(f) "Qualified research costs" means costs paid or incurred by an investor to a college or research corporation for qualified research undertaken according to a research agreement.

(g) "State" means the State of Mississippi or a governmental entity of the State of Mississippi.

(h) "IHL" means the Board of Trustees of State Institutions of Higher Learning in Mississippi.

(i) "SMART Business" means Strengthening Mississippi Academic Research Through Business.

(j) "Applicant" means a college or research corporation applying for SMART Business Accelerate Initiative funds to develop state-owned intellectual property into products and services.

8497 (k) "Qualified validation expense" includes, but is not
8498 limited to, services that accelerate the development of early
8499 product concepts, conducting proof-of-concept studies, and
8500 manufacturing prototypes to perform research validation.
8501 Qualified validation expense does not include salaries or wages
8502 associated with a licensee of state-owned intellectual property,
8503 legal fees or any payment in conflict with state law.
8504 (l) "Research validation" means research intended to
8505 validate the commercial viability of state-owned intellectual
8506 property.
8507 (m) "Disbursement" means a grant of funds to support
8508 research validation.
8509 **SECTION 84.** Section 57-1-16, Mississippi Code of 1972, is
8510 amended as follows:
8511 57-1-16. (1) As used in this section:
8512 (a) "Extraordinary economic development opportunity"
8513 means a new or expanded business or industry which maintains a
8514 strong financial condition and minimal credit risk and creates
8515 substantial employment, particularly in areas of high
8516 unemployment. <u>The term "extraordinary economic development</u>
8517 <u>opportunity" does not include any medical cannabis establishment</u>
8518 <u>as defined in the Mississippi Medical Cannabis Act.</u>
8519 (b) "Local economic development entities" means state
8520 institutions of higher learning or public or private nonprofit
8521 local economic development entities including, but not limited to,

8522 chambers of commerce, local authorities, commissions or other
8523 entities created by local and private legislation or districts
8524 created pursuant to Section 19-5-99.
8525 (c) "MDA" means the Mississippi Development Authority.
8526 (2) (a) There is hereby created in the State Treasury a
8527 special fund to be designated as the ACE Fund, which shall consist
8528 of money from any public or private source designated for deposit
8529 into such fund. Unexpended amounts remaining in the fund at the
8530 end of a fiscal year shall not lapse into the State General Fund,
8531 and any interest earned on amounts in the fund shall be deposited
8532 to the credit of the fund. The purpose of the fund shall be to
8533 assist in maximizing extraordinary economic development
8534 opportunities related to any new or expanded business or industry
8535 or to assist a local unit of government as authorized in
8536 subsection (5) of this section. Such funds may be used to make
8537 grants to local economic development entities to assist any new or
8538 expanding business or industry that meets the criteria provided in
8539 this section when such assistance aids the consummation of a
8540 project within the State of Mississippi, including any federal
8541 Indian reservation located within the geographical boundary of
8542 Mississippi, or to make grants to a local unit of government as
8543 authorized in subsection (5) of this section.
8544 (b) Monies in the fund which are derived from the
8545 proceeds of general obligation bonds may be used to reimburse
8546 reasonable actual and necessary costs incurred by the MDA for the

administration of the various grant, loan and financial incentive programs administered by the MDA. An accounting of actual costs incurred for which reimbursement is sought shall be maintained by the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds issued. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(3) The MDA shall establish a grant program to make grants from the ACE Fund created under this section. Local economic development entities may apply to the MDA for a grant under this section in the manner provided for in subsection (4) of this section. Local units of government may apply to the MDA for a grant under this section in the manner provided in subsection (5) of this section.

(4) (a) Any business or industry desiring assistance from a local economic development entity under this section shall submit an application to the local economic development entity which shall include, at a minimum:

(i) Evidence that the business or industry meets the definition of an extraordinary economic development opportunity;

(ii) A demonstration that the business or industry is at an economic disadvantage by locating the new or expanded project in the county;

8571 (iii) A description, including the cost, of the
8572 requested assistance;
8573 (iv) A description of the purpose for which the
8574 assistance is requested;
8575 (v) A two-year business plan;
8576 (vi) Financial statements or tax returns for the
8577 three (3) years immediately prior to the application;
8578 (vii) Credit reports on all persons or entities
8579 with a twenty percent (20%) or greater interest in the business or
8580 industry; and
8581 (viii) Any other information required by the MDA.
8582 (b) The MDA shall require that binding commitments be
8583 entered into requiring that:
8584 (i) The minimum requirements of this section and
8585 such other requirements as the MDA considers proper shall be met;
8586 and
8587 (ii) If such requirements are not met, all or a
8588 portion of the funds provided by this section as determined by the
8589 MDA shall be repaid.
8590 (c) Upon receipt of the application from a business or
8591 industry, the local economic development entity may apply to the
8592 MDA for assistance under this section. Such application must
8593 contain evidence that the business or industry meets the
8594 definition of an extraordinary economic development opportunity, a
8595 demonstration that the business or industry is at an economic

disadvantage by locating the new or expanded project in the county, a description, including the cost, of the requested assistance, and a statement of what efforts have been made or are being made by the business or industry for securing or qualifying for other local, state, federal or private funds for the project.

(d) The MDA shall have sole discretion in the awarding of ACE funds, provided that the business or industry and the local economic development entity have met the statutory requirements of this section. However, in making grants under this section, the MDA shall attempt to provide for an equitable distribution of such grants among each of the congressional districts of this state in order to promote economic development across the entire state.

(5) (a) The MDA may make grants to local units of government to assist the local unit of government in purchasing real property for the benefit of an existing industry that commits to maintain a minimum of one thousand three hundred (1,300) jobs for a minimum of ten (10) years after the date the grant is made. <u>The MDA shall not make grants under this subsection to assist local units of government for the benefit of any medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.</u>

(b) Any local unit of government seeking a grant authorized under this subsection shall apply to MDA. The application shall contain such information as the MDA may require.

(c) The MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this subsection and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(6) The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of this section. However, before the implementation of any such rules and regulations, they shall be submitted to a committee consisting of five (5) members of the Senate Finance Committee and five (5) members of the House of Representatives Ways and Means Committee, appointed by the respective committee chairmen.

SECTION 85. Section 57-1-221, Mississippi Code of 1972, is amended as follows:

57-1-221. (1) As used in this section:

(a) "Approved business enterprise" means any project that:

(i) Locates or expands in this state, including any federal Indian reservation located within the geographical boundary of this state, and creates a minimum of two hundred fifty (250) new, full-time jobs with a total capital investment in the state of a minimum of Thirty Million Dollars ($30,000,000.00) in Tier 1 or Tier 2 counties;

(ii) Locates or expands in this state, including any federal Indian reservation located within the geographical boundary of this state, and creates a minimum of one hundred fifty (150) new, full-time jobs with a total capital investment in the state of a minimum of Fifteen Million Dollars ($15,000,000.00) in areas federally designated as low-income census tracts;

(iii) Locates or expands in this state, including any federal Indian reservation located within the geographical boundary of this state, and creates a minimum of one thousand (1,000) new, full-time jobs;

(iv) Is a manufacturer of high-end kitchen appliances having at least four hundred (400) employees working at its Mississippi facilities on January 1, 2015, and with a capital investment of at least Five Million Dollars ($5,000,000.00) made after July 1, 2014, through four (4) years after July 1, 2015, that expands in this state, including any federal Indian reservation located within the geographical boundary of this state, and retains a minimum of four hundred (400) jobs; or

(v) Locates or expands in this state, including any federal Indian reservation located within the geographical boundary of this state, with significant regional impact as determined by MDA.

(b) "MDA" means the Mississippi Development Authority.

(c) "Facility related to the project" means and includes any of the following, as they may pertain to the project:

(i) Facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas and electric transmission systems to the site of the project;

(ii) Building facilities and equipment necessary to operate the facility;

(iii) Rail lines;

(iv) Airports, airfields, air terminals and port facilities;

(v) Highways, streets and other roadways; and

(vi) Fire protection facilities, equipment and elevated water tanks.

(d) "Project" means any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise that is approved by the MDA. <u>The term "project" does not include any medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.</u>

(2) (a) There is created a special fund in the State Treasury to be known as the Mississippi Industry Incentive Financing Revolving Fund which shall consist of monies from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse

into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Except as otherwise provided, monies in the fund shall be disbursed by the Mississippi Development Authority for the purposes authorized in subsection (3) of this section. The Mississippi Development Authority shall allocate and disburse Thirty Million Dollars ($30,000,000.00) from the fund as a grant to Mississippi State University for the construction, furnishing and equipping of a high-performance computing data center that is home to federally designated centers of computing excellence. The disbursement of such funds shall not be subject to any requirements of this section relating to grants and loans made by the Mississippi Development Authority under this section. The Mississippi Development Authority shall allocate and disburse Three Million Dollars ($3,000,000.00) from the fund as a grant to Delta Health System for capital costs related to hospital systems expansion. The disbursement of such funds shall not be subject to any requirements of this section relating to grants and loans made by the Mississippi Development Authority under this section. The Mississippi Development Authority shall disburse such funds to Delta Health System not later than thirty (30) days after April 22, 2021.

(b) Monies in the fund that are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA for the

administration of the various grant, loan and financial incentive programs administered by the MDA. An accounting of actual costs incurred for which reimbursement is sought shall be maintained by the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds issued. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(3) The MDA shall establish a program to make grants or loans from the Mississippi Industry Incentive Financing Revolving Fund to local governments, including, but not limited to, counties, municipalities, industrial development authorities and economic development districts, and approved business enterprises to construct or otherwise provide facilities related to the project. Local governments are authorized to accept grants and enter into loans authorized under the program, and to sell, lease or otherwise dispose of a project or any property related to the project in whole or in part.

(4) (a) Except as otherwise provided in this section, any business enterprise or local government desiring a grant or loan under this section shall submit an application to the MDA which shall include, at a minimum:

(i) Evidence that the business or industry meets the definition of an approved business enterprise;

(ii) A description, including the cost, of the requested assistance;

8746 (iii) A description of the purpose for which the
8747 assistance is requested; and
8748 (iv) Any other information required by the MDA.
8749 (b) Except as otherwise provided in this section, the
8750 MDA shall require that binding commitments be entered into
8751 requiring that:
8752 (i) The minimum requirements of this section and
8753 such other requirements as the MDA considers proper shall be met;
8754 and
8755 (ii) If such requirements are not met, all or a
8756 portion of the funds provided by this section as determined by the
8757 MDA shall be repaid.
8758 (c) Upon receipt of the application from a business
8759 enterprise or local government for a grant or loan under this
8760 section, the MDA shall determine whether the enterprise meets the
8761 definition of an approved business enterprise and determine
8762 whether to provide the assistance requested in the form of a grant
8763 or a loan.
8764 (d) Except as otherwise provided in subsection (2)(a)
8765 of this section, the MDA shall have sole discretion in providing
8766 grants or loans under this section. The terms of a grant or loan
8767 provided under this section and the manner of repayment of any
8768 loan shall be within the discretion of the MDA. Repayments of
8769 loans made under this section shall be deposited to the credit of
8770 the Mississippi Industry Incentive Financing Revolving Fund until

the uncommitted balance in the fund reaches Fifty Million Dollars ($50,000,000.00). Once the uncommitted balance in the fund reaches Fifty Million Dollars ($50,000,000.00), repayments of loans under this section shall be deposited to the credit of Fund No. 3951 in the State Treasury to pay debt service on bonds until such time as the uncommitted balance in the fund falls below Fifty Million Dollars ($50,000,000.00).

(e) The MDA shall notify the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee of the approval of any grant or loan application thirty (30) days prior to the disbursement of any monies for the loan or grant from the Mississippi Industry Incentive Financing Revolving Fund. The notification shall identify the applicant and the purposes for which the loan or grant is made.

(5) (a) Contracts, by local governments, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project shall be exempt from the provisions of Section 31-7-13 if:

(i) The MDA finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this section to enter into such contracts on the basis of Section 31-7-13; and

(ii) The approved business enterprise that is involved in the project concurs in such finding.

8796 (b) When the requirements of paragraph (a) of this
8797 subsection are met:
8798 (i) The requirements of Section 31-7-13 shall not
8799 apply to such contracts; and
8800 (ii) The contracts may be entered into on the
8801 basis of negotiation.
8802 (6) It is the policy of the MDA and the MDA is authorized to
8803 accommodate and support any enterprise that receives a loan under
8804 this section for a project defined in Section 17-25-23 that wishes
8805 to have a program of diversity in contracting, and/or that wishes
8806 to do business with or cause its prime contractor to do business
8807 with Mississippi companies, including those companies that are
8808 small business concerns owned and controlled by socially and
8809 economically disadvantaged individuals. The term "socially and
8810 economically disadvantaged individuals" shall have the meaning
8811 ascribed to such term under Section 8(d) of the Small Business Act
8812 (15 USCS 637(d)) and relevant subcontracting regulations
8813 promulgated pursuant thereto; except that women shall be presumed
8814 to be socially and economically disadvantaged individuals for the
8815 purposes of this subsection.
8816 (7) The MDA shall promulgate rules and regulations, in
8817 accordance with the Mississippi Administrative Procedures Law, for
8818 the implementation of this section.
8819 **SECTION 86.** Section 57-10-401, Mississippi Code of 1972, is
8820 amended as follows:

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, this section shall read as follows:]

57-10-401. As used in Sections 57-10-401 through 57-10-445, the following terms shall have the meanings ascribed to them herein unless the context clearly indicates otherwise:

(a) "Approved company" means any eligible company seeking to locate an economic development project in a county, which eligible company is approved by the corporation.

