

By: Senator(s) Little, Chaney, Burton, King,  
Gordon, Gollott, Doxey, Moffatt, Lee (35th),  
Chamberlin, Browning, Morgan, Flowers

To: Finance

SENATE BILL NO. 2539

1 AN ACT TO BE KNOWN AS THE "MISSISSIPPI COMPREHENSIVE  
2 WORKFORCE TRAINING AND EDUCATION CONSOLIDATION ACT OF 2004"; TO  
3 AMEND SECTIONS 37-153-1 THROUGH 37-153-13, MISSISSIPPI CODE OF  
4 1972, TO ESTABLISH AND PRESCRIBE THE MEMBERSHIP OF THE MISSISSIPPI  
5 WORKFORCE INVESTMENT BOARD TO SUCCEED TO THE RESPONSIBILITIES OF  
6 THE MISSISSIPPI WORKFORCE DEVELOPMENT COUNCIL AND THE FORMER  
7 EXECUTIVE ORDER WORKFORCE INVESTMENT ACT BOARD IN ORDER TO  
8 COORDINATE AND IMPROVE THE EFFECTIVENESS OF ALL WORKFORCE AREA  
9 ACTIVITIES IN THE STATE OF MISSISSIPPI, TO DEFINE WORKFORCE  
10 TRAINING PROGRAMS AND EMPOWER THE STATE BOARD TO ASSIST THE  
11 GOVERNOR IN IMPLEMENTING ORGANIZATION OF SUCH PROGRAMS PURSUANT TO  
12 FEDERAL LAW, TO PROVIDE FOR FOUR LOCAL WORKFORCE INVESTMENT  
13 BOARDS, TO PROVIDE FOR COMMUNITY COLLEGE DISTRICT WORKFORCE  
14 DEVELOPMENT COUNCILS, AND TO PROVIDE FOR WORKFORCE DEVELOPMENT  
15 CENTERS; TO AMEND SECTIONS 71-5-5, 71-5-11, 71-5-19, 71-5-101,  
16 71-5-107 THROUGH 71-5-143, 71-5-201, 71-5-357, 71-5-359, 71-5-451,  
17 71-5-457, 71-5-511, 71-5-513, 71-5-517, 71-5-519, 71-5-523,  
18 71-5-525, 71-5-529, 71-5-531, 71-5-541, 73-30-25, 43-1-30,  
19 43-17-5, 43-19-45, 43-19-46, 57-62-5, 57-62-9, 57-75-5, 57-80-7  
20 AND 69-2-5, MISSISSIPPI CODE OF 1972, TO TRANSFER THE POWERS AND  
21 RESPONSIBILITIES OF THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION  
22 TO THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY IN THE OFFICE  
23 OF THE GOVERNOR, TO PROVIDE FOR AN EXECUTIVE DIRECTOR OF THE  
24 DEPARTMENT OF EMPLOYMENT SECURITY APPOINTED BY THE GOVERNOR, TO  
25 CLARIFY RULEMAKING AUTHORITY OF THE DEPARTMENT, TO TRANSFER THE  
26 FUNCTION OF THE EMPLOYMENT SECURITY COMMISSION BOARD OF REVIEW TO  
27 THE EXECUTIVE DIRECTOR, AND IN CONFORMITY THERETO; TO AMEND  
28 SECTION 7-1-355, MISSISSIPPI CODE OF 1972, TO REQUIRE THE  
29 MISSISSIPPI DEVELOPMENT AUTHORITY TO MAKE AN ANNUAL REPORT TO THE  
30 LEGISLATURE ON WORKFORCE INVESTMENT ACTIVITIES; TO REPEAL SECTIONS  
31 37-151-69, 37-151-71 AND 37-151-73, MISSISSIPPI CODE OF 1972,  
32 WHICH AUTHORIZE A MISSISSIPPI WORKFORCE DEVELOPMENT COUNCIL, LOCAL  
33 DISTRICT COUNCILS AND WORKFORCE DEVELOPMENT CENTERS; TO REPEAL  
34 SECTIONS 71-5-103 AND 71-5-105, MISSISSIPPI CODE OF 1972, WHICH  
35 PROVIDE FOR THE ORGANIZATION AND COMPENSATION OF MEMBERS OF THE  
36 MISSISSIPPI EMPLOYMENT SECURITY COMMISSION; AND FOR RELATED  
37 PURPOSES.

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

39 **SECTION 1.** Section 37-153-1, Mississippi Code of 1972, is  
40 amended as follows:

41 37-153-1. This chapter shall be known and may be cited as  
42 the "Mississippi Comprehensive Workforce Training and Education  
43 Consolidation Act of 2004."

44           **SECTION 2.** Section 37-153-3, Mississippi Code of 1972, is  
45 amended as follows:

46           37-153-3. It is the intent of the Legislature by the passage  
47 of this act to establish one (1) comprehensive workforce training  
48 system in the State of Mississippi that is focused on achieving  
49 results, using resources efficiently and ensuring that workers and  
50 employers can easily access needed training services. This system  
51 shall reflect a consolidation of the Mississippi Workforce  
52 Development Advisory Council and the Workforce Investment Act  
53 Board. The purpose of this act is to provide workforce training  
54 activities, through a statewide system which maximizes cooperation  
55 among state agencies, that increase the employment, retention and  
56 earnings of participants, and increase occupational skill  
57 attainment by participants and as a result, improve the quality of  
58 the workforce, reduce welfare dependency and enhance the  
59 productivity and competitiveness of the State of Mississippi.

60           **SECTION 3.** Section 37-153-5, Mississippi Code of 1972, is  
61 amended as follows:

62           37-153-5. For purposes of this chapter, the following words  
63 and phrases shall have the meanings respectively ascribed in this  
64 section unless the context clearly indicates otherwise:

65           (a) "State board" means the Mississippi Workforce  
66 Investment Board; and

67           (b) "District councils" means the Local Workforce  
68 Development Councils.

69           **SECTION 4.** Section 37-153-7, Mississippi Code of 1972, is  
70 amended as follows:

71           37-153-7. (1) There is created the Mississippi Workforce  
72 Investment Board. The Mississippi State Workforce Investment  
73 Board shall be composed of members, of which a majority shall be  
74 representatives of business and industry in accordance with the  
75 Federal Workforce Investment Act.

76           (a) The Governor shall appoint the following members to  
77 serve concurrent with the Governor's term:

78           (i) The Executive Director of the Mississippi  
79 Association of Supervisors, or his designee;

80           (ii) One (1) elected county supervisor;

81           (iii) One (1) representative of a labor  
82 organization, who shall have been nominated by the organization;

83           (iv) One (1) representative of a youth activities  
84 organization, who shall have been nominated by the organization;

85           (v) One (1) representative from each of the four  
86 (4) workforce areas in the state, who shall have been nominated by  
87 the community colleges in each respective area, with the consent  
88 of the local elected supervisors within the respective workforce  
89 area;

90           (vi) The Executive Director of the Mississippi  
91 Development Authority;

92           (vii) Seventeen (17) representatives of business  
93 owners nominated by business and industry organizations, which may  
94 include representatives of the various planning and development  
95 districts in Mississippi;

96           (viii) The State Superintendent of Education;

97           (ix) The Executive Director of the State  
98 Department of Rehabilitation Services;

99           (x) A representative of the state planning and  
100 development districts appointed by the Governor;

101           (xi) The Executive Director of the State Board for  
102 Community and Junior Colleges;

103           (xii) The Director of the Department of Employment  
104 Security, Office of the Governor; and

105           (xiii) The Executive Director of the Department of  
106 Human Services.

107           (b) The Governor, or his designee, shall serve as a  
108 member.

109           (c) Four (4) legislators, who shall serve in a  
110 nonvoting capacity, two (2) of whom shall be appointed by the  
111 Lieutenant Governor from the membership of the Mississippi Senate,  
112 and two (2) of whom shall be appointed by the Speaker of the House  
113 from the membership of the Mississippi House of Representatives.

114           (d) The Governor shall designate the chairman of the  
115 Mississippi State Workforce Investment Board from among the voting  
116 members of the board, and a quorum of the board shall consist of a  
117 majority of the voting members of the board.

118           (e) The voting members of the board who are not state  
119 employees shall be entitled to reimbursement of their reasonable  
120 expenses incurred in carrying out their duties under this chapter,  
121 from any funds available for that purpose.

122           (f) The Mississippi Development Authority shall  
123 establish limits on administrative costs for each portion of  
124 Mississippi's Workforce Development System consistent with the  
125 Federal Workforce Investment Act or any future federal workforce  
126 legislation. The Mississippi Development Authority shall be  
127 responsible for providing necessary administrative, clerical and  
128 budget support for the Mississippi State Workforce Investment  
129 Board.

130           (2) The Mississippi Workforce Investment Board shall have  
131 the following duties:

132           (a) Develop and submit to the Governor a strategic plan  
133 for an integrated state workforce development system that aligns  
134 resources and structures the system to more effectively and  
135 efficiently meet the demands of Mississippi's employers and job  
136 seekers. This plan will comply with the Federal Workforce  
137 Investment Act of 1998, as amended;

138           (b) Assist the Governor in the development and  
139 continuous improvement of the statewide workforce investment  
140 system that shall include:

141 (i) Development of linkages in order to assure  
142 coordination and nonduplication among programs and activities; and

143 (ii) Review local training plans that reflect the  
144 use of funds from the Federal Workforce Investment Act,  
145 Wagner-Peyser Act and the Mississippi Comprehensive Workforce  
146 Training and Education Consolidation Act;

147 (c) Recommend the designation of local workforce  
148 investment areas as required in Section 116 of the Federal  
149 Workforce Investment Act of 1998. There shall be four (4) areas  
150 that are aligned with the planning and development district  
151 structure in Mississippi. Planning and development districts will  
152 serve as the fiscal agents to fund, oversee and support the local  
153 workforce investment boards aligned with the area and the local  
154 programs and activities as delivered by the one-stop employment  
155 and training system. The planning and development districts will  
156 perform this function through the provisions of the Cooperative  
157 Service District, Sections 19-3-101 through 19-3-115, Mississippi  
158 Code of 1972;

159 (d) Assist the Governor in the development of an  
160 allocation formula for the distribution of funds for adult  
161 employment and training activities and youth activities to local  
162 workforce investment areas;

163 (e) Recommend comprehensive, results-oriented measures  
164 that shall be applied to all Mississippi's workforce development  
165 system programs;

166 (f) Assist the Governor in the establishment and  
167 management of a one-stop employment and training delivery system  
168 conforming to the requirements of the Federal Workforce Investment  
169 Act of 1998, as amended, recommending policy for implementing the  
170 Governor's approved plan for employment and training activities  
171 and services within the state. In developing this one-stop career  
172 operating system, the State Workforce Investment Board in  
173 conjunction with local workforce investment boards shall:

- 174                   (i) Design broad guidelines for the delivery of  
175 workforce development programs;
- 176                   (ii) Identify all existing delivery agencies and  
177 other resources;
- 178                   (iii) Define appropriate roles of the various  
179 agencies to include an analysis of service providers' strengths  
180 and weaknesses;
- 181                   (iv) Determine the best way to utilize the various  
182 agencies to deliver services to recipients; and
- 183                   (v) Develop a financial plan to support the  
184 delivery system that shall, at a minimum, include an  
185 accountability system;
- 186                   (g) Assist the Governor in reducing duplication of  
187 services by urging the Local Workforce Investment Boards to  
188 designate the local community/junior college as the operator of  
189 the WIN Job Center. The board shall be authorized to utilize  
190 Federal Workforce Investment Act funds to award incentive grants  
191 of Two Hundred Thousand Dollars (\$200,000.00) to each workforce  
192 area in the state which designates the local community/junior  
193 college as the operator of the WIN Job Center. These grants will  
194 be used for the implementation and coordination of this combined  
195 approach for specialized training programs and advanced  
196 technology;
- 197                   (h) To provide a forum for developing the necessary  
198 collaboration among state agencies at the highest level for  
199 accomplishing the purposes of this chapter;
- 200                   (i) To monitor the effectiveness of the workforce  
201 development centers and WIN job centers;
- 202                   (j) To advise the Governor and public schools,  
203 community/junior colleges and institutions of higher learning on  
204 effective school-to-work transition policies and programs that  
205 link students moving from high school to higher education and

206 students moving between community colleges and four-year  
207 institutions in pursuit of academic and technical skills training;

208 (k) To work with industry to identify barriers that  
209 inhibit the delivery of quality work force education and the  
210 responsiveness of educational institutions to the needs of  
211 industry; \* \* \*

212 (l) To provide periodic assessments on effectiveness  
213 and results of the system of career centers and district councils;  
214 and

215 (m) To assist the Governor in carrying out any other  
216 responsibility required by the federal Workforce Investment Act of  
217 1998, as amended.