(b) "Approved costs" means:

(i) Obligations incurred for equipment and labor and to contractors, subcontractors, builders and materialmen in connection with the acquisition, construction and installation of an economic development project;

(ii) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(iii) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction and installation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(iv) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of

8846 construction, as well as for the performance of all the duties
8847 required by or consequent upon the acquisition, construction and
8848 installation of an economic development project;
8849 (v) All costs which shall be required to be paid
8850 under the terms of any contract or contracts for the acquisition,
8851 construction and installation of an economic development project;
8852 (vi) All costs, expenses and fees incurred in
8853 connection with the issuance of bonds pursuant to Sections
8854 57-10-401 through 57-10-445;
8855 (vii) All costs funded by a loan made under the
8856 Mississippi Small Enterprise Development Finance Act; and
8857 (viii) All costs of professionals permitted to be
8858 engaged under the Mississippi Small Enterprise Development Finance
8859 Act for a loan made under such act.
8860 (c) "Assessment" means the job development assessment
8861 fee authorized in Section 57-10-413.
8862 (d) "Bonds" means the revenue bonds, notes or other
8863 debt obligations of the corporation authorized to be issued by the
8864 corporation on behalf of an eligible company or other state
8865 agency.
8866 (e) "Corporation" means the Mississippi Business
8867 Finance Corporation created under Section 57-10-167, Mississippi
8868 Code of 1972.
8869 (f) "Economic development project" means and includes
8870 the acquisition of any equipment or real estate in a county and

the construction and installation thereon, and with respect thereto, of improvements and facilities necessary or desirable for improvement of the real estate, including surveys, site tests and inspections, subsurface site work, excavation, removal of structures, roadways, cemeteries and other surface obstructions, filling, grading and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities, off-site construction of utility extensions to the boundaries of the real estate, and the acquisition, construction and installation of manufacturing, telecommunications, data processing, distribution or warehouse facilities on the real estate, for lease or financial arrangement by the corporation to an approved company for use and occupancy by the approved company or its affiliates for manufacturing, telecommunications, data processing, distribution or warehouse purposes. Such term also includes, without limitation, any project the financing of which has been approved under the Mississippi Small Enterprise Development Finance Act. From and after January 1, 2014, such term also includes the economic development project of a related approved company that is merged into or consolidated with another approved company where the approved companies are engaged in a vertically integrated manufacturing or warehouse operation.

(g) "Eligible company" means any corporation, partnership, sole proprietorship, business trust, or other entity which is:

(i) Engaged in manufacturing which meets the standards promulgated by the corporation under Sections 57-10-401 through 57-10-445;

(ii) A private company approved by the corporation for a loan under the Mississippi Small Enterprise Development Finance Act;

(iii) A distribution or warehouse facility employing a minimum of fifty (50) people or employing a minimum of twenty (20) people and having a capital investment in such facility of at least Five Million Dollars ($5,000,000.00); or

(iv) A telecommunications or data processing business.

(h) "Executive director" means the Executive Director of the Mississippi Business Finance Corporation.

(i) "Financing agreement" means any financing documents and agreements, indentures, loan agreements, lease agreements, security agreements and the like, entered into by and among the corporation, private lenders and an approved company with respect to an economic development project.

(j) "Manufacturing" means any activity involving the manufacturing, processing, assembling or production of any property, including the processing resulting in a change in the

conditions of the property and any activity functionally related thereto, together with the storage, warehousing, distribution and related office facilities in respect thereof as determined by the Mississippi Business Finance Corporation; however, in no event shall "manufacturing" include mining, coal or mineral processing, or extraction of Mississippi minerals.

(k) "State agency" means any state board, commission, committee, council, university, department or unit thereof created by the Constitution or laws of this state.

(l) "Revenues" shall not be considered state funds.

(m) "State" means the State of Mississippi.

(n) "Mississippi Small Enterprise Development Finance Act" means the provisions of law contained in Section 57-71-1 et seq.

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has not issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, this section shall read as follows:]

57-10-401. As used in Sections 57-10-401 through 57-10-445, the following terms shall have the meanings ascribed to them herein unless the context clearly indicates otherwise:

(a) "Approved company" means any eligible company seeking to locate an economic development project in a county, which eligible company is approved by the corporation.

(b) "Approved costs" means:

(i) Obligations incurred for equipment and labor and to contractors, subcontractors, builders and materialmen in connection with the acquisition, construction and installation of an economic development project;

(ii) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(iii) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction and installation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(iv) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction and installation of an economic development project;

(v) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction and installation of an economic development project;

(vi) All costs, expenses and fees incurred in connection with the issuance of bonds pursuant to Sections 57-10-401 through 57-10-445;

(vii) All costs funded by a loan made under the Mississippi Small Enterprise Development Finance Act; and

(viii) All costs of professionals permitted to be engaged under the Mississippi Small Enterprise Development Finance Act for a loan made under such act.

(c) "Assessment" means the job development assessment fee authorized in Section 57-10-413.

(d) "Bonds" means the revenue bonds, notes or other debt obligations of the corporation authorized to be issued by the corporation on behalf of an eligible company or other state agency.

(e) "Corporation" means the Mississippi Business Finance Corporation created under Section 57-10-167, Mississippi Code of 1972.

(f) "Economic development project" means and includes the acquisition of any equipment or real estate in a county and the construction and installation thereon, and with respect thereto, of improvements and facilities necessary or desirable for improvement of the real estate, including surveys, site tests and inspections, subsurface site work, excavation, removal of structures, roadways, cemeteries and other surface obstructions, filling, grading and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities, off-site construction of utility extensions to the boundaries of the real estate, and the acquisition, construction and installation of manufacturing, telecommunications, data processing, distribution

or warehouse facilities on the real estate, for lease or financial arrangement by the corporation to an approved company for use and occupancy by the approved company or its affiliates for manufacturing, telecommunications, data processing, distribution or warehouse purposes. Such term also includes, without limitation, any project the financing of which has been approved under the Mississippi Small Enterprise Development Finance Act.

If an eligible company closes a facility in this state and becomes an approved company under the provisions of Sections 57-10-401 through 57-10-449, only that portion of the project for which such company is attempting to obtain financing that is in excess of the value of the closed facility shall be included within the definition of the term "economic development project." The Mississippi Business Finance Corporation shall promulgate rules and regulations to govern the determination of the difference between the value of the closed facility and the new facility.

(g) "Eligible company" means any corporation, partnership, sole proprietorship, business trust, or other entity which:

(i) Engaged in manufacturing which meets the standards promulgated by the corporation under Sections 57-10-401 through 57-10-445;

9017 (ii) A private company approved by the corporation
9018 for a loan under the Mississippi Small Enterprise Development
9019 Finance Act;
9020 (iii) A distribution or warehouse facility
9021 employing a minimum of fifty (50) people or employing a minimum of
9022 twenty (20) people and having a capital investment in such
9023 facility of at least Five Million Dollars ($5,000,000.00);
9024 (iv) A telecommunications or data/information
9025 processing business meeting criteria established by the
9026 Mississippi Business Finance Corporation;
9027 (v) National or regional headquarters meeting
9028 criteria established by the Mississippi Business Finance
9029 Corporation;
9030 (vi) Research and development facilities meeting
9031 criteria established by the Mississippi Business Finance
9032 Corporation; or
9033 (vii) Technology intensive enterprises or
9034 facilities meeting criteria established by the Mississippi
9035 Business Finance Corporation.
9036 The term "eligible company" does not include any medical
9037 cannabis establishment as defined in the Mississippi Medical
9038 Cannabis Act.
9039 (h) "Executive director" means the Executive Director
9040 of the Mississippi Business Finance Corporation.

9041 (i) "Financing agreement" means any financing documents
9042 and agreements, indentures, loan agreements, lease agreements,
9043 security agreements and the like, entered into by and among the
9044 corporation, private lenders and an approved company with respect
9045 to an economic development project.
9046 (j) "Manufacturing" means any activity involving the
9047 manufacturing, processing, assembling or production of any
9048 property, including the processing resulting in a change in the
9049 conditions of the property and any activity functionally related
9050 thereto, together with the storage, warehousing, distribution and
9051 related office facilities in respect thereof as determined by the
9052 Mississippi Business Finance Corporation; however, in no event
9053 shall "manufacturing" include mining, coal or mineral processing,
9054 or extraction of Mississippi minerals.
9055 (k) "State agency" means any state board, commission,
9056 committee, council, university, department or unit thereof created
9057 by the Constitution or laws of this state.
9058 (l) "Revenues" shall not be considered state funds.
9059 (m) "State" means the State of Mississippi.
9060 (n) "Mississippi Small Enterprise Development Finance
9061 Act" means the provisions of law contained in Section 57-71-1 et
9062 seq.
9063 **SECTION 87.** Section 57-61-5, Mississippi Code of 1972, is
9064 amended as follows:

57-61-5. The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(a) "Department" means the Mississippi *** * *** Development Authority.

(b) "Board" means the Mississippi *** * *** Development Authority operating through its executive director.

(c) "Improvements" means the construction, rehabilitation or repair of drainage systems; energy facilities (power generation and distribution); fire safety facilities (excluding vehicles); sewer systems (pipe treatment); transportation directly affecting the site of the proposed investment, including roads, sidewalks, bridges, rail, port, river, airport or pipeline (excluding vehicles); bulkheads; buildings; and facilities necessary to accommodate a United States Navy home port; and means land reclamation; waste disposal; water supply (storage, treatment and distribution); land acquisition; and the dredging of channels and basins.

(d) "Municipality" means any county or any incorporated city, or town, acting individually or jointly, or any agency of the State of Mississippi operating a state-owned port.

(e) "Private company" means any agricultural, aquacultural, maricultural, industrial, manufacturing, service, tourism, or research and development enterprise or enterprises. The term "private company" shall not include any retail trade

enterprise except regional shopping malls having a minimum capital investment of One Hundred Million Dollars ($100,000,000.00). The term "private company" shall not include any medical cannabis establishment as defined in the Mississippi Medical Cannabis Act. No more than fifteen percent (15%) of the aggregate funds made available under this chapter shall be used to fund aquacultural, maricultural and tourism enterprises. The funds made available to tourism enterprises under this chapter shall be limited to infrastructure improvements and to the acquisition of land and shall not be made available to fund tourism promotions or to fund the construction, improvement or acquisition of hotels and/or motels or to finance or refinance any obligations of hotels and/or motels.

(f) "Governmental unit" means a department or subsidiary of the United States government, or an agency of the State of Mississippi operating a state-owned port.

(g) "Private match" means any new private investment by the private company and/or governmental unit in land, buildings, depreciable fixed assets, and improvements of the project used to match improvements funded under this chapter. The term "private match" includes improvements made prior to the effective date of this chapter [Laws, 1986, Chapter 419, effective March 31, 1986] pursuant to contracts entered into contingent upon assistance being made available under this chapter.

9114 (h) "Publicly owned property" means property which is
9115 owned by the local, state or United States government and is not
9116 under the control of a private company.
9117 (i) "Director" means the Executive Director of
9118 the *** * *** Mississippi Development Authority.
9119 (j) "Small community" means a county with a population
9120 of twenty-five thousand (25,000) or less; or a municipality with a
9121 population of ten thousand (10,000) or less and any area within
9122 five (5) miles of the limits of such municipality, according to
9123 the most recent federal decennial census.
9124 (k) "Strategic investment" means an investment by the
9125 private and public sectors that will have a major impact on job
9126 creation and maintenance in the state of no less than one hundred
9127 fifty (150) jobs, that will have a major impact on enlargement and
9128 enhancement of international and foreign trade and commerce to and
9129 from the State of Mississippi, or which is considered to be unique
9130 to the state and have statewide or regional impact as determined
9131 by the department.
9132 (l) "Seller" means the State Bond Commission or the
9133 State Development Bank.
9134 **SECTION 88.** Section 57-62-5, Mississippi Code of 1972, is
9135 amended as follows:
9136 **[For businesses or industries that received or applied for**
9137 **incentive payments prior to July 1, 2005, this section shall read**
9138 **as follows:]**

9139 57-62-5. As used in this chapter, the following words and
9140 phrases shall have the meanings ascribed in this section unless
9141 the context clearly indicates otherwise:
9142 (a) "Qualified business or industry" means any
9143 corporation, limited liability company, partnership, sole
9144 proprietorship, business trust or other legal entity and subunits
9145 or affiliates thereof, pursuant to rules and regulations of the
9146 MDA, which provides an average annual salary, excluding benefits
9147 which are not subject to Mississippi income taxes, of at least one
9148 hundred twenty-five percent (125%) of the most recently published
9149 state average annual wage or the most recently published average
9150 annual wage of the county in which the qualified business or
9151 industry is located as determined by the Mississippi Department of
9152 Employment Security, whichever is the lesser. An establishment
9153 shall not be considered to be a qualified business or industry
9154 unless it offers, or will offer within one hundred eighty (180)
9155 days of the date it receives the first incentive payment pursuant
9156 to the provisions of this chapter, a basic health benefits plan to
9157 the individuals it employs in new direct jobs in this state which
9158 is approved by the MDA. Qualified business or industry does not
9159 include retail business or gaming business;
9160 (b) "New direct job" means full-time employment in this
9161 state in a qualified business or industry that has qualified to
9162 receive an incentive payment pursuant to this chapter, which
9163 employment did not exist in this state before the date of approval

by the MDA of the application of the qualified business or industry pursuant to the provisions of this chapter. "New direct job" shall include full-time employment in this state of employees who are employed by an entity other than the establishment that has qualified to receive an incentive payment and who are leased to the qualified business or industry, if such employment did not exist in this state before the date of approval by the MDA of the application of the establishment;

(c) "Full-time job" means a job of at least thirty-five (35) hours per week;

(d) "Estimated direct state benefits" means the tax revenues projected by the MDA to accrue to the state as a result of the qualified business or industry;

(e) "Estimated direct state costs" means the costs projected by the MDA to accrue to the state as a result of the qualified business or industry;

(f) "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs;

(g) "Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll, provided that:

(i) Except as otherwise provided in this paragraph (g), the net benefit rate may be variable and shall not exceed

four percent (4%) of the gross payroll; and shall be set in the sole discretion of the MDA;

(ii) In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits;

(h) "Gross payroll" means wages for new direct jobs of the qualified business or industry; and

(i) "MDA" means the Mississippi Development Authority.