218 (3) The Mississippi Workforce Investment Board shall  
219 coordinate all training programs and funds in the State of  
220 Mississippi.

221 Each state agency director responsible for workforce training  
222 activities shall advise the Mississippi Workforce Investment Board  
223 of appropriate federal and state requirements. Each such state  
224 agency director shall remain responsible for the actions of his  
225 agency; however, each state agency and director shall work  
226 cooperatively, and shall be individually and collectively  
227 responsible to the Governor for the successful implementation of  
228 the statewide workforce investment system. The Governor, as the  
229 Chief Executive Officer of the state, shall have complete  
230 authority to enforce cooperation among all entities within the  
231 state which utilize federal or state funding for the conduct of  
232 workforce training activities.

233 **SECTION 5.** Section 37-153-9, Mississippi Code of 1972, is  
234 amended as follows:

235 37-153-9. (1) In accordance with the Federal Workforce  
236 Investment Act of 1998, there will be established, for each of the  
237 four (4) state workforce areas prescribed in Section 37-153-3  
238 (2)(c) a Local Workforce Investment Board appointed by the local

239 elected county supervisors from the respective workforce areas as  
240 required by the Federal Workforce Investment Act to set policy for  
241 the portion of the statewide workforce investment system within  
242 the local area, which shall have the following advisory duties:

243           (a) To develop an integrated and coordinated district  
244 work force investment strategic plan that:

245                   (i) Identifies workforce investment needs through  
246 job and employee assessments of local business and industry;

247                   (ii) Sets short-term and long-term goals for  
248 industry-specific training and upgrading and for general  
249 development of the workforce; and

250                   (iii) Provides for coordination of all training  
251 programs, including ABE/GED, Skills Enhancement and Industrial  
252 Services, and shall work collaboratively with the State Literacy  
253 Resource Center;

254           (b) To coordinate and integrate delivery of training as  
255 provided by the work force development plan;

256           (c) To assist business and industry management in the  
257 transition to a high-powered, quality organization;

258           (d) To encourage continuous improvement through  
259 evaluation and assessment; and

260           (e) To oversee development of an extensive marketing  
261 plan to the employer community.

262           (2) Each community college district shall have an affiliated  
263 District Workforce Development Council. The district council  
264 shall be composed of a diverse group of fifteen (15) persons  
265 appointed by the board of trustees of the affiliated public  
266 community or junior college. The members of each district council  
267 shall be selected from persons recommended by the chambers of  
268 commerce, employee groups, industrial foundations, community  
269 organizations and local governments located in the community  
270 college district of the affiliated community college with one (1)  
271 appointee being involved in basic literacy training. However, at



272 least eight (8) members of each district council shall be chief  
273 executive officers, plant managers that are representatives of  
274 employers in that district or service sector executives. The  
275 District Workforce Development Council affiliated with each  
276 respective community or junior college shall advise the president  
277 of the community or junior college on the operation of its  
278 workforce development center/one-stop center.

279 **SECTION 6.** Section 37-153-11, Mississippi Code of 1972, is  
280 amended as follows:

281 37-153-11. (1) There are created One-Stop Career Centers to  
282 provide assessment, training and placement services to individuals  
283 needing retraining, training and upgrading for local industry.  
284 Each career center shall be affiliated with a separate public  
285 community or junior college district.

286 (2) Each career center shall be staffed and organized  
287 locally by the affiliated community college. The career center  
288 shall serve as staff to the affiliated district council.

289 (3) Each career center, working in concert with its  
290 affiliated district council, shall offer and arrange services to  
291 accomplish the purposes of this act, including, but not limited  
292 to, the following:

293 (a) For individuals needing training and retraining:

294 (i) Recruiting, assessing, counseling and  
295 referring to training or jobs;

296 (ii) Preemployment training for those with no  
297 experience in the private enterprise system;

298 (iii) Basic literacy skills training and high  
299 school equivalency education;

300 (iv) Vocational and technical training, full-time  
301 or part-time; and

302 (v) Short-term skills training for educationally  
303 and economically disadvantaged adults in cooperation with  
304 federally established employment and training programs;

305                   (b) For specific industries or firms within the  
306 district:  
307                   (i) Job analysis, testing and curriculum  
308 development;  
309                   (ii) Development of specific long-range training  
310 plans;  
311                   (iii) Industry or firm-related preemployment  
312 training;  
313                   (iv) Workplace basic skills and literacy training;  
314                   (v) Customized skills training;  
315                   (vi) Assistance in developing the capacity for  
316 Total Quality Management training; and  
317                   (vii) Technology transfer information and referral  
318 services to business of local applications of new research in  
319 cooperation with the University Research Center, the state's  
320 universities and other laboratories;  
321                   (c) For public schools within the district technical  
322 assistance to secondary schools in curriculum coordination,  
323 development of tech prep programs, instructional development and  
324 resource coordination; and  
325                   (d) For economic development, a local forum and  
326 resource center for all local industrial development groups to  
327 meet and promote regional economic development.  
328                   (4) Each career center shall compile and make accessible to  
329 the Mississippi Workforce Investment Board necessary information  
330 for use in evaluating outcomes of its efforts and in improving the  
331 quality of programs at each community college, and shall include  
332 information on literacy initiatives. Each career center shall,  
333 through an interagency management information system, maintain  
334 records on placement, length of time on the job after placement  
335 and wage rates of those placed in a form containing such  
336 information as established by the state council.

337           **SECTION 7.** Section 37-153-13, Mississippi Code of 1972, is  
338 amended as follows:

339           37-153-13. The State Board for Community and Junior Colleges  
340 is designated as the primary support agency to the career  
341 centers \* \* \*. The state board may exercise the following powers:

342           (a) To provide the career centers the assistance  
343 necessary to accomplish the purposes of this chapter;

344           (b) To provide the career centers consistent standards  
345 and benchmarks to guide development of the local work force  
346 development system and to provide a means by which the outcomes of  
347 local services can be measured;

348           (c) To develop the staff capacity to provide, broker or  
349 contract for the provision of technical assistance to the career  
350 centers, including, but not limited to:

351                   (i) Training local staff in methods of recruiting,  
352 assessment and career counseling;

353                   (ii) Establishing rigorous and comprehensive local  
354 pre-employment training programs;

355                   (iii) Developing local institutional capacity to  
356 deliver Total Quality Management training;

357                   (iv) Developing local institutional capacity to  
358 transfer new technologists into the marketplace;

359                   (v) Expanding the Skills Enhancement Program and  
360 improving the quality of adult literacy programs; and

361                   (vi) Developing data for strategic planning;

362           (d) To collaborate with the Mississippi Development  
363 Authority and other economic development organizations to increase  
364 the community college systems' economic development potential;

365           (e) To administer presented and approved certification  
366 programs by the community colleges for tax credits and partnership  
367 funding for corporate training;

368           (f) To create and maintain an evaluation team that  
369 examines which kinds of curricula and programs and what forms of

370 quality control of training are most productive so that the  
371 knowledge developed at one (1) institution of education can be  
372 transferred to others;

373 (g) To develop internal capacity to provide services  
374 and to contract for services from universities and other providers  
375 directly to local institutions;

376 (h) To develop and administer an incentive  
377 certification program; and

378 (i) To develop and hire staff and purchase equipment  
379 necessary to accomplish the goals set forth in this section.

380 **SECTION 8.** Section 71-5-5, Mississippi Code of 1972, is  
381 amended as follows:

382 71-5-5. The Legislature hereby finds and declares that the  
383 existence and continued operation of a federal tax upon employers,  
384 against which some portion of the contributions required under  
385 this chapter may be credited, will protect Mississippi employers  
386 from undue disadvantages in their competition with employers in  
387 other states. If at any time, upon a formal complaint to the  
388 Governor, he shall find that Title IX of the Social Security Act  
389 has been amended or repealed by Congress or has been held  
390 unconstitutional by the Supreme Court of the United States, and  
391 that, as a result thereof, the provisions of this chapter  
392 requiring Mississippi employers to pay contributions will subject  
393 them to a serious competitive disadvantage in relation to  
394 employers in other states, he shall publish such findings and  
395 proclaim that the operation of the provisions of this chapter  
396 requiring the payment of contributions and benefits shall be  
397 suspended for a period of not more than six (6) months. The  
398 Department of Employment Security shall thereupon requisition from  
399 the Unemployment Trust Fund all monies therein standing to its  
400 credit, and shall direct the State Treasurer to deposit such  
401 monies, together with any other monies in the Unemployment  
402 Compensation Fund, as a special fund in any banks or public

403 depositories in this state in which general funds of the state may  
404 be deposited.

405 In all other cases, and unless the Governor shall issue such  
406 proclamation, this chapter shall remain in full force and effect.

407 If within the aforesaid six-months' period the Governor shall  
408 find that other federal legislation has been enacted which avoids  
409 the competitive disadvantage herein described, he shall forthwith  
410 publicly so proclaim, and upon the date of such proclamation, the  
411 provisions of this chapter requiring the payment of contributions  
412 and benefits shall again become fully operative as of the date of  
413 such suspension with the same effect as if such suspension had not  
414 occurred. If within such six-months' period no such other federal  
415 legislation is enacted or the Legislature of this state has not  
416 otherwise prescribed, the Department of Employment Security shall,  
417 under regulations prescribed by it, refund, without interest, to  
418 each employer by whom contributions have been paid his pro rata  
419 share of the total contributions paid under this chapter. Any  
420 interest or earnings of the fund shall be available to the  
421 Department of Employment Security to pay for the costs of making  
422 such refunds. When the Department of Employment Security shall  
423 have executed the duties herein prescribed and performed such  
424 other acts as are incidental to the termination of its duties  
425 under this chapter, the Governor shall by public proclamation  
426 declare that the provisions of this chapter, in their entirety,  
427 shall cease to be operative.

428 **SECTION 9.** Section 71-5-11, Mississippi Code of 1972, is  
429 amended as follows:

430 71-5-11. As used in this chapter, unless the context clearly  
431 requires otherwise:

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

435 B. "Benefits" means the money payments payable to an  
436 individual, as provided in this chapter, with respect to his  
437 unemployment.