[For businesses or industries that received or applied for incentive payments from and after July 1, 2005, but prior to July 1, 2010, this section shall read as follows:]

57-62-5. As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Qualified business or industry" means any corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which:

(i) Is a data/information processing enterprise meeting minimum criteria established by the MDA that provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred percent (100%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the

Mississippi Department of Employment Security, whichever is the lesser, and creates not less than two hundred (200) new direct jobs if the enterprise is located in a Tier One or Tier Two area (as such areas are designated in accordance with Section 57-73-21), or which creates not less than one hundred (100) new jobs if the enterprise is located in a Tier Three area (as such areas are designated in accordance with Section 57-73-21);

(ii) Is a manufacturing or distribution enterprise meeting minimum criteria established by the MDA that provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred ten percent (110%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, invests not less than Twenty Million Dollars ($20,000,000.00) in land, buildings and equipment, and creates not less than fifty (50) new direct jobs if the enterprise is located in a Tier One or Tier Two area (as such areas are designated in accordance with Section 57-73-21), or which creates not less than twenty (20) new jobs if the enterprise is located in a Tier Three area (as such areas are designated in accordance with Section 57-73-21);

(iii) Is a corporation, limited liability company, partnership, sole proprietorship, business trust or other legal

9238 entity and subunits or affiliates thereof, pursuant to rules and
9239 regulations of the MDA, which provides an average annual salary,
9240 excluding benefits which are not subject to Mississippi income
9241 taxes, of at least one hundred twenty-five percent (125%) of the
9242 most recently published state average annual wage or the most
9243 recently published average annual wage of the county in which the
9244 qualified business or industry is located as determined by the
9245 Mississippi Department of Employment Security, whichever is the
9246 lesser, and creates not less than twenty-five (25) new direct jobs
9247 if the enterprise is located in a Tier One or Tier Two area (as
9248 such areas are designated in accordance with Section 57-73-21), or
9249 which creates not less than ten (10) new jobs if the enterprise is
9250 located in a Tier Three area (as such areas are designated in
9251 accordance with Section 57-73-21). An establishment shall not be
9252 considered to be a qualified business or industry unless it
9253 offers, or will offer within one hundred eighty (180) days of the
9254 date it receives the first incentive payment pursuant to the
9255 provisions of this chapter, a basic health benefits plan to the
9256 individuals it employs in new direct jobs in this state which is
9257 approved by the MDA. Qualified business or industry does not
9258 include retail business or gaming business; or
9259 (iv) Is a research and development or a technology
9260 intensive enterprise meeting minimum criteria established by the
9261 MDA that provides an average annual salary, excluding benefits
9262 which are not subject to Mississippi income taxes, of at least one

hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, and creates not less than ten (10) new direct jobs.

An establishment shall not be considered to be a qualified business or industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of this chapter, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is approved by the MDA. Qualified business or industry does not include retail business or gaming business.

(b) "New direct job" means full-time employment in this state in a qualified business or industry that has qualified to receive an incentive payment pursuant to this chapter, which employment did not exist in this state before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of this chapter. "New direct job" shall include full-time employment in this state of employees who are employed by an entity other than the establishment that has qualified to receive an incentive payment and who are leased to the qualified business or industry, if such employment did not

exist in this state before the date of approval by the MDA of the application of the establishment.

(c) "Full-time job" or "full-time employment" means a job of at least thirty-five (35) hours per week.

(d) "Estimated direct state benefits" means the tax revenues projected by the MDA to accrue to the state as a result of the qualified business or industry.

(e) "Estimated direct state costs" means the costs projected by the MDA to accrue to the state as a result of the qualified business or industry.

(f) "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs.

(g) "Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll, provided that:

(i) Except as otherwise provided in this paragraph (g), the net benefit rate may be variable and shall not exceed four percent (4%) of the gross payroll; and shall be set in the sole discretion of the MDA;

(ii) In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits.

(h) "Gross payroll" means wages for new direct jobs of the qualified business or industry.

(i) "MDA" means the Mississippi Development Authority.

[For businesses or industries that apply for incentive payments from and after July 1, 2010, this section shall read as follows:]

57-62-5. As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Qualified business or industry" means any corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which:

(i) Is a data/information processing enterprise meeting minimum criteria established by the MDA that provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred percent (100%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, and creates not less than two hundred (200) new direct jobs;

(ii) Is a corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which provides an average annual salary,

9337 excluding benefits which are not subject to Mississippi income
9338 taxes, of at least one hundred ten percent (110%) of the most
9339 recently published state average annual wage or the most recently
9340 published average annual wage of the county in which the qualified
9341 business or industry is located as determined by the Mississippi
9342 Department of Employment Security, whichever is the lesser, and
9343 creates not less than twenty-five (25) new direct jobs; or
9344 (iii) Is a corporation, limited liability company,
9345 partnership, sole proprietorship, business trust or other legal
9346 entity and subunits or affiliates thereof, pursuant to rules and
9347 regulations of the MDA, which is a manufacturer that:
9348 1. Provides an average annual salary,
9349 excluding benefits which are not subject to Mississippi income
9350 taxes, of at least one hundred ten percent (110%) of the most
9351 recently published state average annual wage or the most recently
9352 published average annual wage of the county in which the qualified
9353 business or industry is located as determined by the Mississippi
9354 Department of Employment Security, whichever is the lesser;
9355 2. Has a minimum of five thousand (5,000)
9356 existing employees as of the last day of the previous calendar
9357 year; and
9358 3. MDA determines will create not less than
9359 three thousand (3,000) new direct jobs within forty-eight (48)
9360 months of the date the MDA determines that the applicant is
9361 qualified to receive incentive payments.

An establishment shall not be considered to be a qualified business or industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of this chapter, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is approved by the MDA. Qualified business or industry does not include retail business or gaming business, or any medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(b) "New direct job" means full-time employment in this state in a qualified business or industry that has qualified to receive an incentive payment pursuant to this chapter, which employment did not exist in this state:

(i) Before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of this chapter; or

(ii) Solely with respect to any farm equipment manufacturer that locates its North American headquarters to Mississippi between January 1, 2018, and December 31, 2020, before a specific date determined by the MDA that falls on or after the date that the MDA first issues to such farm equipment manufacturer one or more written commitments or offers of any incentives in connection with the new headquarters project and related facilities expected to result in the creation of such new job.

"New direct job" shall include full-time employment in this state of employees who are employed by an entity other than the establishment that has qualified to receive an incentive payment and who are leased to the qualified business or industry, if such employment did not exist in this state before the date of approval by the MDA of the application of the establishment.

(c) "Full-time job" or "full-time employment" means a job of at least thirty-five (35) hours per week.

(d) "Gross payroll" means wages for new direct jobs of the qualified business or industry.

(e) "MDA" means the Mississippi Development Authority.

SECTION 89. Section 57-69-3, Mississippi Code of 1972, is amended as follows:

57-69-3. Unless the context requires otherwise, the following words shall have the following meanings for the purposes of this chapter:

(a) "Class of contract basis" means an entire group of contracts having a common characteristic.

(b) "Commercially useful function" means being responsible for execution of a contract or a distinct element of the work under a contract by actually performing, managing, and supervising the work involved.

(c) "Contract" means all types of state agreements, regardless of what they may be called, for the purchase of

supplies or services or for construction or major repairs. "Contract" includes the following:

(i) Awards and notices of award.

(ii) Contracts of a fixed price, cost, cost-plus-a-fixed-fee, or incentive types.

(iii) Contracts providing for the issuance of job or task orders.

(iv) Leases.

(v) Letter contracts.

(vi) Purchase orders.

(vii) Any supplemental agreements with respect to (i) through (vi) of this *** * *** paragraph.

(d) "Contracting base" means the dollar amount of contracts for public works and procurement of goods and services awarded by a state agency or a state educational institution during a fiscal year.

(e) "Contract by contract basis" means a single contract within a specific class of contracts.

(f) "Contractor" means a party who enters into a contract to provide a state or educational institution with goods or services, including construction, or a subcontractor or sublessee of such a party.

(g) "Director" means the Executive Director of the Office of Minority Business Enterprises of the Mississippi Development Authority.

9435 (h) "Educational institutions" means the state
9436 universities, vocational institutions, and any other
9437 state-supported educational institutions.
9438 (i) "Joint venture" means an association of two (2) or
9439 more persons or businesses to carry out a single business
9440 enterprise for profit for which purpose they combine their
9441 property, capital, efforts, skills, and knowledge, and in which
9442 they exercise control and share in profits and losses in
9443 proportion to their contribution to the enterprise.
9444 (j) "Minority" means a person who is a citizen or
9445 lawful permanent resident of the United States and who is:
9446 (i) Black: having origins in any of the black
9447 racial groups of Africa.
9448 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
9449 Central or South American, or other Spanish or Portuguese culture
9450 or origin regardless of race.
9451 (iii) Asian American: having origins in any of
9452 the original peoples of the Far East, Southeast Asia, the Indian
9453 subcontinent, or the Pacific Islands.
9454 (iv) American Indian or Alaskan Native: having
9455 origins in any of the original peoples of North America.
9456 (v) Female.
9457 (k) "Minority business enterprise" or "minority owned
9458 business" means a socially and economically disadvantaged small
9459 business concern organized for profit performing a commercially

9460 useful function which is owned and controlled by one or more
9461 individuals or minority business enterprises certified by the
9462 office, at least seventy-five percent (75%) of whom are resident
9463 citizens of the State of Mississippi. For purposes of this
9464 paragraph, the term "socially and economically disadvantaged small
9465 business concern" shall have the meaning ascribed to such term
9466 under the Small Business Act (15 USCS, Section 637(a)). Owned and
9467 controlled means a business in which one or more minorities or
9468 minority business enterprises certified by the office own at least
9469 fifty-one percent (51%) or in the case of a corporation at least
9470 fifty-one percent (51%) of the voting stock and control at least
9471 fifty-one percent (51%) of the management and daily business
9472 operations of the business. The term "minority business
9473 enterprise" does not include any medical cannabis establishment as
9474 defined in the Mississippi Medical Cannabis Act.
9475 (l) "Minority business enterprise supplier" means a
9476 socially and economically disadvantaged small business concern
9477 which is owned and controlled by one or more individuals, at least
9478 seventy-five percent (75%) of whom are resident citizens of the
9479 State of Mississippi. For purposes of this paragraph, the term
9480 "socially and economically disadvantaged small business concern"
9481 shall have the meaning ascribed to such term under the Small
9482 Business Act (15 USCS, Section 637(a)) except that the net worth
9483 of the business may not be greater than Seven Hundred Fifty
9484 Thousand Dollars ($750,000.00). Owned and controlled means a

business in which one or more minorities own at least fifty-one percent (51%) or in the case of a corporation at least fifty-one percent (51%) of the voting stock and control at least fifty-one percent (51%) of the management and daily business operations of the business. The term "minority business enterprise supplier" does not include any medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(m) "Office" means the Office of Minority Business Enterprises of the Mississippi Development Authority.

(n) "Procurement" means the purchase, lease, or rental of any goods or services.

(o) "Commodities" means the various items described in Section 31-7-1(e).

(p) "Professional services" means all personal service contracts utilized by state agencies and institutions.

(q) "Small business" means a small business as defined by the Small Business Administration of the United States government which for purposes of size eligibility or other factors meets the applicable criteria set forth in Part 121 of Title 13 of the Code of Federal Regulations as amended, and which has its principal place of business in Mississippi.

(r) "State agency" includes the State of Mississippi and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the Mississippi Department of

Transportation nor the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.

SECTION 90. Section 57-71-5, Mississippi Code of 1972, is amended as follows:

57-71-5. The following words and phrases when used in this act shall have the meaning given to them in this section unless the context clearly indicates otherwise:

(a) "MBFC" or "company" means the Mississippi Business Finance Corporation.

(b) "Private company" means any agricultural, aquacultural, horticultural, industrial, manufacturing or research and development enterprise or enterprises, or the lessor thereof, or any commercial enterprise approved by the Mississippi Business Finance Corporation; however, the term "private company" shall not include any business, corporation or entity having a gaming license issued under Section 75-76-1 et seq.<u>, or any medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.</u>

(c) "Qualified financial institution" means any commercial bank or savings and loan institution approved by the Mississippi Business Finance Corporation to provide letters of credit under this act.

9533 (d) "Letter of credit" means a letter of credit
9534 obligation from a qualified financial institution approved by the
9535 Mississippi Business Finance Corporation.
9536 (e) "Planning and development districts" means the
9537 organized planning and development districts in Mississippi.
9538 (f) "Director" means the Executive Director of the
9539 Mississippi Business Finance Corporation.
9540 (g) "Seller" means the State Bond Commission.
9541 **SECTION 91.** Section 57-73-21, Mississippi Code of 1972, is
9542 amended as follows:
9543 **[In cases involving business enterprises that received or**
9544 **applied for the job tax credit authorized by this section prior to**
9545 **January 1, 2005, this section shall read as follows:]**
9546 57-73-21. (1) Annually by December 31, using the most
9547 current data available from the University Research Center,
9548 Mississippi Department of Employment Security and the United
9549 States Department of Commerce, the State Tax Commission shall rank
9550 and designate the state's counties as provided in this section.
9551 The twenty-eight (28) counties in this state having a combination
9552 of the highest unemployment rate and lowest per capita income for
9553 the most recent thirty-six-month period, with equal weight being
9554 given to each category, are designated Tier Three areas. The
9555 twenty-seven (27) counties in the state with a combination of the
9556 next highest unemployment rate and next lowest per capita income
9557 for the most recent thirty-six-month period, with equal weight

being given to each category, are designated Tier Two areas. The twenty-seven (27) counties in the state with a combination of the lowest unemployment rate and the highest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier One areas. Counties designated by the Tax Commission qualify for the appropriate tax credit for jobs as provided in subsections (2), (3) and (4) of this section. The designation by the Tax Commission is effective for the tax years of permanent business enterprises which begin after the date of designation. For companies which plan an expansion in their labor forces, the Tax Commission shall prescribe certification procedures to ensure that the companies can claim credits in future years without regard to whether or not a particular county is removed from the list of Tier Three or Tier Two areas.

(2) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or

9583 enterprise, in counties designated by the Tax Commission as Tier
9584 Three areas are allowed a job tax credit for taxes imposed by
9585 Section 27-7-5 equal to Two Thousand Dollars ($2,000.00) annually
9586 for each net new full-time employee job for five (5) years
9587 beginning with years two (2) through six (6) after the creation of
9588 the job; however, if the permanent business enterprise is located
9589 in an area that has been declared by the Governor to be a disaster
9590 area and as a direct result of the disaster the permanent business
9591 enterprise is unable to maintain the required number of jobs, the
9592 Chairman of the State Tax Commission may extend this time period
9593 for not more two (2) years. The number of new full-time jobs must
9594 be determined by comparing the monthly average number of full-time
9595 employees subject to the Mississippi income tax withholding for
9596 the taxable year with the corresponding period of the prior
9597 taxable year. Only those permanent businesses that increase
9598 employment by ten (10) or more in a Tier Three area are eligible
9599 for the credit. Credit is not allowed during any of the five (5)
9600 years if the net employment increase falls below ten (10). The
9601 Tax Commission shall adjust the credit allowed each year for the
9602 net new employment fluctuations above the minimum level of ten
9603 (10).
9604 (3) Permanent business enterprises primarily engaged in
9605 manufacturing, processing, warehousing, distribution, wholesaling
9606 and research and development, or permanent business enterprises
9607 designated by rule and regulation of the Mississippi Development

Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties that have been designated by the Tax Commission as Tier Two areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to One Thousand Dollars ($1,000.00) annually for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by fifteen (15) or more in Tier Two areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below fifteen (15). The Tax Commission shall

adjust the credit allowed each year for the net new employment fluctuations above the minimum level of fifteen (15).

(4) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties designated by the Tax Commission as Tier One areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to Five Hundred Dollars ($500.00) annually for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding

9658 for the taxable year with the corresponding period of the prior
9659 taxable year. Only those permanent businesses that increase
9660 employment by twenty (20) or more in Tier One areas are eligible
9661 for the credit. The credit is not allowed during any of the five
9662 (5) years if the net employment increase falls below twenty (20).
9663 The Tax Commission shall adjust the credit allowed each year for
9664 the net new employment fluctuations above the minimum level of
9665 twenty (20).

9666 (5) In addition to the credits authorized in subsections
9667 (2), (3) and (4), an additional Five Hundred Dollars ($500.00)
9668 credit for each net new full-time employee or an additional One
9669 Thousand Dollars ($1,000.00) credit for each net new full-time
9670 employee who is paid a salary, excluding benefits which are not
9671 subject to Mississippi income taxation, of at least one hundred
9672 twenty-five percent (125%) of the average annual wage of the state
9673 or an additional Two Thousand Dollars ($2,000.00) credit for each
9674 net new full-time employee who is paid a salary, excluding
9675 benefits which are not subject to Mississippi income taxation, of
9676 at least two hundred percent (200%) of the average annual wage of
9677 the state, shall be allowed for any company establishing or
9678 transferring its national or regional headquarters from within or
9679 outside the State of Mississippi. A minimum of thirty-five (35)
9680 jobs must be created to qualify for the additional credit. The
9681 State Tax Commission shall establish criteria and prescribe
9682 procedures to determine if a company qualifies as a national or

9683 regional headquarters for purposes of receiving the credit awarded
9684 in this subsection. As used in this subsection, the average
9685 annual wage of the state is the most recently published average
9686 annual wage as determined by the Mississippi Department of
9687 Employment Security.

9688 (6) In addition to the credits authorized in subsections
9689 (2), (3), (4) and (5), any job requiring research and development
9690 skills (chemist, engineer, etc.) shall qualify for an additional
9691 One Thousand Dollars ($1,000.00) credit for each net new full-time
9692 employee.

9693 (7) In lieu of the tax credits provided in subsections (2)
9694 through (6), any commercial or industrial property owner which
9695 remediates contaminated property in accordance with Sections
9696 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
9697 imposed by Section 27-7-5 equal to the amounts provided in
9698 subsection (2), (3) or (4) for each net new full-time employee job
9699 for five (5) years beginning with years two (2) through six (6)
9700 after the creation of the job. The number of new full-time jobs
9701 must be determined by comparing the monthly average number of
9702 full-time employees subject to Mississippi income tax withholding
9703 for the taxable year with the corresponding period of the prior
9704 taxable year. This subsection shall be administered in the same
9705 manner as subsections (2), (3) and (4), except the landowner shall
9706 not be required to increase employment by the levels provided in
9707 subsections (2), (3) and (4) to be eligible for the tax credit.

(8) Tax credits for five (5) years for the taxes imposed by Section 27-7-5 shall be awarded for additional net new full-time jobs created by business enterprises qualified under subsections (2), (3), (4), (5), (6) and (7) of this section. Except as otherwise provided, the Tax Commission shall adjust the credit allowed in the event of employment fluctuations during the additional five (5) years of credit.

(9) (a) The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any business enterprise may not create new eligibility in any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The Tax Commission shall determine whether or not qualifying net increases or decreases have occurred or proper transfers of credit have been made and may require reports, promulgate regulations, and hold hearings as needed for substantiation and qualification.

(b) This subsection shall not apply in cases in which a business enterprise has ceased operation, laid off all its employees and is subsequently acquired by another unrelated business entity that continues operation of the enterprise in the same or a similar type of business. In such a case the succeeding business entity shall be eligible for the credit authorized by this section unless the cessation of operation of the business

enterprise was for the purpose of obtaining new eligibility for the credit.

(10) Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) years from the close of the tax year in which the qualified jobs were established but the credit established by this section taken in any one (1) tax year must be limited to an amount not greater than fifty percent (50%) of the taxpayer's state income tax liability which is attributable to income derived from operations in the state for that year. If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carryforward, the Chairman of the State Tax Commission may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years.

(11) No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive the tax credits provided in this section.

(12) The credits allowed under this section shall not be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits.

(13) The tax credits provided for in this section shall be in addition to any tax credits described in Sections 57-51-13(b), 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official

action by the Mississippi Development Authority prior to July 1, 1989, to any business enterprise determined prior to July 1, 1989, by the Mississippi Development Authority to be a qualified business as defined in Section 57-51-5(f) or Section 57-54-5(d) or a qualified company as described in Section 57-53-1, as the case may be; however, from and after July 1, 1989, tax credits shall be allowed only under either this section or Sections 57-51-13(b), 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time employee.

(14) As used in this section, the term "telecommunications enterprises" means entities engaged in the creation, display, management, storage, processing, transmission or distribution for compensation of images, text, voice, video or data by wire or by wireless means, or entities engaged in the construction, design, development, manufacture, maintenance or distribution for compensation of devices, products, software or structures used in the above activities. Companies organized to do business as commercial broadcast radio stations, television stations or news organizations primarily serving in-state markets shall not be included within the definition of the term "telecommunications enterprises."

[In cases involving business enterprises that apply for the job tax credit authorized by this section from and after January 1, 2005, this section shall read as follows:]

9781 57-73-21. (1) Annually by December 31, using the most
9782 current data available from the University Research Center,
9783 Mississippi Department of Employment Security and the United
9784 States Department of Commerce, the Department of Revenue shall
9785 rank and designate the state's counties as provided in this
9786 section. The twenty-eight (28) counties in this state having a
9787 combination of the highest unemployment rate and lowest per capita
9788 income for the most recent thirty-six-month period, with equal
9789 weight being given to each category, are designated Tier Three
9790 areas. The twenty-seven (27) counties in the state with a
9791 combination of the next highest unemployment rate and next lowest
9792 per capita income for the most recent thirty-six-month period,
9793 with equal weight being given to each category, are designated
9794 Tier Two areas. The twenty-seven (27) counties in the state with
9795 a combination of the lowest unemployment rate and the highest per
9796 capita income for the most recent thirty-six-month period, with
9797 equal weight being given to each category, are designated Tier One
9798 areas. Counties designated by the Department of Revenue qualify
9799 for the appropriate tax credit for jobs as provided in this
9800 section. The designation by the Department of Revenue is
9801 effective for the tax years of permanent business enterprises
9802 which begin after the date of designation. For companies which
9803 plan an expansion in their labor forces, the Department of Revenue
9804 shall prescribe certification procedures to ensure that the
9805 companies can claim credits in future years without regard to

9806 whether or not a particular county is removed from the list of
9807 Tier Three or Tier Two areas.
9808 (2) Permanent business enterprises in counties designated by
9809 the Department of Revenue as Tier Three areas are allowed a job
9810 tax credit for taxes imposed by Section 27-7-5 equal to ten
9811 percent (10%) of the payroll of the enterprise for net new
9812 full-time employee jobs for five (5) years beginning with years
9813 two (2) through six (6) after the creation of the minimum number
9814 of jobs required by this subsection; however, if the permanent
9815 business enterprise is located in an area that has been declared
9816 by the Governor to be a disaster area and as a direct result of
9817 the disaster the permanent business enterprise is unable to
9818 maintain the required number of jobs, the Commissioner of Revenue
9819 may extend this time period for not more than two (2) years. The
9820 number of new full-time jobs must be determined by comparing the
9821 monthly average number of full-time employees subject to the
9822 Mississippi income tax withholding for the taxable year with the
9823 corresponding period of the prior taxable year. Only those
9824 permanent business enterprises that increase employment by ten
9825 (10) or more in a Tier Three area are eligible for the credit.
9826 Credit is not allowed during any of the five (5) years if the net
9827 employment increase falls below ten (10). The Department of
9828 Revenue shall adjust the credit allowed each year for the net new
9829 employment fluctuations above the minimum level of ten (10).
9830 Medical cannabis establishments as defined in the Mississippi

9831 Medical Cannabis Act shall not be eligible for the tax credit
9832 authorized in this subsection (2).
9833 (3) Permanent business enterprises in counties that have
9834 been designated by the Department of Revenue as Tier Two areas are
9835 allowed a job tax credit for taxes imposed by Section 27-7-5 equal
9836 to five percent (5%) of the payroll of the enterprise for net new
9837 full-time employee jobs for five (5) years beginning with years
9838 two (2) through six (6) after the creation of the minimum number
9839 of jobs required by this subsection; however, if the permanent
9840 business enterprise is located in an area that has been declared
9841 by the Governor to be a disaster area and as a direct result of
9842 the disaster the permanent business enterprise is unable to
9843 maintain the required number of jobs, the Commissioner of Revenue
9844 may extend this time period for not more than two (2) years. The
9845 number of new full-time jobs must be determined by comparing the
9846 monthly average number of full-time employees subject to
9847 Mississippi income tax withholding for the taxable year with the
9848 corresponding period of the prior taxable year. Only those
9849 permanent business enterprises that increase employment by fifteen
9850 (15) or more in Tier Two areas are eligible for the credit. The
9851 credit is not allowed during any of the five (5) years if the net
9852 employment increase falls below fifteen (15). The Department of
9853 Revenue shall adjust the credit allowed each year for the net new
9854 employment fluctuations above the minimum level of fifteen (15).
9855 Medical cannabis establishments as defined in the Mississippi

9856 Medical Cannabis Act shall not be eligible for the tax credit
9857 authorized in this subsection (3).
9858 (4) Permanent business enterprises in counties designated by
9859 the Department of Revenue as Tier One areas are allowed a job tax
9860 credit for taxes imposed by Section 27-7-5 equal to two and
9861 one-half percent (2.5%) of the payroll of the enterprise for net
9862 new full-time employee jobs for five (5) years beginning with
9863 years two (2) through six (6) after the creation of the minimum
9864 number of jobs required by this subsection; however, if the
9865 permanent business enterprise is located in an area that has been
9866 declared by the Governor to be a disaster area and as a direct
9867 result of the disaster the permanent business enterprise is unable
9868 to maintain the required number of jobs, the Commissioner of
9869 Revenue may extend this time period for not more than two (2)
9870 years. The number of new full-time jobs must be determined by
9871 comparing the monthly average number of full-time employees
9872 subject to Mississippi income tax withholding for the taxable year
9873 with the corresponding period of the prior taxable year. Only
9874 those permanent business enterprises that increase employment by
9875 twenty (20) or more in Tier One areas are eligible for the credit.
9876 The credit is not allowed during any of the five (5) years if the
9877 net employment increase falls below twenty (20). The Department
9878 of Revenue shall adjust the credit allowed each year for the net
9879 new employment fluctuations above the minimum level of twenty
9880 (20). Medical cannabis establishments as defined in the