438 C. "Benefit year" with respect to any individual means the  
439 period beginning with the first day of the first week with respect  
440 to which he first files a valid claim for benefits, and ending  
441 with the day preceding the same day of the same month in the next  
442 calendar year; and, thereafter, the period beginning with the  
443 first day of the first week with respect to which he next files  
444 his valid claim for benefits, and ending with the day preceding  
445 the same day of the same month in the next calendar year. Any  
446 claim for benefits made in accordance with Section 71-5-515 shall  
447 be deemed to be a "valid claim" for purposes of this subsection if  
448 the individual has been paid the wages for insured work required  
449 under Section 71-5-511(e).

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

452 E. "Calendar quarter" means the period of three (3)  
453 consecutive calendar months ending on March 31, June 30, September  
454 30, or December 31.

455 F. "Department" or "commission" means the Mississippi  
456 Department of Employment Security, Office of the Governor.  
457 "Executive director" means the Executive Director of the  
458 Mississippi Department of Employment Security, Office of the  
459 Governor, appointed pursuant to Section 71-5-107.

460 G. "Employing unit" means this state or another state or any  
461 instrumentalities or any political subdivisions thereof or any of  
462 their instrumentalities or any instrumentality of more than one  
463 (1) of the foregoing or any instrumentality of any of the  
464 foregoing and one or more other states or political subdivisions,  
465 any Indian tribe as defined in Section 3306(u) of the Federal  
466 Unemployment Tax Act (FUTA), which includes any subdivision,  
467 subsidiary or business enterprise wholly owned by such Indian

468 tribe, any individual or type of organization, including any  
469 partnership, association, trust, estate, joint-stock company,  
470 insurance company, or corporation, whether domestic or foreign, or  
471 the receiver, trustee in bankruptcy, trustee or successor thereof,  
472 or the legal representative of a deceased person, which has or had  
473 in its employ one or more individuals performing services for it  
474 within this state. All individuals performing services within  
475 this state for any employing unit which maintains two (2) or more  
476 separate establishments within this state shall be deemed to be  
477 employed by a single employing unit for all the purposes of this  
478 chapter. Each individual employed to perform or to assist in  
479 performing the work of any agent or employee of an employing unit  
480 shall be deemed to be employed by such employing unit for all  
481 purposes of this chapter, whether such individual was hired or  
482 paid directly by such employing unit or by such agent or employee,  
483 provided the employing unit had actual or constructive knowledge  
484 of the work. All individuals performing services in the employ of  
485 an elected fee-paid county official, other than those related by  
486 blood or marriage within the third degree computed by the rule of  
487 the civil law to such fee-paid county official, shall be deemed to  
488 be employed by such county as the employing unit for all the  
489 purposes of this chapter. For purposes of defining an "employing  
490 unit" which shall pay contributions on remuneration paid to  
491 individuals, if two (2) or more related corporations concurrently  
492 employ the same individual and compensate such individual through  
493 a common paymaster which is one (1) of such corporations, then  
494 each such corporation shall be considered to have paid as  
495 remuneration to such individual only the amounts actually  
496 disbursed by it to such individual and shall not be considered to  
497 have paid as remuneration to such individual such amounts actually  
498 disbursed to such individual by another of such corporations.

499 H. "Employer" means:

500 (1) Any employing unit which,

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

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

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

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

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

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

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

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



534           (7) Any employing unit which, having become an employer  
535 under paragraph (1), (3), (5) or (6) of this subsection or under  
536 any other provisions of this chapter, has not, under Section  
537 71-5-361, ceased to be an employer subject to this chapter;

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

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

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

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

560           I. "Employment" means and includes:

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

566 (2) Services performed for remuneration for a  
567 principal:

568 (a) As an agent-driver or commission-driver  
569 engaged in distributing meat products, vegetable products, fruit  
570 products, bakery products, beverages (other than milk), or laundry  
571 or dry cleaning services;

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

580 Provided, that for purposes of this subsection, the term  
581 "employment" shall include services described in subsections  
582 I(2)(a) and (b) of this section, only if:

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

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

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

593 (3) Service performed in the employ of this state or  
594 any of its instrumentalities or any political subdivision thereof  
595 or any of its instrumentalities or any instrumentality of more  
596 than one (1) of the foregoing or any instrumentality of any of the  
597 foregoing and one or more other states or political subdivisions  
598 or any Indian tribe as defined in Section 3306(u) of the Federal

599 Unemployment Tax Act (FUTA), which includes any subdivision,  
600 subsidiary or business enterprise wholly owned by such Indian  
601 tribe; provided that such service is excluded from "employment" as  
602 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)  
603 of that act and is not excluded from "employment" under subsection  
604 I(5) of this section.

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

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

615 (5) For the purposes of subsections I(3) and (4) of  
616 this section, the term "employment" does not apply to service  
617 performed:

618 (a) In the employ of:

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

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

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

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

632 (i) As an elected official;

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

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

638 (iv) As an employee serving on a temporary  
639 basis in case of fire, storm, snow, earthquake, flood or similar  
640 emergency;

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

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

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

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

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

659 (f) As part of an unemployment work-relief or  
660 work-training program assisted or financed in whole or in part by  
661 any federal agency or agency of a state or political subdivision  
662 thereof or of an Indian tribe, by an individual receiving such  
663 work relief or work training, unless coverage of such service is  
664 required by federal law or regulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

713                   (7) The term "employment" shall include domestic  
714 service in a private home, local college club or local chapter of  
715 a college fraternity or sorority performed for an employing unit  
716 which paid cash remuneration of One Thousand Dollars (\$1,000.00)  
717 or more in any calendar quarter in the current or the preceding  
718 calendar year to individuals employed in such domestic service.  
719 For the purpose of this subsection, the term "employment" does not  
720 apply to service performed as a "sitter" at a hospital in the  
721 employ of an individual.

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

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

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

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

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

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

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

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

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

753                   (11) The services of an individual who is a citizen of  
754 the United States, performed outside the United States (except in  
755 Canada), in the employ of an American employer (other than service  
756 which is deemed "employment" under the provisions of paragraph  
757 (8), (9) or (10) of this subsection or the parallel provisions of  
758 another state's law), if:

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

761                           (b) The employer has no place of business in the  
762 United States, but

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

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

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

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

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

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

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

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

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

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

793 (13) Service with respect to which a tax is required to  
794 be paid under any federal law imposing a tax against which credit  
795 may be taken for contributions required to be paid into a state



796 unemployment fund, or which as a condition for full tax credit  
797 against the tax imposed by the Federal Unemployment Tax Act, 26  
798 USCS Section 3301 et seq., is required to be covered under this  
799 chapter, notwithstanding any other provisions of this subsection.

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

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

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

812                           (i) On a farm or in a forest in the employ of  
813 any employing unit in connection with cultivating the soil, in  
814 connection with cutting, planting, deadening, marking or otherwise  
815 improving timber, or in connection with raising or harvesting any  
816 agricultural or horticultural commodity, including the raising,  
817 shearing, feeding, caring for, training, and management of  
818 livestock, bees, poultry, fur-bearing animals and wildlife;

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

825                           (iii) In connection with the production or  
826 harvesting of naval stores products or any commodity defined in  
827 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),  
828 or in connection with the raising or harvesting of mushrooms, or

829 in connection with the ginning of cotton, or in connection with  
830 the operation or maintenance of ditches, canals, reservoirs, or  
831 waterways not owned or operated for profit, used exclusively for  
832 supplying and storing water for farming purposes;

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

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

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

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

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

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

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

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

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

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

888 (f) Service performed in the employ of an  
889 "employer" as defined by the Railroad Unemployment Insurance Act,  
890 45 USCS Section 351(a), or as an "employee representative" as  
891 defined by the Railroad Unemployment Insurance Act, 45 USCS  
892 Section 351(f), and service with respect to which unemployment  
893 compensation is payable under an unemployment compensation system  
894 for maritime employees, or under any other unemployment

895 compensation system established by an act of Congress; provided  
896 that the department is hereby authorized and directed to enter  
897 into agreements with the proper agencies under such act or acts of  
898 Congress, which agreements shall become effective ten (10) days  
899 after publication thereof in the manner provided in Section  
900 71-5-117 for general rules, to provide reciprocal treatment to  
901 individuals who have, after acquiring potential rights to benefits  
902 under this chapter, acquired rights to unemployment compensation  
903 under such act or acts of Congress or who have, after acquiring  
904 potential rights to unemployment compensation under such act or  
905 acts of Congress, acquired rights to benefits under this chapter.

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

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

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

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

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

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

926 (i) Service performed by an individual under the  
927 age of twenty-two (22) who is enrolled at a nonprofit or public

928 educational institution which normally maintains a regular faculty  
929 and curriculum and normally has a regularly organized body of  
930 students in attendance at the place where its educational  
931 activities are carried on, as a student in a full-time program  
932 taken for credit at such institution, which combines academic  
933 instruction with work experience, if such service is an integral  
934 part of such program and such institution has so certified to the  
935 employer, except that this subparagraph shall not apply to service  
936 performed in a program established for or on behalf of an employer  
937 or group of employers.

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

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

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

952           (m) Service performed by an individual under the  
953 age of eighteen (18) in the delivery or distribution of newspapers  
954 or shopping news, not including delivery or distribution to any  
955 point for subsequent delivery or distribution.

956           (n) If the services performed during one-half  
957 (1/2) or more of any pay period by an employee for the employing  
958 unit employing him constitute employment, all the services of such  
959 employee for such period shall be deemed to be employment; but if  
960 the services performed during more than one-half (1/2) of any such

961 pay period by an employee for the employing unit employing him do  
962 not constitute employment, then none of the services of such  
963 employee for such period shall be deemed to be employment. As  
964 used in this subsection the term "pay period" means a period (of  
965 not more than thirty-one (31) consecutive days) for which a  
966 payment of remuneration is ordinarily made to the employee by the  
967 employing unit employing him.

968 (o) Service performed by an individual who is a  
969 CETA/PSE (Comprehensive Employment Training Act/Public Service  
970 Employment) participant unless coverage of such service is  
971 required by federal law or regulation.

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

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

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

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

987 L. "Hospital" means an institution which has been licensed,  
988 certified, or approved by the Mississippi Commission on Hospital  
989 Care as a hospital.

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

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

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

997           (3) Provides an educational program for which it awards  
998 a bachelor's or higher degree, or provides a program which is  
999 acceptable for full credit toward such a degree, a program of  
1000 postgraduate or postdoctoral studies, or a program of training to  
1001 prepare students for gainful employment in a recognized  
1002 occupation;

1003           (4) Is a public or other nonprofit institution;

1004           (5) Notwithstanding any of the foregoing provisions of  
1005 this subsection, all colleges and universities in this state are  
1006 institutions of higher learning for purposes of this section.

1007       N. (1) "State" includes, in addition to the states of the  
1008 United States of America, the District of Columbia, Commonwealth  
1009 of Puerto Rico and the Virgin Islands.

1010           (2) The term "United States" when used in a  
1011 geographical sense includes the states, the District of Columbia,  
1012 Commonwealth of Puerto Rico and the Virgin Islands.

1013           (3) The provisions of subsections (1) and (2) of  
1014 paragraph N, as including the Virgin Islands, shall become  
1015 effective on the day after the day on which the United States  
1016 Secretary of Labor approves for the first time under Section  
1017 3304(a) of the Internal Revenue Code of 1954 an unemployment  
1018 compensation law submitted to the secretary by the Virgin Islands  
1019 for such approval.