9881 Mississippi Medical Cannabis Act shall not be eligible for the tax
9882 credit authorized in this subsection (4).
9883 (5) (a) In addition to the other credits authorized in this
9884 section, an additional Five Hundred Dollars ($500.00) credit for
9885 each net new full-time employee or an additional One Thousand
9886 Dollars ($1,000.00) credit for each net new full-time employee who
9887 is paid a salary, excluding benefits which are not subject to
9888 Mississippi income taxation, of at least one hundred twenty-five
9889 percent (125%) of the average annual wage of the state or an
9890 additional Two Thousand Dollars ($2,000.00) credit for each net
9891 new full-time employee who is paid a salary, excluding benefits
9892 which are not subject to Mississippi income taxation, of at least
9893 two hundred percent (200%) of the average annual wage of the
9894 state, shall be allowed for any company establishing or
9895 transferring its national or regional headquarters from within or
9896 outside the State of Mississippi. A minimum of twenty (20) jobs
9897 must be created to qualify for the additional credit. The
9898 Department of Revenue shall establish criteria and prescribe
9899 procedures to determine if a company qualifies as a national or
9900 regional headquarters for purposes of receiving the credit awarded
9901 in this paragraph (a). As used in this paragraph (a), the average
9902 annual wage of the state is the most recently published average
9903 annual wage as determined by the Mississippi Department of
9904 Employment Security. Medical cannabis establishments as defined

9905 in the Mississippi Medical Cannabis Act shall not be eligible for
9906 the tax credit authorized in this paragraph (a).
9907 (b) In addition to the other credits authorized in this
9908 section, an additional Five Hundred Dollars ($500.00) credit for
9909 each net new full-time employee or an additional One Thousand
9910 Dollars ($1,000.00) credit for each net new full-time employee who
9911 is paid a salary, excluding benefits which are not subject to
9912 Mississippi income taxation, of at least one hundred twenty-five
9913 percent (125%) of the average annual wage of the state or an
9914 additional Two Thousand Dollars ($2,000.00) credit for each net
9915 new full-time employee who is paid a salary, excluding benefits
9916 which are not subject to Mississippi income taxation, of at least
9917 two hundred percent (200%) of the average annual wage of the
9918 state, shall be allowed for any company expanding or making
9919 additions after January 1, 2013, to its national or regional
9920 headquarters within the State of Mississippi. A minimum of twenty
9921 (20) new jobs must be created to qualify for the additional
9922 credit. The Department of Revenue shall establish criteria and
9923 prescribe procedures to determine if a company qualifies as a
9924 national or regional headquarters for purposes of receiving the
9925 credit awarded in this paragraph (b). As used in this paragraph
9926 (b), the average annual wage of the state is the most recently
9927 published average annual wage as determined by the Mississippi
9928 Department of Employment Security. Medical cannabis
9929 establishments as defined in the Mississippi Medical Cannabis Act

9930 shall not be eligible for the tax credit authorized in this
9931 paragraph (b).
9932 (6) In addition to the other credits authorized in this
9933 section, any job requiring research and development skills
9934 (chemist, engineer, etc.) shall qualify for an additional One
9935 Thousand Dollars ($1,000.00) credit for each net new full-time
9936 employee. Medical cannabis establishments as defined in the
9937 Mississippi Medical Cannabis Act shall not be eligible for the tax
9938 credit authorized in this subsection (6).
9939 (7) (a) In addition to the other credits authorized in this
9940 section, any company that transfers or relocates its national or
9941 regional headquarters to the State of Mississippi from outside the
9942 State of Mississippi may receive a tax credit in an amount equal
9943 to the actual relocation costs paid by the company. A minimum of
9944 twenty (20) jobs must be created in order to qualify for the
9945 additional credit authorized under this subsection. Relocation
9946 costs for which a credit may be awarded shall be determined by the
9947 Department of Revenue and shall include those nondepreciable
9948 expenses that are necessary to relocate headquarters employees to
9949 the national or regional headquarters, including, but not limited
9950 to, costs such as travel expenses for employees and members of
9951 their households to and from Mississippi in search of homes and
9952 moving expenses to relocate furnishings, household goods and
9953 personal property of the employees and members of their
9954 households. Medical cannabis establishments as defined in the

9955 Mississippi Medical Cannabis Act shall not be eligible for the tax
9956 credit authorized in this subsection (7).
9957 (b) The tax credit authorized under this subsection
9958 shall be applied for the taxable year in which the relocation
9959 costs are paid. The maximum cumulative amount of tax credits that
9960 may be claimed by all taxpayers claiming a credit under this
9961 subsection in any one (1) state fiscal year shall not exceed One
9962 Million Dollars ($1,000,000.00), exclusive of credits that might
9963 be carried forward from previous taxable years. A company may not
9964 receive a credit for the relocation of an employee more than one
9965 (1) time in a twelve-month period for that employee.
9966 (c) The Department of Revenue shall establish criteria
9967 and prescribe procedures to determine if a company creates the
9968 required number of jobs and qualifies as a national or regional
9969 headquarters for purposes of receiving the credit awarded in this
9970 subsection. A company desiring to claim a credit under this
9971 subsection must submit an application for such credit with the
9972 Department of Revenue in a manner prescribed by the department.
9973 (d) In order to participate in the provisions of this
9974 section, a company must certify to the Mississippi Department of
9975 Revenue that it complies with the equal pay provisions of the
9976 federal Equal Pay Act of 1963, the Americans with Disabilities Act
9977 of 1990 and the fair pay provisions of the Civil Rights Act of
9978 1964.

9979 (e) This subsection shall stand repealed on July 1,
9980 2022.
9981 (8) In lieu of the other tax credits provided in this
9982 section, any commercial or industrial property owner which
9983 remediates contaminated property in accordance with Sections
9984 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
9985 imposed by Section 27-7-5 equal to the percentage of payroll
9986 provided in subsection (2), (3) or (4) of this section for net new
9987 full-time employee jobs for five (5) years beginning with years
9988 two (2) through six (6) after the creation of the jobs. The
9989 number of new full-time jobs must be determined by comparing the
9990 monthly average number of full-time employees subject to
9991 Mississippi income tax withholding for the taxable year with the
9992 corresponding period of the prior taxable year. This subsection
9993 shall be administered in the same manner as subsections (2), (3)
9994 and (4), except the landowner shall not be required to increase
9995 employment by the levels provided in subsections (2), (3) and (4)
9996 to be eligible for the tax credit.
9997 (9) (a) Tax credits for five (5) years for the taxes
9998 imposed by Section 27-7-5 shall be awarded for increases in the
9999 annual payroll for net new full-time jobs created by business
10000 enterprises qualified under this section. The Department of
10001 Revenue shall adjust the credit allowed in the event of payroll
10002 fluctuations during the additional five (5) years of credit.

10003 (b) Tax credits for five (5) years for the taxes
10004 imposed by Section 27-7-5 shall be awarded for additional net new
10005 full-time jobs created by business enterprises qualified under
10006 subsections (5) and (6) of this section and for additional
10007 relocation costs paid by companies qualified under subsection (7)
10008 of this section. The Department of Revenue shall adjust the
10009 credit allowed in the event of employment fluctuations during the
10010 additional five (5) years of credit.
10011 (10) (a) The sale, merger, acquisition, reorganization,
10012 bankruptcy or relocation from one (1) county to another county
10013 within the state of any business enterprise may not create new
10014 eligibility in any succeeding business entity, but any unused job
10015 tax credit may be transferred and continued by any transferee of
10016 the business enterprise. The Department of Revenue shall
10017 determine whether or not qualifying net increases or decreases
10018 have occurred or proper transfers of credit have been made and may
10019 require reports, promulgate regulations, and hold hearings as
10020 needed for substantiation and qualification.
10021 (b) This subsection shall not apply in cases in which a
10022 business enterprise has ceased operation, laid off all its
10023 employees and is subsequently acquired by another unrelated
10024 business entity that continues operation of the enterprise in the
10025 same or a similar type of business. In such a case the succeeding
10026 business entity shall be eligible for the credit authorized by
10027 this section unless the cessation of operation of the business

10028 enterprise was for the purpose of obtaining new eligibility for
10029 the credit.
10030 (11) Any tax credit claimed under this section but not used
10031 in any taxable year may be carried forward for five (5) years from
10032 the close of the tax year in which the qualified jobs were
10033 established and/or headquarters relocation costs paid, as
10034 applicable, but the credit established by this section taken in
10035 any one (1) tax year must be limited to an amount not greater than
10036 fifty percent (50%) of the taxpayer's state income tax liability
10037 which is attributable to income derived from operations in the
10038 state for that year. If the permanent business enterprise is
10039 located in an area that has been declared by the Governor to be a
10040 disaster area and as a direct result of the disaster the business
10041 enterprise is unable to use the existing carryforward, the
10042 Commissioner of Revenue may extend the period that the credit may
10043 be carried forward for a period of time not to exceed two (2)
10044 years.
10045 (12) No business enterprise for the transportation,
10046 handling, storage, processing or disposal of hazardous waste is
10047 eligible to receive the tax credits provided in this section.
10048 (13) The credits allowed under this section shall not be
10049 used by any business enterprise or corporation other than the
10050 business enterprise actually qualifying for the credits.
10051 (14) As used in this section:

10052 (a) "Business enterprises" means entities primarily
10053 engaged in:
10054 (i) Manufacturing, processing, warehousing,
10055 warehousing activities, distribution, wholesaling and research and
10056 development, or
10057 (ii) Permanent business enterprises designated by
10058 rule and regulation of the Mississippi Development Authority as
10059 air transportation and maintenance facilities, final destination
10060 or resort hotels having a minimum of one hundred fifty (150) guest
10061 rooms, recreational facilities that impact tourism, movie industry
10062 studios, telecommunications enterprises, data or information
10063 processing enterprises or computer software development
10064 enterprises or any technology intensive facility or enterprise.
10065 (b) "Telecommunications enterprises" means entities
10066 engaged in the creation, display, management, storage, processing,
10067 transmission or distribution for compensation of images, text,
10068 voice, video or data by wire or by wireless means, or entities
10069 engaged in the construction, design, development, manufacture,
10070 maintenance or distribution for compensation of devices, products,
10071 software or structures used in the above activities. Companies
10072 organized to do business as commercial broadcast radio stations,
10073 television stations or news organizations primarily serving
10074 in-state markets shall not be included within the definition of
10075 the term "telecommunications enterprises."

10076 (c) "Warehousing activities" means entities that
10077 establish or expand facilities that service and support multiple
10078 retail or wholesale locations within and outside the state.
10079 Warehousing activities may be performed solely to support the
10080 primary activities of the entity, and credits generated shall
10081 offset the income of the entity based on an apportioned ratio of
10082 payroll for warehouse employees of the entity to total Mississippi
10083 payroll of the entity that includes the payroll of retail
10084 employees of the entity.

10085 (15) The tax credits provided for in this section shall be
10086 in addition to any tax credits described in Sections 57-51-13(b),
10087 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
10088 action by the Mississippi Development Authority prior to July 1,
10089 1989, to any business enterprise determined prior to July 1, 1989,
10090 by the Mississippi Development Authority to be a qualified
10091 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
10092 a qualified company as described in Section 57-53-1, as the case
10093 may be; however, from and after July 1, 1989, tax credits shall be
10094 allowed only under either this section or Sections 57-51-13(b),
10095 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
10096 employee.

10097 (16) A business enterprise that chooses to receive job
10098 training assistance pursuant to Section 57-1-451 shall not be
10099 eligible for the tax credits provided for in this section.

10100 **SECTION 92.** Section 57-80-5, Mississippi Code of 1972, is
10101 amended as follows:
10102 57-80-5. As used in this chapter, the following words and
10103 phrases shall have the meanings ascribed herein unless the context
10104 clearly indicates otherwise:
10105 (a) "Approved business enterprise" means any business
10106 enterprise seeking to locate or expand in a growth and prosperity
10107 county, which business enterprise is approved by the MDA.
10108 (b) "Business enterprise" means any new or expanded (i)
10109 industry for the manufacturing, processing, assembling, storing,
10110 warehousing, servicing, distributing or selling of any products or
10111 goods, including products of agriculture; (ii) enterprises for
10112 research and development, including, but not limited to,
10113 scientific laboratories; or (iii) such other businesses or
10114 industry as will be in furtherance of the public purposes of this
10115 chapter as determined by the MDA and which creates a minimum of
10116 ten (10) jobs. "Business enterprise" does not include retail or
10117 gaming businesses or electrical generation facilities, or medical
10118 cannabis establishments as defined in the Mississippi Medical
10119 Cannabis Act.
10120 (c) "Eligible supervisors district" means:
10121 (i) A supervisors district:
10122 1. As such district exists on January 1,
10123 2001, in which thirty percent (30%) or more of such district's
10124 population as of June 30, 2000, is at or below the federal poverty

level according to the official data compiled by the United States Census Bureau as of June 30, 2000, or the official 1990 census poverty rate data (the official 1990 census poverty rate data shall not be used to make any such determination after December 31, 2002); or

2. In which thirty percent (30%) or more of such district's population is at or below the federal poverty level according to the latest official data compiled by the United States Census Bureau;

(ii) Which is contiguous to a county that meets the criteria of Section 57-80-7(1)(b); and

(iii) Which is located in a county which has been issued a certificate of public convenience and necessity under this chapter.

(d) "Growth and prosperity counties" means those counties which meet the requirements of this chapter and which have by resolution or order given its consent to participate in the Growth and Prosperity Program.

(e) "Local tax" means any county or municipal ad valorem tax imposed on the approved business enterprise pursuant to law, except the school portion of the tax and any portion of the tax imposed to pay the cost of providing fire and police protection.