1020       O. "Unemployment."

1021           (1) An individual shall be deemed "unemployed" in any  
1022 week during which he performs no services and with respect to  
1023 which no wages are payable to him, or in any week of less than  
1024 full-time work if the wages payable to him with respect to such

1025 week are less than his weekly benefit amount as computed and  
1026 adjusted in Section 71-5-505. The department shall prescribe  
1027 regulations applicable to unemployed individuals, making such  
1028 distinctions in the procedure as to total unemployment, part-total  
1029 unemployment, partial unemployment of individuals attached to  
1030 their regular jobs, and other forms of short-time work, as the  
1031 department deems necessary.

1032 (2) An individual's week of total unemployment shall be  
1033 deemed to commence only after his registration at an employment  
1034 office, except as the department may by regulation otherwise  
1035 prescribe.

1036 P. (1) "Wages" means all remuneration for personal  
1037 services, including commissions and bonuses and the cash value of  
1038 all remuneration in any medium other than cash, except that  
1039 "wages," for purposes of determining employer's coverage and  
1040 payment of contributions for agricultural and domestic service  
1041 means cash remuneration only. The reasonable cash value of  
1042 remuneration in any medium other than cash shall be estimated and  
1043 determined in accordance with rules prescribed by the department;  
1044 provided, that the term "wages" shall not include:

1045 (a) The amount of any payment made to, or on  
1046 behalf of, an employee under a plan or system established by an  
1047 employer which makes provision for his employees generally or for  
1048 a class or classes of his employees (including any amount paid by  
1049 an employer for insurance or annuities, or into a fund, to provide  
1050 for any such payment), on account of:

1051 (i) Retirement, or  
1052 (ii) Sickness or accident disability, or  
1053 (iii) Medical or hospitalization expenses in  
1054 connection with sickness or actual disability, or

1055 (iv) Death, provided the employee:

1056 (A) Has not the option to receive,  
1057 instead of provision for such death benefit, any part of such



1058 payment or, if such death benefit is insured, any part of the  
1059 premiums (or contributions to premiums) paid by his employer, and

1060 (B) Has not the right, under the  
1061 provisions of the plan or system or policy of insurance providing  
1062 for such death benefit, to assign such benefit or to receive a  
1063 cash consideration in lieu of such benefit, either upon his  
1064 withdrawal from the plan or system providing for such benefit or  
1065 upon termination of such plan or system or policy of insurance or  
1066 of his employment with such employer;

1067 (b) Dismissal payments which the employer is not  
1068 legally required to make;

1069 (c) Payment by an employer (without deduction from  
1070 the remuneration of an employee) of the tax imposed by the  
1071 Internal Revenue Code, 26 USCS Section 3101;

1072 (d) From and after January 1, 1992, the amount of  
1073 any payment made to or on behalf of an employee for a "cafeteria"  
1074 plan, which meets the following requirements:

1075 (i) Qualifies under Section 125 of the  
1076 Internal Revenue Code;

1077 (ii) Covers only employees;

1078 (iii) Covers only noncash benefits;

1079 (iv) Does not include deferred compensation  
1080 plans.

1081 (2) [Not enacted].

1082 Q. "Week" means calendar week or such period of seven (7)  
1083 consecutive days as the department may by regulation prescribe.  
1084 The department may by regulation prescribe that a week shall be  
1085 deemed to be in, within, or during any benefit year which includes  
1086 any part of such week.

1087 R. "Insured work" means "employment" for "employers."

1088 S. The term "includes" and "including," when used in a  
1089 definition contained in this chapter, shall not be deemed to

1090 exclude other things otherwise within the meaning of the term  
1091 defined.

1092 T. "Employee leasing arrangement" means any agreement  
1093 between an employee leasing firm and a client, whereby specified  
1094 client responsibilities such as payment of wages, reporting of  
1095 wages for unemployment insurance purposes, payment of unemployment  
1096 insurance contributions and other such administrative duties are  
1097 to be performed by an employee leasing firm, on an ongoing basis.

1098 U. "Employee leasing firm" means any entity which provides  
1099 specified duties for a client company such as payment of wages,  
1100 reporting of wages for unemployment insurance purposes, payment of  
1101 unemployment insurance contributions and other administrative  
1102 duties, in connection with the client's employees, that are  
1103 directed and controlled by the client and that are providing  
1104 ongoing services for the client.

1105 V. "Temporary help firm" means an entity which hires its own  
1106 employees and provides those employees to other individuals or  
1107 organizations to perform some service, to support or supplement  
1108 the existing work force in special situations such as employee  
1109 absences, temporary skill shortages, seasonal workloads and  
1110 special assignments and projects, with the expectation that the  
1111 worker's position will be terminated upon the completion of the  
1112 specified task or function.

1113 **SECTION 10.** Section 71-5-19, Mississippi Code of 1972, is  
1114 amended as follows:

1115 71-5-19. (1) Whoever makes a false statement or  
1116 representation knowing it to be false, or knowingly fails to  
1117 disclose a material fact, to obtain or increase any benefit or  
1118 other payment under this chapter or under an employment security  
1119 law of any other state, of the federal government or of a foreign  
1120 government, either for himself or for any other person, shall be  
1121 punished by a fine of not less than One Hundred Dollars (\$100.00)  
1122 nor more than Five Hundred Dollars (\$500.00), or by imprisonment

1123 for not longer than thirty (30) days, or by both such fine and  
1124 imprisonment; and each such false statement or representation or  
1125 failure to disclose a material fact shall constitute a separate  
1126 offense.

1127 (2) Any employing unit, any officer or agent of an employing  
1128 unit or any other person who makes a false statement or  
1129 representation knowing it to be false, or who knowingly fails to  
1130 disclose a material fact, to prevent or reduce the payment of  
1131 benefits to any individual entitled thereto, or to avoid becoming  
1132 or remaining subject hereto, or to avoid or reduce any  
1133 contribution or other payment required from any employing unit  
1134 under this chapter, or who willfully fails or refuses to make any  
1135 such contribution or other payment, or to furnish any reports  
1136 required hereunder or to produce or permit the inspection or  
1137 copying of records as required hereunder, shall be punished by a  
1138 fine of not less than One Hundred Dollars (\$100.00) nor more than  
1139 One Thousand Dollars (\$1,000.00), or by imprisonment for not  
1140 longer than sixty (60) days, or by both such fine and  
1141 imprisonment; and each such false statement, or representation, or  
1142 failure to disclose a material fact, and each day of such failure  
1143 or refusal shall constitute a separate offense. In lieu of such  
1144 fine and imprisonment, the employing unit or representative, or  
1145 both employing unit and representative, if such representative is  
1146 an employing unit in this state and is found to be a party to such  
1147 violation, shall not be eligible for a contributions rate of less  
1148 than five and four-tenths percent (5.4%) for the tax year in which  
1149 such violation is discovered by the department and for the next  
1150 two (2) succeeding tax years.

1151 (3) Any person who shall willfully violate any provision of  
1152 this chapter or any other rule or regulation thereunder, the  
1153 violation of which is made unlawful or the observance of which is  
1154 required under the terms of this chapter and for which a penalty  
1155 is neither prescribed herein nor provided by any other applicable

1156 statute, shall be punished by a fine of not less than One Hundred  
1157 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),  
1158 or by imprisonment for not longer than sixty (60) days, or by both  
1159 such fine and imprisonment; and each day such violation continues  
1160 shall be deemed to be a separate offense. In lieu of such fine  
1161 and imprisonment, the employing unit or representative, or both  
1162 employing unit and representative, if such representative is an  
1163 employing unit in this state and is found to be a party to such  
1164 violation, shall not be eligible for a contributions rate of less  
1165 than five and four-tenths percent (5.4%) for the tax year in which  
1166 the violation is discovered by the department and for the next two  
1167 (2) succeeding tax years.

1168 (4) Any person who, by reason of the nondisclosure or  
1169 misrepresentation by him or by another of a material fact,  
1170 irrespective of whether such nondisclosure or misrepresentation  
1171 was known or fraudulent, or who, for any other reason has received  
1172 any such benefits under this chapter, while any conditions for the  
1173 receipt of benefits imposed by this chapter were not fulfilled in  
1174 his case, or while he was disqualified from receiving benefits,  
1175 shall, in the discretion of the department, either be liable to  
1176 have such sum deducted from any future benefits payable to him  
1177 under this chapter or shall be liable to repay to the department  
1178 for the unemployment compensation fund a sum equal to the amount  
1179 so received by him; and such sum shall be collectible in the  
1180 manner provided in Sections 71-5-363 through 71-5-383 for the  
1181 collection of past-due contributions. Provided, however, that no  
1182 such deduction shall be made, nor shall any action be taken for  
1183 the collection of any such overpayments, after five (5) years have  
1184 elapsed from the date of the receipt of the benefits at issue;  
1185 provided further that any such judgment against such person for  
1186 collection of such overpayments shall not be a lien upon the  
1187 property of the person for a longer period than five (5) years

1188 from the date of the filing of the lien, and any such notice of  
1189 lien shall not be refiled by the department.

1190 (5) The department, by agreement with another state or the  
1191 United States, as provided under Section 303(g) of the Social  
1192 Security Act, may recover any overpayment of benefits paid to any  
1193 individual under the laws of this state or of another state or  
1194 under an unemployment benefit program of the United States. Any  
1195 overpayments subject to this subsection may be deducted from any  
1196 future benefits payable to the individual under the laws of this  
1197 state or of another state or under an unemployment program of the  
1198 United States.

1199 **SECTION 11.** Section 71-5-101, Mississippi Code of 1972, is  
1200 amended as follows:

1201 71-5-101. There is hereby established the Mississippi  
1202 Department of Employment Security, Office of the Governor. The  
1203 Department of Employment Security shall be the Mississippi  
1204 Employment Security Commission and shall retain all powers and  
1205 duties as granted to the Mississippi Employment Security  
1206 Commission. Wherever the term "Employment Security Commission"  
1207 appears in any law, the same shall mean the Mississippi Department  
1208 of Employment Security, Office of the Governor. The Executive  
1209 Director of the Department of Employment Security may assign to  
1210 the appropriate offices such powers and duties deemed appropriate  
1211 to carry out the lawful functions of the department.

1212 **SECTION 12.** Section 71-5-107, Mississippi Code of 1972, is  
1213 amended as follows:

1214 71-5-107. The Mississippi Department of Employment Security,  
1215 Office of the Governor, shall administer this chapter through a  
1216 full-time salaried executive director, to be appointed by the  
1217 Governor, with the advice and consent of the Senate. He \* \* \*  
1218 shall be responsible for the administration of this chapter under  
1219 authority delegated to him by the Governor.

1220           **SECTION 13.** Section 71-5-109, Mississippi Code of 1972, is  
1221 amended as follows:

1222           71-5-109. There is hereby created a board of review  
1223 consisting of three (3) members to be appointed by the Executive  
1224 Director of the Department of Employment Security. The executive  
1225 director shall designate one (1) member of the board of review as  
1226 chairman. Each member shall be paid a salary or per diem at a  
1227 rate to be determined by the executive director, and such expenses  
1228 as may be allowed by the executive director. All salaries, per  
1229 diem and expenses of the Board of Review shall be paid from the  
1230 Employment Security Administration Fund.