(f) "Local taxing authority" means any county or municipality which by resolution or order has given its consent to

10150 participate in the Growth and Prosperity Program acting through
10151 its respective board of supervisors or the municipal governing
10152 board, council, commission or other legal authority.
10153 (g) "MDA" means the Mississippi Development Authority.
10154 (h) "State tax" means:
10155 (i) Any sales and use tax imposed on the business
10156 enterprise pursuant to law related to the purchase of component
10157 building materials and equipment for initial construction of
10158 facilities or expansion of facilities in a growth and prosperity
10159 county or supervisors districts, as the case may be;
10160 (ii) All income tax imposed pursuant to law on
10161 income earned by the business enterprise in a growth and
10162 prosperity county, or supervisors district, as the case may be;
10163 (iii) Franchise tax imposed pursuant to law on the
10164 value of capital used, invested or employed by the business
10165 enterprise in a growth and prosperity county, or supervisors
10166 district, as the case may be; and
10167 (iv) Any sales and use tax imposed on the lease of
10168 machinery and equipment acquired in the initial construction to
10169 establish the facility or for an expansion, including, but not
10170 limited to, leases in existence prior to January 1, 2001, as
10171 certified by the MDA, in a growth and prosperity county, or
10172 supervisors district, as the case may be.
10173 **SECTION 93.** Section 57-85-5, Mississippi Code of 1972, is
10174 amended as follows:

10175 57-85-5. (1) For the purposes of this section, the
10176 following words and phrases shall have the meanings ascribed in
10177 this section unless the context clearly indicates otherwise:
10178 (a) "MDA" means the Mississippi Development Authority.
10179 (b) "Project" means construction, rehabilitation or
10180 repair of buildings; sewer systems and transportation directly
10181 affecting the site of the proposed rural business; sewer
10182 facilities, acquisition of real property, development of real
10183 property, improvements to real property, and any other project
10184 approved by the Mississippi Development Authority. The term
10185 "project" does not include any medical cannabis establishment as
10186 defined in the Mississippi Medical Cannabis Act.
10187 (c) "Rural business" means a new or existing business
10188 located or to be located in a rural community or a business or
10189 industry located or to be located within five (5) miles of a rural
10190 community. "Rural business" does not include gaming businesses or
10191 utility businesses, or medical cannabis establishments as defined
10192 in the Mississippi Medical Cannabis Act.
10193 (d) "Rural community" means a county in the State of
10194 Mississippi that meets the population criteria for the term
10195 "limited population county" as provided in Section 57-1-18.
10196 "Rural community" also means a municipality in the State of
10197 Mississippi that meets the population criteria for the term "small
10198 municipality" as provided in Section 57-1-18.

10199 (2) (a) There is created in the State Treasury a special
10200 fund to be designated as the "Mississippi Rural Impact Fund,"
10201 which shall consist of funds appropriated or otherwise made
10202 available by the Legislature in any manner and funds from any
10203 other source designated for deposit into such fund. Unexpended
10204 amounts remaining in the fund at the end of a fiscal year shall
10205 not lapse into the State General Fund, and any investment earnings
10206 or interest earned on amounts in the fund shall be deposited to
10207 the credit of the fund. Monies in the fund shall be used to make
10208 grants and loans to rural communities and loan guaranties on
10209 behalf of rural businesses to assist in completing projects under
10210 this section.
10211 (b) Monies in the fund which are derived from proceeds
10212 of bonds issued after April 15, 2003, may be used to reimburse
10213 reasonable actual and necessary costs incurred by the MDA for the
10214 administration of the various grant, loan and financial incentive
10215 programs administered by the MDA. An accounting of actual costs
10216 incurred for which reimbursement is sought shall be maintained by
10217 the MDA. Reimbursement of reasonable actual and necessary costs
10218 shall not exceed three percent (3%) of the proceeds of bonds
10219 issued. Reimbursements under this paragraph (b) shall satisfy any
10220 applicable federal tax law requirements.
10221 (c) The MDA may use monies in the fund to pay for the
10222 services of architects, engineers, attorneys and such other
10223 advisors, consultants and agents that the MDA determines are

10224 necessary to review loan and grant applications and to implement
10225 and administer the program established under this section.
10226 (d) The State Auditor may conduct performance and
10227 compliance audits under this chapter according to Section
10228 7-7-211(o) and may bill the oversight agency.
10229 (3) The MDA shall establish a program to make grants and
10230 loans to rural communities and loan guaranties on behalf of rural
10231 businesses from the Mississippi Rural Impact Fund. A rural
10232 community may apply to the MDA for a grant or loan under this
10233 section in the manner provided for in this section. A rural
10234 business may apply to the MDA for a loan guaranty under this
10235 section in the manner provided in this section.
10236 (4) A rural community desiring assistance under this section
10237 must submit an application to the MDA. The application must
10238 include a description of the project for which assistance is
10239 requested, the cost of the project for which assistance is
10240 requested and any other information required by the MDA. A rural
10241 business desiring assistance under this section must submit an
10242 application to the MDA. The application must include a
10243 description of the purpose for which assistance is requested and
10244 any other information required by the MDA. The MDA may waive any
10245 requirements of the program established under this section in
10246 order to expedite funding for unique projects.
10247 (5) The MDA shall have all powers necessary to implement and
10248 administer the program established under this section, and the MDA

shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

SECTION 94. Section 57-91-5, Mississippi Code of 1972, is amended as follows:

57-91-5. As used in this chapter, the following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Business enterprise" means any permanent business enterprise locating or relocating within a redevelopment project area, including, without limitation:

(i) Industry for the manufacturing, processing, assembling, storing, warehousing, servicing, distributing or selling of any products or goods, including products of agriculture;

(ii) Enterprises for research and development, including, but not limited to, scientific laboratories;

(iii) Industry for the retail sale of goods and services;

(iv) The industry for recreation and hospitality, including, but not limited to, restaurants, hotels and sports facilities; and

(v) Such other businesses or industry as will be in furtherance of the public purposes of this chapter as determined by the MDA.

10274 The term "business enterprise" shall not include gaming
10275 businesses, or medical cannabis establishments as defined in the
10276 Mississippi Medical Cannabis Act.
10277 (b) "Contaminated site" means real property that is
10278 either (i) subject to a bankruptcy court order in which the
10279 property has been abandoned from the bankruptcy estate, or (ii)
10280 Brownfield property that is subject to a Brownfield agreement
10281 under Section 49-35-11, and the expansion, redevelopment or reuse
10282 of which is complicated by the presence or potential presence of a
10283 hazardous substance, pollutant or contaminant.
10284 (c) "County" means any county of this state.
10285 (d) "Developer" means any person who assumes certain
10286 environmental liability at a contaminated site and enters into an
10287 agreement with a redevelopment county or municipality whereby the
10288 developer agrees to undertake a redevelopment project. "Developer
10289 agreement" means said agreement.
10290 (e) "Governing body" means the board of supervisors of
10291 any county or the governing board of a municipality.
10292 (f) "Law" means any act or statute, general, special or
10293 local, of this state.
10294 (g) "MDA" means the Mississippi Development Authority.
10295 (h) "MDEQ" means the Mississippi Department of
10296 Environmental Quality.
10297 (i) "Municipality" means any incorporated municipality
10298 in the state.

(j) "Person" means a natural person, partnership, association, corporation, business trust or other business entity.

(k) "Redevelopment counties and municipalities" means those counties or municipalities which meet the requirements of this chapter and which have by resolution or order designated a redevelopment project area and given its consent to participate in the program established under this chapter.

(l) "Redevelopment project" means a project that combines remediation of a contaminated site with the planned development of such site and surrounding land in a manner conducive to use by the public or business enterprises including the construction of recreational facilities.

(m) "Redevelopment project area" means the geographic area defined by resolution of the county or municipality within which the remediation and planned development will take place containing the contaminated site and additional surrounding and adjacent land and waterfront, not exceeding six hundred fifty (650) acres, suitable for development.

(n) "Resolution" means an order, resolution, ordinance, act, record of minutes or other appropriate enactment of a governing body.

(o) "State taxes and fees" means any sales tax imposed on the sales or certain purchases by a business enterprise pursuant to law within a redevelopment project area, all income tax imposed pursuant to law on income earned by the approved

business enterprise within a redevelopment project area and all franchise tax imposed pursuant to law on the value of capital used, invested or employed by the approved business enterprise in a redevelopment project area.

SECTION 95. Section 57-117-3, Mississippi Code of 1972, is amended as follows:

57-117-3. In this chapter:

(a) "Health care industry facility" means:

(i) A business engaged in the research and development of pharmaceuticals, biologics, biotechnology, diagnostic imaging, medical supplies, medical equipment or medicine and related manufacturing or processing, medical service providers, medical product distribution, or laboratory testing that creates a minimum of twenty-five (25) new full-time jobs and/or Ten Million Dollars ($10,000,000.00) of capital investment after July 1, 2012; or

(ii) A business that *** * *** 1. is located on land owned by or leased from an academic health science center with a medical school accredited by the Liaison Committee on Medical Education and a hospital accredited by the Joint Committee on Accreditation of Healthcare Organizations and *** * *** 2. creates a minimum of twenty-five (25) new jobs and/or Twenty Million Dollars ($20,000,000.00) of capital investment after July 1, 2012.

10347 The term "health care industry facility" does not include any
10348 medical cannabis establishment as defined in the Mississippi
10349 Medical Cannabis Act.
10350 (b) "MDA" means the Mississippi Development Authority.
10351 (c) "Health care industry zone" means a geographical
10352 area certified by the MDA as provided for in Section 57-117-5.
10353 (d) "Local government unit" means any county or
10354 incorporated city, town or village in the State of Mississippi.
10355 (e) "Person" means a natural person, partnership,
10356 limited liability company, association, corporation, business
10357 trust or other business entity.
10358 (f) "Qualified business" means a business or health
10359 care industry facility that meets the requirements of Section
10360 57-117-7 and any other requirements of this chapter. The term
10361 "qualified business" does not include any medical cannabis
10362 establishment as defined in the Mississippi Medical Cannabis Act.
10363 **SECTION 96.** Section 57-119-11, Mississippi Code of 1972, is
10364 amended as follows:
10365 57-119-11. (1) MDA is further authorized, on such terms and
10366 conditions consistent with the criteria set forth in this section
10367 as it may determine, to establish programs for making loans, loan
10368 guarantees, grants and any other financial assistance from the
10369 GCRF to applicants whose projects are approved for assistance
10370 under this section. MDA shall establish criteria, rules and
10371 procedures for accepting, reviewing, granting or denying

applications, and for terms and conditions of financial assistance under this section in accordance with state law. The Legislature shall appropriate monies from the GCRF to the MDA to fund the programs established under this section in an amount requested annually by MDA for such purpose.

(2) Applicants who are eligible for assistance under this section include, but are not limited to, local units of government, nongovernmental organizations, institutions of higher learning, community colleges, ports, airports, public-private partnerships, private for-profit entities, private nonprofit entities, and local economic development entities.

(3) MDA shall establish programs and an application process to provide assistance to applicants under this section that prioritize:

(a) Projects that will impact the long-term competitiveness of the region and may result in a significant positive impact on tax base, private sector job creation and private sector investment in the region;

(b) Projects that demonstrate the maximum long-term economic benefits and long-term growth potential of the region based on a financial analysis such as a cost-benefit analysis or a return-on-investment analysis;

(c) Projects that demonstrate long-term financial sustainability, including clear performance metrics, over the duration of the project;

(d) Projects that leverage or encourage leveraging of other private sector, local, state and federal funding sources with preference to projects that can demonstrate contributions from other sources than funds from the BP settlement;

(e) Projects that are supported by multiple government or private sector entities;

(f) Projects that can move quickly and efficiently to the design, engineering, and permitting phase;

(g) Projects that enhance the quality of life/place and business environment of the region, including tourism and recreational opportunities;

(h) Projects that expand the region's ability to attract high-growth industries or establish new high-growth industries in the region;

(i) Projects that leverage or further enhance key regional assets, including educational institutions, research facilities, ports, airports, rails and military bases;

(j) Projects that are transformational for the future of the region but create a wider regional impact;

(k) Projects that enhance the marketability of existing industrial properties;

(l) Projects that enhance a targeted industry cluster or create a Center of Excellence unique to the region;

(m) Infrastructure projects for business retention and development;

10422 (n) Projects that enhance research and innovative
10423 technologies in the region; and
10424 (o) Projects that provide outcome and return on
10425 investment measures, to be judged by clear performance metrics,
10426 over the duration of the project or program.
10427 (4) The MDA shall not approve any application for assistance
10428 or provide any assistance under this section for projects that are
10429 medical cannabis establishments as defined in the Mississippi
10430 Medical Cannabis Act or for projects related in any manner to
10431 medical cannabis establishments.
10432 **SECTION 97.** Section 65-4-5, Mississippi Code of 1972, is
10433 amended as follows:
10434 65-4-5. (1) The following words when used in this chapter
10435 shall have the meanings herein ascribed unless the context
10436 otherwise clearly requires:
10437 (a) "Board" means the Mississippi Development
10438 Authority;
10439 (b) "Department" means the Mississippi Department of
10440 Transportation;
10441 (c) "High economic benefit project" means:
10442 (i) Any new investment by a private company with
10443 capital investments in land, buildings, depreciable fixed assets
10444 and improvements of at least Seventy Million Dollars
10445 ($70,000,000.00);

10446 (ii) Any new investment of at least Twenty Million
10447 Dollars ($20,000,000.00) by a private company having capital
10448 investments in this state in land, buildings, depreciable fixed
10449 assets and improvements of at least One Billion Dollars
10450 ($1,000,000,000.00) in the aggregate;
10451 (iii) Public investment of at least One Hundred
10452 Million Dollars ($100,000,000.00) to take place over a specified
10453 period of time and in accordance with a master plan duly adopted
10454 by the controlling political subdivision;
10455 (iv) Any new investments in land, buildings,
10456 depreciable fixed assets and improvements by two (2) private
10457 companies upon land that is adjacent whenever the new investments
10458 of both companies are at least Sixty Million Dollars
10459 ($60,000,000.00) in the aggregate, and such new investments by
10460 both private companies provide for the employment of at least five
10461 hundred (500) employees in the aggregate;
10462 (v) Any project which would benefit from the
10463 construction of any highway bypass which would aid in economic
10464 development and would provide an alternate route to avoid an
10465 existing route which underpasses a railroad and which would aid in
10466 existing or proposed industry;
10467 (vi) Any master planned community;
10468 (vii) Any new investments in land, buildings,
10469 depreciable fixed assets and improvements by not more than three
10470 (3) private companies physically located within a one-half-mile

radius of each other whenever the new investments of such companies are at least Sixty Million Dollars ($60,000,000.00) in the aggregate, and such new investments by such companies provide for the employment of at least three hundred (300) new employees in the aggregate;