1231           **SECTION 14.** Section 71-5-111, Mississippi Code of 1972, is  
1232 amended as follows:

1233           71-5-111. There is hereby created in the State Treasury a  
1234 special fund to be known as the Employment Security Administration  
1235 Fund. All monies which are deposited or paid into this fund are  
1236 hereby appropriated and made available to the department. All  
1237 monies in this fund shall be expended solely for the purpose of  
1238 defraying the cost of administration of this chapter, and for no  
1239 other purpose whatsoever. The fund shall consist of all monies  
1240 appropriated by this state and all monies received from the United  
1241 States of America, or any agency thereof, or from any other source  
1242 for such purpose. Notwithstanding any provision of this section,  
1243 all monies requisitioned and deposited in this fund pursuant to  
1244 Section 71-5-457 shall remain part of the Employment Security  
1245 Administration Fund and shall be used only in accordance with the  
1246 conditions specified in said section. All monies in this fund  
1247 shall be deposited, administered and disbursed in the same manner  
1248 and under the same conditions and requirements as is provided by  
1249 law for other special funds in the State Treasury. The State  
1250 Treasurer shall be liable on his official bond for the faithful  
1251 performance of his duties in connection with the employment  
1252 Security Administration Fund under this chapter.

1253           **SECTION 15.** Section 71-5-112, Mississippi Code of 1972, is  
1254 amended as follows:

1255           71-5-112. All funds received by the Mississippi Employment  
1256 Security Commission shall clear through the State Treasury as  
1257 provided and required by Sections 71-5-111 and 71-5-453. All  
1258 expenditures from the administration fund of said department  
1259 authorized by Section 71-5-111 shall be expended only pursuant to  
1260 appropriation approved by the Legislature and as provided by law.

1261           **SECTION 16.** Section 71-5-113, Mississippi Code of 1972, is  
1262 amended as follows:

1263           71-5-113. All monies received from the Social Security Board  
1264 or its successors for the administration of this chapter shall be  
1265 expended solely for the purposes and in the amounts found  
1266 necessary by the Social Security Board or its successors for the  
1267 proper and efficient administration of this chapter.

1268           It shall be the duty of the department to take appropriate  
1269 action with respect to the replacement, within a reasonable time,  
1270 of any monies received from the Social Security Board, or its  
1271 successors, for the administration of this chapter, and monies  
1272 used to match grants pursuant to the provisions of the  
1273 Wagner-Peyser Act, which the board, or its successors, find,  
1274 because of any action or contingency, have been lost or have been  
1275 expended for purposes other than, or in amounts in excess of those  
1276 found necessary by the Social Security Board, or its successors,  
1277 for the proper administration of this chapter. Funds which have  
1278 been expended by the department or its agents in accordance with  
1279 the budget approved by the Social Security Board, or its  
1280 successors, or in accordance with the general standards and  
1281 limitations promulgated by the Social Security Board, or its  
1282 successors, prior to such expenditure (where proposed expenditures  
1283 have not been specifically disapproved by the Social Security  
1284 Board, or its successors), shall not be deemed to require  
1285 replacement. To effectuate the purposes of this paragraph, it

1286 shall be the duty of the department to take such action to  
1287 safeguard the expenditure of the funds referred to herein as it  
1288 deems necessary. In the event of a loss of such funds or an  
1289 improper expenditure thereof as herein defined, it shall be the  
1290 duty of the department to notify the Governor of any such loss or  
1291 improper expenditure and submit to him a request for an  
1292 appropriation in the amount thereof. The Governor shall transmit  
1293 to the next regular session of the Legislature following such  
1294 notification, the department's request for an appropriation in an  
1295 amount necessary to replace funds which have been lost or  
1296 improperly expended as defined above. Such request of the  
1297 department for an appropriation shall not be subject to the  
1298 provisions of Sections 27-103-1 through 27-103-75. The  
1299 Legislature recognizes its obligation to replace such funds as may  
1300 be necessary and shall make necessary appropriations in accordance  
1301 with such requests.

1302 **SECTION 17.** Section 71-5-114, Mississippi Code of 1972, is  
1303 amended as follows:

1304 71-5-114. There is hereby created in the State Treasury a  
1305 special fund, to be known as the "Special Employment Security  
1306 Administration Fund," into which shall be deposited or transferred  
1307 all interest, penalties and damages collected on and after July 1,  
1308 1982, pursuant to Sections 71-5-363 through 71-5-379. Interest,  
1309 penalties and damages collected on delinquent payments deposited  
1310 during any calendar quarter in the clearing account in the  
1311 Unemployment Compensation Fund shall, as soon as practicable after  
1312 the close of such calendar quarter, be transferred to the Special  
1313 Employment Security Administration Fund. All monies in this fund  
1314 shall be deposited, administered and disbursed in the same manner  
1315 and under the same conditions and requirements as is provided by  
1316 law for other special funds in the State Treasury. The State  
1317 Treasurer shall be liable on his official bond for the faithful  
1318 performance of his duties in connection with the Special



1319 Employment Security Administration Fund under this chapter. Said  
1320 monies shall not be expended or made available for expenditure in  
1321 any manner which would permit their substitution for (or permit a  
1322 corresponding reduction in) federal funds which would, in the  
1323 absence of said monies, be available to finance expenditures for  
1324 the administration of the state unemployment compensation and  
1325 employment service laws. Nothing in this section shall prevent  
1326 said monies in this fund from being used as a revolving fund to  
1327 cover expenditures necessary and proper under the law for which  
1328 federal funds have been duly requested but not yet received,  
1329 subject to the charging of such expenditures against such funds  
1330 when necessary. The monies in this fund may be used by the  
1331 department for the payment of costs of administration of the  
1332 employment security laws of this state which are found not to be  
1333 or not to have been properly and validly chargeable against funds  
1334 obtained from federal sources. All monies in this Special  
1335 Employment Security Administration Fund shall be continuously  
1336 available to the department for expenditure in accordance with the  
1337 provisions of this chapter, and shall not lapse at any time. The  
1338 monies in this fund are hereby specifically made available to  
1339 replace, as contemplated by Section 71-5-113, expenditures from  
1340 the Employment Security Administration Fund established by Section  
1341 71-5-111, which have been found, because of any action or  
1342 contingency, to have been lost or improperly expended.

1343       The department, whenever it is of the opinion that the money  
1344 in the Special Employment Security Administration Fund is more  
1345 than ample to pay for all foreseeable needs for which such special  
1346 fund is set up, may, by written order, order the transfer  
1347 therefrom to the Unemployment Compensation Fund of such amount of  
1348 money in the said Special Employment Security Administration Fund  
1349 as it deems proper, and the same shall thereupon be immediately  
1350 transferred to the Unemployment Compensation Fund.

1351           **SECTION 18.** Section 71-5-115, Mississippi Code of 1972, is  
1352 amended as follows:

1353           71-5-115. It shall be the duty of the Executive Director of  
1354 the Mississippi Department of Employment Security, Office of the  
1355 Governor, to administer this chapter; and the director shall have  
1356 the power and authority to adopt, amend or rescind such rules and  
1357 regulations, to employ such persons, make such expenditures,  
1358 require such reports, make such investigations, and take such  
1359 other action as he deems necessary or suitable to that end. Such  
1360 rules and regulations shall be effective upon publication in the  
1361 manner, not inconsistent with the provisions of this chapter,  
1362 which the director shall prescribe. The director shall determine  
1363 the department's own organization and methods of procedure in  
1364 accordance with the provisions of this chapter, and shall have an  
1365 official seal which shall be judicially noticed. Not later than  
1366 the first day of February in each year, the director shall submit  
1367 to the Governor a report covering the administration and operation  
1368 of this chapter during the preceding fiscal year and shall make  
1369 such recommendations for amendments to this chapter as the  
1370 director deems proper. Whenever the director believes that a  
1371 change in contribution or benefit rates will become necessary to  
1372 protect the solvency of the fund, he shall promptly so inform the  
1373 Governor and the Legislature, and make recommendations with  
1374 respect thereto.

1375           **SECTION 19.** Section 71-5-117, Mississippi Code of 1972, is  
1376 amended as follows:

1377           71-5-117. General rules may be adopted, amended or rescinded  
1378 by the director only after public hearing or opportunity to be  
1379 heard thereon, of which proper notice has been given. General  
1380 rules shall become effective ten (10) days after filing with the  
1381 Secretary of State and publication in one or more newspapers of  
1382 general circulation in this state. Regulations may be adopted,

1383 amended or rescinded by the director and shall become effective in  
1384 the manner and at the time prescribed by the director.

1385 **SECTION 20.** Section 71-5-119, Mississippi Code of 1972, is  
1386 amended as follows:

1387 71-5-119. The department shall cause to be printed for  
1388 distribution to the public the text of this chapter, its  
1389 regulations and general rules, its reports to the Governor, and  
1390 any other material it deems relevant and suitable, and shall  
1391 furnish the same to any person upon application therefor.

1392 **SECTION 21.** Section 71-5-121, Mississippi Code of 1972, is  
1393 amended as follows:

1394 71-5-121. Subject to other provisions of this chapter, the  
1395 Executive Director of the Mississippi Department of Employment  
1396 Security, Office of the Governor, is authorized to appoint, fix  
1397 the compensation, and prescribe the duties and powers of such  
1398 officers, accountants, attorneys, experts and other persons as may  
1399 be necessary in the performance of department duties, provided  
1400 that all personnel who were former members of the Armed Forces of  
1401 the United States of America shall be given credit regardless of  
1402 rate, rank or commission. All positions shall be filled by  
1403 persons selected and appointed on a nonpartisan merit basis, in  
1404 accordance with Section 25-9-101 et seq., that provides for a  
1405 state service personnel system. The director shall not employ any  
1406 person who is an officer or committee member of any political  
1407 party organization. The director may delegate to any such person  
1408 so appointed such power and authority as he deems reasonable and  
1409 proper for the effective administration of this chapter, and may  
1410 in his discretion bond any person handling monies or signing  
1411 checks hereunder. The veteran status of an individual shall be  
1412 considered and preference given in accordance with the provisions  
1413 of the State Personnel Board.

1414 The department and its employees are exempt from Sections  
1415 25-15-101 and 25-15-103.

1416           The department may use federal granted funds to provide such  
1417 group health, life, accident and hospitalization insurance for its  
1418 employees as may be agreed upon by the department and the federal  
1419 granting authorities.

1420           The department shall adopt a "layoff formula" to be used  
1421 wherever it is determined that, because of reduced workload,  
1422 budget reductions or in order to effect a more economical  
1423 operation, a reduction in force shall occur in any group.

1424           In establishing this formula, the department shall give  
1425 effect to the principle of seniority and shall provide that  
1426 seniority points may be added for disabled veterans and veterans,  
1427 with due regard to the efficiency of the service. Any such layoff  
1428 formula shall be implemented according to the policies, rules and  
1429 regulations of the State Personnel Board.

1430           **SECTION 22.** Section 71-5-123, Mississippi Code of 1972, is  
1431 amended as follows:

1432           71-5-123. The Executive Director of the Mississippi  
1433 Department of Employment Security, Office of the Governor, shall  
1434 retain all powers and duties as granted to the state advisory  
1435 council appointed by the former Employment Security Commission.

1436 The director \* \* \* may appoint local advisory councils, composed  
1437 in each case of an equal number of employer representatives and  
1438 employee representatives who may fairly be regarded as  
1439 representative because of their vocation, employment or  
1440 affiliations, and of such members representing the general public  
1441 as the director may designate. Such councils shall aid the  
1442 department in formulating policies and discussing problems related  
1443 to the administration of this chapter and in assuring impartiality  
1444 and freedom from political influence in the solution of such  
1445 problems. Members of the advisory councils shall receive a per  
1446 diem in accordance with Section 25-3-69 for attendance upon  
1447 meetings of the council, and shall be reimbursed for actual and  
1448 necessary traveling expenses. The per diem and expenses herein

1449 authorized shall be paid from the Employment Security  
1450 Administration Fund.