(viii) Any new investments in land, buildings, depreciable fixed assets and improvements by two (2) or more private companies upon lands originally adjacent, but now divided by a four-lane state highway and bordered by a two-lane state highway, and the new investments of the companies are at least Fifty Million Dollars ($50,000,000.00) in the aggregate, and a portion of such new investment will be utilized for the construction of a hospital;

(ix) [Repealed]

(x) Any project as defined in Section 57-75-5(f)(xxi); however, the term "high economic benefit project" does not include the construction of Mississippi Highway 348;

(xi) Any project as defined in Section 17-25-17;

(xii) Any project which would allow access to a national intermodal facility with a minimum capital investment of One Hundred Million Dollars ($100,000,000.00) that is located within five (5) miles of the State of Mississippi and has direct access into an industrial park within the state;

(xiii) Any new investments in land, buildings and depreciable fixed assets and improvements by a private company of

at least One Hundred Million Dollars ($100,000,000.00) over a specified period of time in accordance with a defined capital improvement project approved by the board;

(xiv) Any new investments in land, buildings, depreciable fixed assets and improvements of at least Fifteen Million Dollars ($15,000,000.00) by a private company to establish a private regional or national headquarters and such new investments provide for the employment of at least one hundred (100) new employees in the aggregate over a five-year period with those new employees earning an annual average salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified private regional or national headquarters is located, as determined by the Mississippi Department of Employment Security, whichever is less;

However, if the initial investments that a private company made in order to meet the definition of a high economic benefit project under this paragraph (c)(i) and in order to be approved for such project exceeded Fifty Million Dollars ($50,000,000.00), or if subsequent to being approved for the initial project the same company and/or one or more other private companies made additional capital investments exceeding Fifty Million Dollars ($50,000,000.00) in aggregate value in land, buildings, depreciable fixed assets and improvements physically attached to

10521 or forming a part of the initially planned site development, then
10522 an amount equal to fifty percent (50%) of all such investments
10523 that exceeds Fifty Million Dollars ($50,000,000.00) shall be
10524 subtracted from the Sixty Million Dollars ($60,000,000.00) in
10525 aggregate value of new investments required under this paragraph
10526 (c)(vii).

10527 The term "high economic benefit project" does not include any
10528 medical cannabis establishment as defined in the Mississippi
10529 Medical Cannabis Act or any form of investment related thereto;

10530 (d) "Political subdivision" means one or more counties
10531 or incorporated municipalities in the state, or a state-owned port
10532 located in a county bordering on the Gulf of Mexico;

10533 (e) "Private company" means:

10534 (i) Any agricultural, aquacultural, maricultural,
10535 processing, distribution, warehousing, manufacturing,
10536 transportation, tourism or research and development enterprise;

10537 (ii) Any air transportation and maintenance
10538 facility, regional shopping mall, hospital, large hotel, resort or
10539 movie industry studio;

10540 (iii) The federal government with respect to any
10541 specific project which meets the criteria established in paragraph
10542 (c)(i) of this subsection;

10543 (iv) Any existing or proposed industry in regard
10544 to a project described in paragraph (c)(v) of this subsection;

10545 (v) A developer with respect to any specific
10546 project which meets the criteria established in paragraph (c)(vi)
10547 of this subsection; or
10548 (vi) A tourism project approved by the
10549 board *** * ***.
10550 The term "private company" does not include any medical
10551 cannabis establishment as defined in the Mississippi Medical
10552 Cannabis Act;
10553 (f) "Master planned community" shall have the same
10554 meaning as that term is defined in Section 19-5-10.
10555 (2) The Mississippi Department of Transportation is hereby
10556 authorized to purchase rights-of-way and construct and maintain
10557 roads and highways authorized to be constructed pursuant to this
10558 chapter.
10559 **SECTION 98.** Section 69-2-11, Mississippi Code of 1972, is
10560 amended as follows:
10561 69-2-11. Emerging crop designations shall include, but not
10562 be limited to:
10563 (a) Blueberries;
10564 (b) Muscadines;
10565 (c) Christmas trees;
10566 (d) Aquaculture, including any species from the Gulf of
10567 Mexico and its tributaries;
10568 (e) Horticulture;
10569 (f) Rabbit farming and processing; and

10570 (g) Others designated by the * * * Mississippi
10571 Development Authority or Legislature.
10572 Emerging crop designations shall not include medical cannabis
10573 establishments as defined in the Mississippi Medical Cannabis Act.
10574 **SECTION 99.** Section 69-2-13, Mississippi Code of 1972, is
10575 amended as follows:
10576 69-2-13. (1) There is hereby established in the State
10577 Treasury a fund to be known as the "Emerging Crops Fund," which
10578 shall be used to pay the interest on loans made to farmers for
10579 nonland capital costs of establishing production of emerging crops
10580 on land in Mississippi, and to make loans and grants which are
10581 authorized under this section to be made from the fund. The fund
10582 shall be administered by the Mississippi Development Authority. A
10583 board comprised of the directors of the authority, the Mississippi
10584 Cooperative Extension Service, the Mississippi Small Farm
10585 Development Center and the Mississippi Agricultural and Forestry
10586 Experiment Station, or their designees, shall develop definitions,
10587 guidelines and procedures for the implementation of this chapter.
10588 Funds for the Emerging Crops Fund shall be provided from the
10589 issuance of bonds or notes under Sections 69-2-19 through 69-2-37
10590 and from repayment of interest loans made from the fund.
10591 (2) (a) The Mississippi Development Authority shall develop
10592 a program which gives fair consideration to making loans for the
10593 processing and manufacturing of goods and services by
10594 agribusiness, greenhouse production horticulture, and small

business concerns. It is the policy of the State of Mississippi that the Mississippi Development Authority shall give due recognition to and shall aid, counsel, assist and protect, insofar as is possible, the interests of agribusiness, greenhouse production horticulture, and small business concerns. To ensure that the purposes of this subsection are carried out, the Mississippi Development Authority shall loan not more than One Million Dollars ($1,000,000.00) to finance any single agribusiness, greenhouse production horticulture, or small business concern. Loans made pursuant to this subsection shall be made in accordance with the criteria established in Section 57-71-11.

(b) The Mississippi Development Authority may, out of the total amount of bonds authorized to be issued under this chapter, make available funds to any planning and development district in accordance with the criteria established in Section 57-71-11. Planning and development districts which receive monies pursuant to this provision shall use such monies to make loans to private companies for purposes consistent with this subsection.

(c) The Mississippi Development Authority is hereby authorized to engage legal services, financial advisors, appraisers and consultants if needed to review and close loans made hereunder and to establish and assess reasonable fees, including, but not limited to, liquidation expenses.

10619 (d) The State Auditor may conduct performance and
10620 compliance audits under this chapter according to Section
10621 7-7-211(o) and may bill the oversight agency.
10622 (3) (a) The Mississippi Development Authority shall, in
10623 addition to the other programs described in this section, provide
10624 for the following programs of loans to be made to agribusiness or
10625 greenhouse production horticulture enterprises for the purpose of
10626 encouraging thereby the extension of conventional financing and
10627 the issuance of letters of credit to such agribusiness or
10628 greenhouse production horticulture enterprises by private
10629 institutions. Monies to make such loans by the Mississippi
10630 Development Authority shall be drawn from the Emerging Crops Fund.
10631 (b) The Mississippi Development Authority may make
10632 loans to agribusiness or greenhouse production horticulture
10633 enterprises. The amount of any loan to any single enterprise
10634 under this paragraph (b) shall not exceed twenty percent (20%) of
10635 the total cost of the project for which financing is sought or Two
10636 Hundred Fifty Thousand Dollars ($250,000.00), whichever is less.
10637 No interest shall be charged on such loans, and only the amount
10638 actually loaned shall be required to be repaid. Repayments shall
10639 be deposited into the Emerging Crops Fund.
10640 (c) The Mississippi Development Authority also may make
10641 loans under this subsection (3) to existing agribusiness or
10642 greenhouse production horticulture enterprises for the purpose of
10643 assisting such enterprises to make upgrades, renovations, repairs

10644 and other improvements to their equipment, facilities and
10645 operations, which shall not exceed Two Hundred Fifty Thousand
10646 Dollars ($250,000.00) or thirty percent (30%) of the total cost of
10647 the project for which financing is sought, whichever is less. No
10648 interest shall be charged on loans made under this paragraph, and
10649 only the amount actually loaned shall be required to be repaid.
10650 Repayments shall be deposited into the Emerging Crops Fund.
10651 (d) The maximum aggregate amount of loans that may be
10652 made under this subsection (3) to any one (1) agribusiness shall
10653 be not more than Five Hundred Thousand Dollars ($500,000.00).
10654 (4) (a) Through June 30, 2010, the Mississippi Development
10655 Authority may loan or grant to qualified planning and development
10656 districts, and to small business investment corporations,
10657 bank-based community development corporations, the Recruitment and
10658 Training Program, Inc., the City of Jackson Business Development
10659 Loan Fund, the Lorman Southwest Mississippi Development
10660 Corporation, the West Jackson Community Development Corporation,
10661 the East Mississippi Development Corporation, and other entities
10662 meeting the criteria established by the Mississippi Development
10663 Authority (all referred to hereinafter as "qualified entities"),
10664 funds for the purpose of establishing loan revolving funds to
10665 assist in providing financing for minority economic development.
10666 The monies loaned or granted by the Mississippi Development
10667 Authority shall be drawn from the Emerging Crops Fund and shall
10668 not exceed Twenty-nine Million Dollars ($29,000,000.00) in the

aggregate. Planning and development districts or qualified entities which receive monies pursuant to this provision shall use such monies to make loans to minority business enterprises consistent with criteria established by the Mississippi Development Authority. Such criteria shall include, at a minimum, the following:

(i) The business enterprise must be a private, for-profit enterprise.

(ii) If the business enterprise is a proprietorship, the borrower must be a resident citizen of the State of Mississippi; if the business enterprise is a corporation or partnership, at least fifty percent (50%) of the owners must be resident citizens of the State of Mississippi.

(iii) The borrower must have at least five percent (5%) equity interest in the business enterprise.

(iv) The borrower must demonstrate ability to repay the loan.

(v) The borrower must not be in default of any previous loan from the state or federal government.

(vi) Loan proceeds may be used for financing all project costs associated with development or expansion of a new small business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction and professional fees related to the project.

(vii) Loan proceeds shall not be used to pay off existing debt for loan consolidation purposes; to finance the acquisition, construction, improvement or operation of real property which is to be held primarily for sale or investment; to provide for, or free funds, for speculation in any kind of property; or as a loan to owners, partners or stockholders of the applicant which do not change ownership interest by the applicant. However, this does not apply to ordinary compensation for services rendered in the course of business.

(viii) The maximum amount that may be loaned to any one (1) borrower shall be Two Hundred Fifty Thousand Dollars ($250,000.00).

(ix) The Mississippi Development Authority shall review each loan before it is made, and no loan shall be made to any borrower until the loan has been reviewed and approved by the Mississippi Development Authority.

(b) For the purpose of this subsection, the term "minority business enterprise" means a socially and economically disadvantaged small business concern, organized for profit, performing a commercially useful function which is owned and controlled by one or more minorities or minority business enterprises certified by the Mississippi Development Authority, at least fifty percent (50%) of whom are resident citizens of the State of Mississippi. Except as otherwise provided, for purposes of this subsection, the term "socially and economically

disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)), or women, and the term "owned and controlled" means a business in which one or more minorities or minority business enterprises certified by the Mississippi Development Authority own sixty percent (60%) or, in the case of a corporation, sixty percent (60%) of the voting stock, and control sixty percent (60%) of the management and daily business operations of the business. However, an individual whose personal net worth exceeds Five Hundred Thousand Dollars ($500,000.00) shall not be considered to be an economically disadvantaged individual.

From and after July 1, 2010, monies not loaned or granted by the Mississippi Development Authority to planning and development districts or qualified entities under this subsection, and monies not loaned by planning and development districts or qualified entities, shall be deposited to the credit of the sinking fund created and maintained in the State Treasury for the retirement of bonds issued under Section 69-2-19.