1451 **SECTION 23.** Section 71-5-125, Mississippi Code of 1972, is  
1452 amended as follows:

1453 71-5-125. The department \* \* \* shall take all appropriate  
1454 steps to reduce and prevent unemployment; to encourage and assist  
1455 in the adoption of practical methods of vocational training,  
1456 retraining and vocational guidance; to investigate, recommend,  
1457 advise and assist in the establishment and operation, by  
1458 municipalities, counties, school districts and the state, of  
1459 reserves for public works to be used in times of business  
1460 depression and unemployment; to promote the reemployment of  
1461 unemployed workers throughout the state in every other way that  
1462 may be feasible; and to these ends to carry on and publish the  
1463 results of investigation and research studies.

1464 **SECTION 24.** Section 71-5-127, Mississippi Code of 1972, is  
1465 amended as follows:

1466 71-5-127. Each employing unit shall keep true and accurate  
1467 work records, containing such information as the department may  
1468 prescribe. Such records shall be open to inspection and be  
1469 subject to being copied by the department or its authorized  
1470 representatives at any reasonable time and as often as may be  
1471 necessary. The department, board of review and any referee may  
1472 require from any employing unit any sworn or unsworn reports with  
1473 respect to persons employed by it which they or any of them deem  
1474 necessary for the effective administration of this chapter.  
1475 Information thus obtained or obtained from any individual pursuant  
1476 to the administration of this chapter shall, except to the extent  
1477 necessary for the proper administration of this chapter, be held  
1478 confidential and shall not be published or be opened to public  
1479 inspection (other than to public employees in the performance of  
1480 their public duties) in any manner revealing the individual's or  
1481 employing unit's identity, but any claimant (or his legal

1482 representative) at a hearing before an appeal tribunal or the  
1483 board of review shall be supplied with information from such  
1484 records to the extent necessary for the proper presentation of his  
1485 claim. Any employee or member of the board of review or any  
1486 employee of the department who violates any provisions of this  
1487 section shall be fined not less than Twenty Dollars (\$20.00) nor  
1488 more than Two Hundred Dollars (\$200.00), or imprisoned for not  
1489 longer than ninety (90) days, or both. The department may make  
1490 the state's records relating to the administration of this chapter  
1491 available to the Railroad Retirement Board, and may furnish the  
1492 Railroad Retirement Board, at the expense of such board, such  
1493 copies thereof as the railroad retirement board deems necessary  
1494 for its purposes. The department may afford reasonable  
1495 cooperation with every agency of the United States charged with  
1496 the administration of any unemployment insurance law.

1497 **SECTION 25.** Section 71-5-129, Mississippi Code of 1972, is  
1498 amended as follows:

1499 71-5-129. Records hereinafter designated, which are found by  
1500 the department to be useless, may be disposed of in accordance  
1501 with approved records control schedules.

1502 (a) Records which have been preserved by it for not  
1503 less than three (3) years:

- 1504 (1) Initial claims for benefits,  
1505 (2) Continued claims for benefits,  
1506 (3) Correspondence and master index cards in  
1507 connection with such claims for benefits, and  
1508 (4) Individual wage slips filed by employers  
1509 subject to the provisions of the Unemployment Compensation Law.

1510 (b) Records which have been preserved by it for not  
1511 less than six (6) months after becoming inactive:

- 1512 (1) Work applications,  
1513 (2) Cross-index cards for work applications,  
1514 (3) Test records,

- 1515 (4) Employer records,  
1516 (5) Work orders,  
1517 (6) Clearance records,  
1518 (7) Counseling records,  
1519 (8) Farm placement records, and  
1520 (9) Correspondence relating to all such records.

1521 Nothing herein contained shall be construed as authorizing  
1522 the destruction or disposal of basic fiscal records reflecting the  
1523 financial operations of the said department and no records may be  
1524 destroyed without the approval of the Director of the Department  
1525 of Archives and History.

1526 **SECTION 26.** Section 71-5-131, Mississippi Code of 1972, is  
1527 amended as follows:

1528 71-5-131. All letters, reports, communications, or any other  
1529 matters, either oral or written, from the employer or employee to  
1530 each other or to the department or any of its agents,  
1531 representatives or employees, which shall have been written, sent,  
1532 delivered or made in connection with the requirements and  
1533 administration of this chapter shall be absolutely privileged and  
1534 shall not be made the subject matter or basis of any suit for  
1535 slander or libel in any court of the State of Mississippi unless  
1536 the same be false in fact and maliciously written, sent, delivered  
1537 or made for the purpose of causing a denial of benefits under this  
1538 chapter.

1539 **SECTION 27.** Section 71-5-133, Mississippi Code of 1972, is  
1540 amended as follows:

1541 71-5-133. In any case where an employing unit or any  
1542 officer, member or agent thereof, or any other person having  
1543 possession of the records thereof, shall fail or refuse upon  
1544 demand by the department or its duly appointed agents to produce  
1545 or permit the examination or copying of any book, paper, account,  
1546 record or other data pertaining to payrolls or employment or  
1547 ownership of interests or stock in any employing unit, or bearing

1548 upon the correctness of any report, or for the purpose of making a  
1549 report as required by this chapter where none has been made, then  
1550 and in that event the department or its duly authorized agents  
1551 may, by the issuance of a subpoena, require the attendance of such  
1552 employing unit or any officer, member or agent thereof, or any  
1553 other person having possession of the records thereof, and take  
1554 testimony with respect to any such matter and may require any such  
1555 person to produce any books or records specified in such subpoena.  
1556 The department or its authorized agents at any such hearing shall  
1557 have power to administer oaths to any such person or persons.  
1558 When any person called as a witness by a subpoena signed by the  
1559 department or its agents and served upon him by the sheriff of a  
1560 county of which such person is a resident, or wherein is located  
1561 the principal office of such employing unit or wherein such  
1562 records are located or kept, shall fail to obey such subpoena to  
1563 appear before the department or its authorized agent, or shall  
1564 refuse to testify or to answer any questions or to produce any  
1565 book, record, paper or other data when required to do so, such  
1566 failure or refusal shall be reported to the Attorney General, who  
1567 shall thereupon institute proceedings by the filing of a petition  
1568 in the name of the State of Mississippi, on the relation of the  
1569 department, in the circuit court or other court of competent  
1570 jurisdiction of the county where such witness resides, or wherein  
1571 such records are located or kept, to compel the obedience of such  
1572 witness. Such petition shall set forth the facts and  
1573 circumstances of the demand for and refusal or failure to permit  
1574 the examination or copying of such records, or the failure or  
1575 refusal of such witness to testify in answer to such subpoena or  
1576 to produce the records so required by such subpoena. Such court,  
1577 upon the filing and docketing of such petition, shall thereupon  
1578 promptly issue an order to the defendants named in said petition  
1579 to produce forthwith in such court, or at a place in such county  
1580 designated in such order for the examination or copying by the



1581 department or its duly appointed agents, the records, books or  
1582 documents so described, and to testify concerning matters  
1583 described in such petition. Unless such defendants to such  
1584 petition shall appear in said court upon a day specified in such  
1585 order, which said day shall be not more than ten (10) days after  
1586 the date of issuance of such order, and offer, under oath, good  
1587 and sufficient reasons why such examination or copying should not  
1588 be permitted, or why such subpoena should not be obeyed, such  
1589 court shall thereupon deliver to the department or its agents, for  
1590 examination or copying, the records, books and documents so  
1591 described in said petition and so produced in such court, and  
1592 shall order said defendants to appear in answer to the subpoena of  
1593 said department or its agents, and to testify concerning matters  
1594 inquired about by said department. Any employing unit or any  
1595 officer, member or agent thereof, or any other person having  
1596 possession of the records thereof, who shall willfully disobey  
1597 such order of the court after the same shall have been served upon  
1598 him shall be guilty of indirect contempt of such court from which  
1599 such order shall have issued, and may be adjudged in contempt of  
1600 said court and punished therefor as provided by law.

1601 **SECTION 28.** Section 71-5-135, Mississippi Code of 1972, is  
1602 amended as follows:

1603 71-5-135. If any employing unit fails to make any report  
1604 required by this chapter, the department or its authorized agents  
1605 shall give written notice by mail to such employing unit to make  
1606 and file such report within fifteen (15) days from the date of  
1607 such notice. If such employing unit, by its proper members,  
1608 officers or agents, shall fail or refuse to make and file such  
1609 reports within such time, then and in that event such report shall  
1610 be made by the department or its authorized agents from the best  
1611 information available, and the amount of contributions due shall  
1612 be computed thereon; and such report shall be prima facie correct  
1613 for the purposes of this chapter.

1614           **SECTION 29.** Section 71-5-137, Mississippi Code of 1972, is  
1615 amended as follows:

1616           71-5-137. In the discharge of the duties imposed by this  
1617 chapter, the department, any referee, the members of the board of  
1618 review, and any duly authorized representative of any of them  
1619 shall have power to administer oaths and affirmations, to take  
1620 depositions, certify to official acts, and issue subpoenas to  
1621 compel the attendance of witnesses and the production of books,  
1622 papers, correspondence, memoranda and other records deemed  
1623 necessary as evidence in connection with a disputed claim or the  
1624 administration of this chapter.

1625           **SECTION 30.** Section 71-5-139, Mississippi Code of 1972, is  
1626 amended as follows:

1627           71-5-139. In case of contumacy or refusal to obey a subpoena  
1628 issued to any person, any court in this state within the  
1629 jurisdiction of which the inquiry is carried on, or within the  
1630 jurisdiction of which said person guilty of contumacy or refusal  
1631 to obey is found or resides or transacts business, upon  
1632 application by the department, the board of review, any referee,  
1633 or any duly authorized representative of any of them, shall have  
1634 jurisdiction to issue to such person an order requiring such  
1635 person to appear before the department, the Board of Review, any  
1636 referee, or any duly authorized representative of any of them,  
1637 there to produce evidence if so ordered or there to give testimony  
1638 touching the matter under investigation or in question. Any  
1639 failure to obey such order of the court may be punished by said  
1640 court as a contempt thereof. Any person who shall, without just  
1641 cause, fail or refuse to attend and testify or to answer any  
1642 lawful inquiry or to produce books, papers, correspondence,  
1643 memoranda and other records if it is in his power so to do, in  
1644 obedience to a subpoena of the department, the Board of Review,  
1645 any referee, or any duly authorized representative of any of them,  
1646 shall be punished by a fine of not more than Two Hundred Dollars

1647 (\$200.00), or by imprisonment for not longer than sixty (60) days,  
1648 or by both such fine and imprisonment; and each day such violation  
1649 continues shall be deemed to be a separate offense.

1650 **SECTION 31.** Section 71-5-141, Mississippi Code of 1972, is  
1651 amended as follows:

1652 71-5-141. No person shall be excused from attending and  
1653 testifying or from producing books, papers, correspondence,  
1654 memoranda and other records before the department, the Board of  
1655 Review, any referee, or any duly authorized representative of any  
1656 of them, or in obedience to the subpoena of any of them in any  
1657 cause or proceeding before the department, the Board of Review or  
1658 an appeal tribunal, on the ground that the testimony or evidence,  
1659 documentary or otherwise, required of him may tend to incriminate  
1660 him or subject him to a penalty or forfeiture; but no individual  
1661 shall be prosecuted or subjected to any penalty or forfeiture for  
1662 or on account of any transaction, matter or thing concerning which  
1663 he is compelled, after having claimed his privilege against  
1664 self-incrimination, to testify or produce evidence, documentary or  
1665 otherwise, except that such individual so testifying shall not be  
1666 exempt from prosecution and punishment for perjury committed in so  
1667 testifying.