(c) Notwithstanding any other provision of this subsection to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the planning and development district in coordination with the Appalachian Regional Commission or Economic Development

10743 Administration, or both, a planning and development district may
10744 use funds in its loan revolving fund, which have not been
10745 committed otherwise to provide assistance, for the purpose of
10746 providing temporary funding for such commitments. If a planning
10747 and development district uses uncommitted funds in its loan
10748 revolving fund to provide such temporary funding, the district
10749 shall use funds repaid to the district under the temporarily
10750 funded federal loan program to replenish the funds used to provide
10751 the temporary funding. Funds used by a planning and development
10752 district to provide temporary funding under this paragraph (c)
10753 must be repaid to the district's loan revolving fund no later than
10754 twelve (12) months after the date the district provides the
10755 temporary funding. A planning and development district may not
10756 use uncommitted funds in its loan revolving fund to provide
10757 temporary funding under this paragraph (c) on more than two (2)
10758 occasions during a calendar year. A planning and development
10759 district may provide temporary funding for multiple commitments on
10760 each such occasion. The maximum aggregate amount of uncommitted
10761 funds in a loan revolving fund that may be used for such purposes
10762 during a calendar year shall not exceed seventy percent (70%) of
10763 the uncommitted funds in the loan revolving fund on the date the
10764 district first provides temporary funding during the calendar
10765 year.
10766 (d) If the Mississippi Development Authority determines
10767 that a planning and development district or qualified entity has

10768 provided loans to minority businesses in a manner inconsistent
10769 with the provisions of this subsection, then the amount of such
10770 loans so provided shall be withheld by the Mississippi Development
10771 Authority from any additional grant funds to which the planning
10772 and development district or qualified entity becomes entitled
10773 under this subsection. If the Mississippi Development Authority
10774 determines, after notifying such planning and development district
10775 or qualified entity twice in writing and providing such planning
10776 and development district or qualified entity a reasonable
10777 opportunity to comply, that a planning and development district or
10778 qualified entity has consistently failed to comply with this
10779 subsection, the Mississippi Development Authority may declare such
10780 planning and development district or qualified entity in default
10781 under this subsection and, upon receipt of notice thereof from the
10782 Mississippi Development Authority, such planning and development
10783 district or qualified entity shall immediately cease providing
10784 loans under this subsection, shall refund to the Mississippi
10785 Development Authority for distribution to other planning and
10786 development districts or qualified entities all funds held in its
10787 revolving loan fund and, if required by the Mississippi
10788 Development Authority, shall convey to the Mississippi Development
10789 Authority all administrative and management control of loans
10790 provided by it under this subsection.
10791 (e) If the Mississippi Development Authority
10792 determines, after notifying a planning and development district or

qualified entity twice in writing and providing copies of such notification to each member of the Legislature in whose district or in a part of whose district such planning and development district or qualified entity is located and providing such planning and development district or qualified entity a reasonable opportunity to take corrective action, that a planning and development district or qualified entity administering a revolving loan fund under the provisions of this subsection is not actively engaged in lending as defined by the rules and regulations of the Mississippi Development Authority, the Mississippi Development Authority may declare such planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(5) The Mississippi Development Authority shall develop a program which will assist minority business enterprises by guaranteeing bid, performance and payment bonds which such minority businesses are required to obtain in order to contract

10818 with federal agencies, state agencies or political subdivisions of
10819 the state. The Mississippi Development Authority may secure
10820 letters of credit, as determined necessary by the authority, to
10821 guarantee bid, performance and payment bonds pursuant to this
10822 subsection. Monies for such program shall be drawn from the
10823 monies allocated under subsection (4) of this section to assist
10824 the financing of minority economic development and shall not
10825 exceed Three Million Dollars ($3,000,000.00) in the aggregate.
10826 The Mississippi Development Authority may promulgate rules and
10827 regulations for the operation of the program established pursuant
10828 to this subsection. For the purpose of this subsection (5), the
10829 term "minority business enterprise" has the meaning assigned such
10830 term in subsection (4) of this section.

10831 (6) The Mississippi Development Authority may loan or grant
10832 to public entities and to nonprofit corporations funds to defray
10833 the expense of financing (or to match any funds available from
10834 other public or private sources for the expense of financing)
10835 projects in this state which are devoted to the study, teaching
10836 and/or promotion of regional crafts and which are deemed by the
10837 authority to be significant tourist attractions. The monies
10838 loaned or granted shall be drawn from the Emerging Crops Fund and
10839 shall not exceed Two Hundred Fifty Thousand Dollars ($250,000.00)
10840 in the aggregate.

10841 (7) Through June 30, 2006, the Mississippi Development
10842 Authority shall make available to the Mississippi Department of

10843 Agriculture and Commerce funds for the purpose of establishing
10844 loan revolving funds and other methods of financing for
10845 agribusiness programs administered under the Mississippi
10846 Agribusiness Council Act of 1993. The monies made available by
10847 the Mississippi Development Authority shall be drawn from the
10848 Emerging Crops Fund and shall not exceed One Million Two Hundred
10849 Thousand Dollars ($1,200,000.00) in the aggregate. The
10850 Mississippi Department of Agriculture and Commerce shall establish
10851 control and auditing procedures for use of these funds. These
10852 funds will be used primarily for quick payment to farmers for
10853 vegetable and fruit crops processed and sold through vegetable
10854 processing plants associated with the Department of Agriculture
10855 and Commerce and the Mississippi State Extension Service.
10856 (8) From and after July 1, 1996, the Mississippi Development
10857 Authority shall make available to the Mississippi Small Farm
10858 Development Center One Million Dollars ($1,000,000.00) to be used
10859 by the center to assist small entrepreneurs as provided in Section
10860 37-101-25, Mississippi Code of 1972. The monies made available by
10861 the Mississippi Development Authority shall be drawn from the
10862 Emerging Crops Fund.
10863 (9) [Repealed]
10864 (10) The Mississippi Development Authority shall make
10865 available to the Small Farm Development Center at Alcorn State
10866 University funds in an aggregate amount not to exceed Three
10867 Hundred Thousand Dollars ($300,000.00), to be drawn from the cash

10868 balance of the Emerging Crops Fund. The Small Farm Development
10869 Center at Alcorn State University shall use such funds to make
10870 loans to producers of sweet potatoes and cooperatives anywhere in
10871 the State of Mississippi owned by sweet potato producers to assist
10872 in the planting of sweet potatoes and the purchase of sweet potato
10873 production and harvesting equipment. A report of the loans made
10874 under this subsection shall be furnished by January 15 of each
10875 year to the Chairman of the Senate Agriculture Committee and the
10876 Chairman of the House Agriculture Committee.
10877 (11) The Mississippi Development Authority shall make
10878 available to the Mississippi Department of Agriculture and
10879 Commerce "Make Mine Mississippi" program an amount not to exceed
10880 One Hundred Fifty Thousand Dollars ($150,000.00) to be drawn from
10881 the cash balance of the Emerging Crops Fund.
10882 (12) The Mississippi Development Authority shall make
10883 available to the Mississippi Department of Agriculture and
10884 Commerce an amount not to exceed One Hundred Fifty Thousand
10885 Dollars ($150,000.00) to be drawn from the cash balance of the
10886 Emerging Crops Fund to be used for the rehabilitation and
10887 maintenance of the Mississippi Farmers Central Market in Jackson,
10888 Mississippi.
10889 (13) The Mississippi Development Authority shall make
10890 available to the Mississippi Department of Agriculture and
10891 Commerce an amount not to exceed Twenty-five Thousand Dollars
10892 ($25,000.00) to be drawn from the cash balance of the Emerging

10893 Crops Fund to be used for advertising purposes related to the
10894 Mississippi Farmers Central Market in Jackson, Mississippi.
10895 (14) (a) The Mississippi Development Authority shall, in
10896 addition to the other programs described in this section, provide
10897 for a program of loan guaranties to be made on behalf of any
10898 nonprofit entity qualified under Section 501(c)(3) of the Internal
10899 Revenue Code and certified by the United States Department of the
10900 Treasury as a community development financial institution for the
10901 purpose of encouraging the extension of financing to such an
10902 entity which financing the entity will use to make funds available
10903 to other entities for the purpose of making loans available in
10904 low-income communities in Mississippi. Monies to make such loan
10905 guaranties by the Mississippi Development Authority shall be drawn
10906 from the Emerging Crops Fund and shall not exceed Two Million
10907 Dollars ($2,000,000.00) in the aggregate. The amount of a loan
10908 guaranty on behalf of such an entity under this subsection (14)
10909 shall not exceed Two Million Dollars ($2,000,000.00). Assistance
10910 received by an entity under this subsection (14) shall not
10911 disqualify the entity from obtaining any other assistance under
10912 this chapter.
10913 (b) An entity desiring assistance under this subsection
10914 (14) must submit an application to the Mississippi Development
10915 Authority. The application must include any information required
10916 by the Mississippi Development Authority.

10917 (c) The Mississippi Development Authority shall have
10918 all powers necessary to implement and administer the program
10919 established under this subsection (14), and the Mississippi
10920 Development Authority shall promulgate rules and regulations, in
10921 accordance with the Mississippi Administrative Procedures Law,
10922 necessary for the implementation of this subsection (14).
10923 (15) (a) The Mississippi Development Authority shall, in
10924 addition to the other programs described in this section, provide
10925 for a program of grants to agribusiness enterprises that process,
10926 dry, store or ship peanuts and if the enterprise has invested
10927 prior to April 17, 2009, a minimum of Six Million Dollars
10928 ($6,000,000.00) in land, facilities and equipment in this state
10929 that are utilized to process, dry, store or ship peanuts. Monies
10930 to make such grants by the Mississippi Development Authority shall
10931 be drawn from the Emerging Crops Fund and shall not exceed One
10932 Million Dollars ($1,000,000.00) in the aggregate. The amount of a
10933 grant under this subsection (15) shall not exceed One Million
10934 Dollars ($1,000,000.00).
10935 (b) An entity desiring assistance under this subsection
10936 (15) must submit an application to the Mississippi Development
10937 Authority. The application must include a description of the
10938 project for which assistance is requested, the cost of the project
10939 for which assistance is requested, the amount of assistance
10940 requested and any other information required by the Mississippi
10941 Development Authority.

10942 (c) As a condition of the receipt of a grant under this
10943 subsection (15), an entity must agree to remain in business in
10944 this state for not less than five (5) years and must meet other
10945 conditions established by the Mississippi Development Authority to
10946 ensure that the assistance results in an economic benefit to the
10947 state. The Mississippi Development Authority shall require that
10948 binding commitments be entered into requiring that:
10949 (i) The minimum requirements provided for in this
10950 subsection (15) and the conditions established by the Mississippi
10951 Development Authority are met; and
10952 (ii) If such commitments and conditions are not
10953 met, all or a portion of the funds provided pursuant to this
10954 subsection (15) shall be repaid.
10955 (d) The Mississippi Development Authority shall have
10956 all powers necessary to implement and administer the program
10957 established under this subsection (15), and the Mississippi
10958 Development Authority shall promulgate rules and regulations, in
10959 accordance with the Mississippi Administrative Procedures Law,
10960 necessary for the implementation of this subsection (15).
10961 (16) (a) The Mississippi Development Authority, in addition
10962 to the other programs described in this section, shall provide for
10963 a program of loan guaranties to be made on behalf of certain
10964 agribusinesses engaged in sweet potato growing and farming for the
10965 purpose of encouraging thereby the extension of conventional
10966 financing and the issuance of letters of credit to such

agribusinesses by lenders. The amount of a loan guaranty made on behalf of such an agribusiness shall be ninety percent (90%) of the amount of assistance made available by a lender for the purposes authorized under this subsection (16). Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Seventeen Million Dollars ($17,000,000.00) in the aggregate.

(b) In order to be eligible for assistance under this subsection (16) an agribusiness must:

(i) Have been actively engaged in sweet potato growing and farming in this state before January 1, 2010;

(ii) Have incurred a disaster-related loss for sweet potato growing and farming purposes for calendar year 2009, as determined by a lender;

(iii) Agree to obtain and maintain federal Noninsured Agricultural Program (NAP) insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

(iv) Satisfy underwriting criteria established by a lender related to loans under this subsection (16).

(c) (i) An entity desiring assistance under this subsection must submit an application for assistance to a lender not later than August 1, 2010. The application must include:

1. Information verifying the length of time the applicant has been actively engaged in sweet potato growing and farming in this state;

2. Information regarding the number of acres used by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the Farm Services Authority (FSA) or the Mississippi Department of Agriculture and Commerce (MDAC), and the number of acres the applicant intends to use for such purposes during the 2010 calendar year;

3. The average cost per acre incurred by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the FSA or MDAC, and an estimate of the average cost per acre to be incurred by the applicant for such purposes during the calendar year for which application is made;

4. The amount of assistance requested;

5. A statement from the applicant agreeing that he will obtain and maintain NAP insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

6. Any other information required by the lender and/or the MDA.

(ii) The lender shall review the application for assistance and determine whether the applicant qualifies for

assistance under this subsection (16). If the lender determines that the applicant qualifies for assistance, the lender shall loan funds to the applicant subject to the provisions of this subsection (16).

(d) Loans made under this subsection (16) shall be subject to the following conditions:

(i) The maximum amount of a loan to a borrower shall not exceed One Thousand Seven Hundred Dollars ($1,700.00) per acre and shall exclude any machinery and equipment costs.

(ii) The proceeds of a loan may be used only for paying a borrower's sweet potato planting, production and harvesting costs, excluding machinery and equipment costs.

(iii) The proceeds of a loan may not be used to repay, satisfy or finance existing debt.

(iv) The time allowed for repayment of a loan shall not be more than five (5) years, and there shall be no penalty, fee or other charge imposed for the prepayment of a loan.

(e) The receipt of assistance by a person or other entity under any other program described in this section shall not disqualify the person or entity from obtaining a loan under the program established in this subsection (16) if the person or entity is otherwise eligible under this program. In addition, the receipt of a loan by a person or other entity under the program established under this subsection (16) shall not disqualify the

11039 person or entity from obtaining assistance under any other program
11040 described in this section.
11041 (f) The Mississippi Development Authority shall have
11042 all powers necessary to implement and administer the program
11043 established under this subsection (16), and the Mississippi
11044 Development Authority shall promulgate rules and regulations, in
11045 accordance with the Mississippi Administrative Procedures Law,
11046 necessary for the implementation of this subsection (16).
11047 (17) Notwithstanding any other provision of this section to
11048 the contrary, the Mississippi Development Authority shall not
11049 provide loans, loan guaranties, grants or any other form of
11050 assistance to medical cannabis establishments as defined in the
11051 Mississippi Medical Cannabis Act.
11052 **SECTION 100.** This act shall take effect and be in force from
11053 and after its passage.