1668 **SECTION 32.** Section 71-5-143, Mississippi Code of 1972, is  
1669 amended as follows:

1670 71-5-143. In the administration of this chapter, the  
1671 department shall cooperate, to the fullest extent consistent with  
1672 the provisions of this chapter, with the Social Security Board  
1673 created by the Social Security Act, approved August 14, 1935, as  
1674 amended; shall make such reports in such form and containing such  
1675 information as the Social Security Board may from time to time  
1676 require, and shall comply with such provisions as the Social  
1677 Security Board may from time to time find necessary to assure the  
1678 correctness and verification of such reports; and shall comply  
1679 with the reasonable, valid and lawful regulations prescribed by

1680 the Social Security Board pursuant to and under the authority of  
1681 the Social Security Act, governing the expenditures of such sums  
1682 as may be allotted and paid to this state under Title III of the  
1683 Social Security Act, as amended, for the purpose of assisting in  
1684 the administration of this chapter.

1685       Upon request therefor, the department shall furnish to any  
1686 agency of the United States charged with the administration of  
1687 public works, or assistance through public employment, the name,  
1688 address, ordinary occupation and employment status of each  
1689 recipient of benefits, and such recipient's rights to further  
1690 benefits under this chapter.

1691       **SECTION 33.** Section 71-5-201, Mississippi Code of 1972, is  
1692 amended as follows:

1693       71-5-201. The Mississippi State Employment Service is hereby  
1694 established in the Mississippi Department of Employment Security,  
1695 Office of the Governor. The department, in the conduct of such  
1696 service, shall establish and maintain free public employment  
1697 offices in such number and in such places as may be necessary for  
1698 the proper administration of this article and for the purpose of  
1699 performing such functions as are within the purview of the act of  
1700 Congress entitled "An act to provide for the establishment of a  
1701 national employment system and for cooperation with the states in  
1702 the promotion of such system, and for other purposes" (29 USCS  
1703 Section 49 et seq). Any existing free public employment offices  
1704 maintained by the state but not heretofore under the jurisdiction  
1705 of the department shall be transferred to the jurisdiction of the  
1706 department, and upon such transfer all duties and powers conferred  
1707 upon any other department, agency or officers of this state  
1708 relating to the establishment, maintenance and operation of free  
1709 public employment offices shall be vested in the department. The  
1710 said Mississippi State Employment Service shall be administered by  
1711 the department, which is charged with the duty to cooperate with  
1712 any official or agency of the United States having powers or

1713 duties under the provisions of the act of Congress, as amended,  
1714 and to do and perform all things necessary to secure to this state  
1715 the benefits of the said act of Congress, as amended, in the  
1716 promotion and maintenance of a system of public employment  
1717 offices. The provisions of said act of Congress, as amended, are  
1718 hereby accepted by this state, in conformity with 29 USCS Section  
1719 49c, and this state will observe and comply with the requirements  
1720 thereof. The department is hereby designated and constituted the  
1721 agency of this state for the purposes of said act. The department  
1722 may cooperate with or enter into agreements with the Railroad  
1723 Retirement Board or veteran's organization with respect to the  
1724 establishment, maintenance and use of free employment service  
1725 facilities.

1726       **SECTION 34.** Section 71-5-357, Mississippi Code of 1972, is  
1727 amended as follows:

1728       71-5-357. Benefits paid to employees of nonprofit  
1729 organizations shall be financed in accordance with the provisions  
1730 of this section. For the purpose of this section, a nonprofit  
1731 organization is an organization (or group of organizations)  
1732 described in Section 501(c)(3) of the Internal Revenue Code of  
1733 1954 which is exempt from income tax under Section 501(a) of such  
1734 code (26 USCS Section 501).

1735       (a) Any nonprofit organization which, pursuant to  
1736 Section 71-5-11, subsection H(3), is or becomes subject to this  
1737 chapter shall pay contributions under the provisions of Sections  
1738 71-5-351 through 71-5-355 unless it elects, in accordance with  
1739 this paragraph, to pay to the department for the unemployment fund  
1740 an amount equal to the amount of regular benefits and one-half  
1741 (1/2) of the extended benefits paid, that is attributable to  
1742 service in the employ of such nonprofit organization, to  
1743 individuals for weeks of unemployment which begin during the  
1744 effective period of such election.

1745                   (i) Any nonprofit organization which becomes  
1746 subject to this chapter may elect to become liable for payments in  
1747 lieu of contributions for a period of not less than twelve (12)  
1748 months, beginning with the date on which such subjectivity begins,  
1749 by filing a written notice of its election with the department not  
1750 later than thirty (30) days immediately following the date of the  
1751 determination of such subjectivity.

1752                   (ii) Any nonprofit organization which makes an  
1753 election in accordance with subparagraph (i) of this paragraph  
1754 will continue to be liable for payments in lieu of contributions  
1755 unless it files with the department a written termination notice  
1756 not later than thirty (30) days prior to the beginning of the tax  
1757 year for which such termination shall first be effective.

1758                   (iii) Any nonprofit organization which has been  
1759 paying contributions under this chapter may change to a  
1760 reimbursable basis by filing with the department, not later than  
1761 thirty (30) days prior to the beginning of any tax year, a written  
1762 notice of election to become liable for payments in lieu of  
1763 contributions. Such election shall not be terminable by the  
1764 organization for that and the next tax year.

1765                   (iv) The department may for good cause extend the  
1766 period within which a notice of election or a notice of  
1767 termination must be filed, and may permit an election to be  
1768 retroactive.

1769                   (v) The department, in accordance with such  
1770 regulations as it may prescribe, shall notify each nonprofit  
1771 organization of any determination which it may make of its status  
1772 as an employer, of the effective date of any election which it  
1773 makes and of any termination of such election. Such  
1774 determinations shall be subject to reconsideration, appeal and  
1775 review in accordance with the provisions of Sections 71-5-351  
1776 through 71-5-355.

1777 (b) Payments in lieu of contributions shall be made in  
1778 accordance with the provisions of subparagraph (i) of this  
1779 paragraph.

1780 (i) At the end of each calendar quarter, or at the  
1781 end of any other period as determined by the department, the  
1782 department shall bill each nonprofit organization (or group of  
1783 such organizations) which has elected to make payments in lieu of  
1784 contributions, for an amount equal to the full amount of regular  
1785 benefits plus one-half (1/2) of the amount of extended benefits  
1786 paid during such quarter or other prescribed period that is  
1787 attributable to service in the employ of such organization.

1788 (ii) Payment of any bill rendered under  
1789 subparagraph (i) of this paragraph shall be made not later than  
1790 forty-five (45) days after such bill was mailed to the last known  
1791 address of the nonprofit organization or was otherwise delivered  
1792 to it, unless there has been an application for review and  
1793 redetermination in accordance with subparagraph (v) of this  
1794 paragraph.

1795 1. All of the enforcement procedures for the  
1796 collection of delinquent contributions contained in Sections  
1797 71-5-363 through 71-5-383 shall be applicable in all respects for  
1798 the collection of delinquent payments due by nonprofit  
1799 organizations who have elected to become liable for payments in  
1800 lieu of contributions.

1801 2. If any nonprofit organization is  
1802 delinquent in making payments in lieu of contributions, the  
1803 department may terminate such organization's election to make  
1804 payments in lieu of contributions as of the beginning of the next  
1805 tax year, and such termination shall be effective for the balance  
1806 of such tax year.

1807 (iii) Payments made by any nonprofit organization  
1808 under the provisions of this paragraph shall not be deducted or

1809 deductible, in whole or in part, from the remuneration of  
1810 individuals in the employ of the organization.

1811 (iv) Payments due by employers who elect to  
1812 reimburse the fund in lieu of contributions as provided in this  
1813 paragraph may not be noncharged under any condition. The  
1814 reimbursement must be on a dollar-for-dollar basis (One Dollar  
1815 (\$1.00) reimbursement for each dollar paid in benefits) in every  
1816 case, so that the trust fund shall be reimbursed in full, such  
1817 reimbursement to include, but not be limited to, benefits or  
1818 payments erroneously or incorrectly paid, or paid as a result of a  
1819 determination of eligibility which is subsequently reversed, or  
1820 paid as a result of claimant fraud. Provided that political  
1821 subdivisions who are reimbursing employers may elect to pay to the  
1822 fund an amount equal to five-tenths percent (.5%) of the taxable  
1823 wages paid during the calendar year with respect to employment,  
1824 and those employers who so elect shall be relieved of liability  
1825 for reimbursement of benefits paid under the same conditions that  
1826 benefits are not charged to the experience rating record of a  
1827 contributing employer as provided in Section 71-5-355(2)(b)(ii)  
1828 other than Clause 5 thereof. Benefits paid in such circumstances  
1829 for which reimbursing employers are relieved of liability for  
1830 reimbursement shall not be considered attributable to service in  
1831 the employment of such reimbursing employer.

1832 (v) The amount due specified in any bill from the  
1833 department shall be conclusive on the organization unless, not  
1834 later than fifteen (15) days after the bill was mailed to its last  
1835 known address or otherwise delivered to it, the organization files  
1836 an application for redetermination by the department, setting  
1837 forth the grounds for such application or appeal. The department  
1838 shall promptly review and reconsider the amount due specified in  
1839 the bill and shall thereafter issue a redetermination in any case  
1840 in which such application for redetermination has been filed. Any  
1841 such redetermination shall be conclusive on the organization



1842 unless, not later than fifteen (15) days after the redetermination  
1843 was mailed to its last known address or otherwise delivered to it,  
1844 the organization files an appeal to the Circuit Court of the First  
1845 Judicial District of Hinds County, Mississippi, in accordance with  
1846 the provisions of law with respect to review of civil causes by  
1847 certiorari.

1848 (vi) Past due payments of amounts in lieu of  
1849 contributions shall be subject to the same interest and penalties  
1850 that, pursuant to Section 71-5-363, apply to past due  
1851 contributions.

1852 (c) Each employer that is liable for payments in lieu  
1853 of contributions shall pay to the department for the fund the  
1854 amount of regular benefits plus the amount of one-half (1/2) of  
1855 extended benefits paid are attributable to service in the employ  
1856 of such employer. If benefits paid to an individual are based on  
1857 wages paid by more than one (1) employer and one or more of such  
1858 employers are liable for payments in lieu of contributions, the  
1859 amount payable to the fund by each employer that is liable for  
1860 such payments shall be determined in accordance with the  
1861 provisions of subparagraph (i) or subparagraph (ii) of this  
1862 paragraph.

1863 (i) If benefits paid to an individual are based on  
1864 wages paid by one or more employers that are liable for payment in  
1865 lieu of contributions and on wages paid by one or more employers  
1866 who are liable for contributions, the amount of benefits payable  
1867 by each employer that is liable for payments in lieu of  
1868 contributions shall be an amount which bears the same ratio to the  
1869 total benefits paid to the individual as the total base-period  
1870 wages paid to the individual by such employer bear to the total  
1871 base-period wages paid to the individual by all of his base-period  
1872 employers.

1873 (ii) If benefits paid to an individual are based  
1874 on wages paid by two (2) or more employers that are liable for

1875 payments in lieu of contributions, the amount of benefits payable  
1876 by each such employer shall be an amount which bears the same  
1877 ratio to the total benefits paid to the individual as the total  
1878 base-period wages paid to the individual by such employer bear to  
1879 the total base-period wages paid to the individual by all of his  
1880 base-period employers.

1881 (d) In the discretion of the department, any nonprofit  
1882 organization that elects to become liable for payments in lieu of  
1883 contributions shall be required, within thirty (30) days after the  
1884 effective date of its election, to execute and file with the  
1885 department a surety bond approved by the department, or it may  
1886 elect instead to deposit with the department money or securities.  
1887 The amount of such bond or deposit shall be determined in  
1888 accordance with the provisions of this paragraph.

1889 (i) The amount of the bond or deposit required by  
1890 paragraph (d) shall be equal to two and seven-tenths percent  
1891 (2.7%) of the organization's taxable wages paid for employment as  
1892 defined in Section 71-5-11, subsection I(4), for the four (4)  
1893 calendar quarters immediately preceding the effective date of the  
1894 election, the renewal date in the case of a bond, or the biennial  
1895 anniversary of the effective date of election in the case of a  
1896 deposit of money or securities, whichever date shall be most  
1897 recent and applicable. If the nonprofit organization did not pay  
1898 wages in each of such four (4) calendar quarters, the amount of  
1899 the bond or deposit shall be as determined by the department.

1900 (ii) Any bond deposited under paragraph (d) shall  
1901 be in force for a period of not less than two (2) tax years and  
1902 shall be renewed with the approval of the department at such times  
1903 as the department may prescribe, but not less frequently than at  
1904 intervals of two (2) years as long as the organization continues  
1905 to be liable for payments in lieu of contributions. The  
1906 department shall require adjustments to be made in a previously  
1907 filed bond as it deems appropriate. If the bond is to be

1908 increased, the adjusted bond shall be filed by the organization  
1909 within thirty (30) days of the date notice of the required  
1910 adjustment was mailed or otherwise delivered to it. Failure by  
1911 any organization covered by such bond to pay the full amount of  
1912 payments in lieu of contributions when due, together with any  
1913 applicable interest and penalties provided in paragraph (b)(v) of  
1914 this section, shall render the surety liable on said bond to the  
1915 extent of the bond, as though the surety was such organization.

1916 (iii) Any deposit of money or securities in  
1917 accordance with paragraph (d) shall be retained by the department  
1918 in an escrow account until liability under the election is  
1919 terminated, at which time it shall be returned to the  
1920 organization, less any deductions as hereinafter provided. The  
1921 department may deduct from the money deposited under paragraph (d)  
1922 by a nonprofit organization, or sell the securities it has so  
1923 deposited, to the extent necessary to satisfy any due and unpaid  
1924 payments in lieu of contributions and any applicable interest and  
1925 penalties provided for in paragraph (b)(v) of this section. The  
1926 department shall require the organization, within thirty (30) days  
1927 following any deduction from a money deposit or sale of deposited  
1928 securities under the provisions hereof, to deposit sufficient  
1929 additional money or securities to make whole the organization's  
1930 deposit at the prior level. Any cash remaining from the sale of  
1931 such securities shall be a part of the organization's escrow  
1932 account. The department may, at any time, review the adequacy of  
1933 the deposit made by any organization. If, as a result of such  
1934 review, it determines that an adjustment is necessary, it shall  
1935 require the organization to make additional deposit within thirty  
1936 (30) days of written notice of its determination or shall return  
1937 to it such portion of the deposit as it no longer considers  
1938 necessary, whichever action is appropriate. Disposition of income  
1939 from securities held in escrow shall be governed by the applicable  
1940 provisions of the state law.

1941                   (iv) If any nonprofit organization fails to file a  
1942 bond or make a deposit, or to file a bond in an increased amount,  
1943 or to increase or make whole the amount of a previously made  
1944 deposit as provided under this subparagraph, the department may  
1945 terminate such organization's election to make payments in lieu of  
1946 contributions, and such termination shall continue for not less  
1947 than the four (4) consecutive calendar-quarter periods beginning  
1948 with the quarter in which such termination becomes effective;  
1949 provided, that the department may extend for good cause the  
1950 applicable filing, deposit or adjustment period by not more than  
1951 thirty (30) days.

1952                   (v) Group account shall be established according  
1953 to regulations prescribed by the department.

1954                   (e) Any employer which elects to make payments in lieu  
1955 of contributions into the Unemployment Compensation Fund as  
1956 provided in this paragraph shall not be liable to make such  
1957 payments with respect to the benefits paid to any individual whose  
1958 base-period wages include wages for previously uncovered services  
1959 as defined in Section 71-5-511(e) to the extent that the  
1960 Unemployment Compensation Fund is reimbursed for such benefits  
1961 pursuant to Section 121 of Public Law 94-566.

1962                   **SECTION 35.** Section 71-5-359, Mississippi Code of 1972, is  
1963 amended as follows:

1964                   71-5-359. (1) (a) Before January 1, 1978, each state board  
1965 or other instrumentality of this state or one or more other states  
1966 covered under Section 71-5-11, subsection H(3), shall pay  
1967 contributions under the provisions of Sections 71-5-351 through  
1968 71-5-355 for all of the hospitals or institutions of higher  
1969 learning under its jurisdiction unless it elects, in the same  
1970 manner and under the same conditions as provided for nonprofit  
1971 organizations in subsections (a), (b) and (c) of Section 71-5-357,  
1972 to pay to the department for the unemployment fund an amount equal  
1973 to the regular benefits and one-half (1/2) of the extended

1974 benefits paid that are attributable to service in the employ of  
1975 such hospitals or institutions. When an election is made, the  
1976 amounts required to be paid in lieu of contributions shall be  
1977 billed and payment made as provided in Section 71-5-357 with  
1978 respect to similar payments by nonprofit organizations. A state  
1979 board having jurisdiction over two (2) or more state-owned  
1980 hospitals or state-owned institutions of higher learning shall be  
1981 treated as a single employer for the employment in all of said  
1982 hospitals or institutions of higher learning for purposes of  
1983 computing contribution rates and payment of contributions, or for  
1984 purposes of reimbursing the fund, unless it elects, in accordance  
1985 with this section, to have one or more of said hospitals or  
1986 institutions of higher learning treated as a separate employer.

1987 (b) A state board may elect to have one or more  
1988 state-owned hospitals or one or more state-owned institutions of  
1989 higher learning under its jurisdiction treated as a separate  
1990 employer for the purposes of this section, provided it files with  
1991 the department, not later than thirty (30) days prior to the  
1992 beginning of any tax year, a written notice of such election. Any  
1993 such election shall be effective throughout such tax year, and  
1994 shall continue in effect unless the state board files with the  
1995 department a written notice of termination of such election not  
1996 less than thirty (30) days prior to the beginning of the tax year  
1997 for which such termination is to be effective.

1998 (2) (a) From January 1, 1978, through December 31, 1978,  
1999 the Commission of Budget and Accounting shall, in the manner  
2000 provided in subsection (2)(c) of this section, pay, upon warrant  
2001 issued by the State Auditor of Public Accounts, to the department  
2002 for the unemployment compensation fund an amount equal to the  
2003 regular benefits and one-half (1/2) of the extended benefits paid  
2004 that are attributable to service in the employ of a state agency.  
2005 The amount required to be reimbursed by a certain agency shall be  
2006 billed to the Commission of Budget and Accounting and shall be

2007 paid from the Employment Compensation Revolving Fund pursuant to  
2008 subsection (2)(c) of this section not later than thirty (30) days  
2009 after such bill was mailed, unless there has been an application  
2010 for review and redetermination in accordance with Section  
2011 71-5-357(b)(v).

2012 (b) The Department of Finance and Administration shall,  
2013 in the manner provided in subsection (2)(c) of this section, pay,  
2014 upon warrant issued by the State Auditor, or the successor to  
2015 these duties, to the department for the Unemployment Compensation  
2016 Fund an amount equal to the regular benefits and the extended  
2017 benefits paid that are attributable to service in the employ of a  
2018 state agency. The amount required to be reimbursed by a certain  
2019 agency shall be billed to the Department of Finance and  
2020 Administration and shall be paid from the Employment Compensation  
2021 Revolving Fund pursuant to subsection (2)(c) of this section not  
2022 later than thirty (30) days after such bill was mailed, unless  
2023 there has been an application for review and redetermination in  
2024 accordance with Section 71-5-357(b)(v).

2025 (c) Each agency of state government shall deposit  
2026 monthly for a period of twenty-four (24) months an amount equal to  
2027 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand  
2028 Dollars (\$6,000.00) paid to each employee thereof during the next  
2029 preceding year into the Employment Compensation Revolving Fund  
2030 hereby created in the State Treasury. The Department of Finance  
2031 and Administration shall determine the percentage to be applied to  
2032 the amount of covered wages paid in order to maintain a balance in  
2033 the revolving fund of not less than two percent (2%) of the  
2034 covered wages paid during the next preceding year. The State  
2035 Treasurer shall invest all funds in the Employment Compensation  
2036 Revolving Fund and all interest earned shall be credited to the  
2037 Employment Compensation Revolving Fund.

2038 The reimbursement of benefits paid by the Mississippi  
2039 Employment Security Commission shall be paid by the Department of

2040 Finance and Administration from the Employment Compensation  
2041 Revolving Fund upon warrants issued by the State Auditor of Public  
2042 Accounts, or the successor to these duties; and the said auditor  
2043 shall issue his warrants upon requisitions signed by the  
2044 Department of Finance and Administration. Provided, however, that  
2045 the Department of Finance and Administration may, if it so elects,  
2046 contract for the performance of the duties prescribed by  
2047 subsections (2)(b) and (c), and other duties necessarily related  
2048 thereto.

2049 (d) From January 1, 1978, through December 31, 1978,  
2050 any political subdivision of this state shall pay to the  
2051 department for the unemployment fund an amount equal to the  
2052 regular benefits and one-half (1/2) of the extended benefits paid  
2053 that are attributable to service in the employ of such political  
2054 subdivision unless it elects to make contributions to the  
2055 unemployment fund as provided in subsection (2)(j) of this  
2056 section. The amount required to be reimbursed shall be billed and  
2057 shall be paid as provided in Section 71-5-357, with respect to  
2058 similar payments for nonprofit organizations.

2059 (e) On and after January 1, 1979, any political  
2060 subdivision of this state shall pay to the department for the  
2061 unemployment fund an amount equal to the regular benefits and the  
2062 extended benefits paid that are attributable to service in the  
2063 employ of such political subdivision unless it elects to make  
2064 contributions to the unemployment fund as provided in subsection  
2065 (2)(j) of this section. The amount required to be reimbursed  
2066 shall be billed and shall be paid as provided in Section 71-5-357,  
2067 with respect to similar payments for nonprofit organizations.

2068 (f) Each political subdivision unless it elects to make  
2069 contributions to the unemployment fund as provided in subsection  
2070 (2)(j) of this section, shall establish a revolving fund and  
2071 deposit therein monthly for a period of twenty-four (24) months an  
2072 amount equal to one-twelfth of one percent (1/12 of 1%) of the

2073 first Six Thousand Dollars (\$6,000.00) paid to each employee  
2074 thereof during the next preceding year plus an amount each month  
2075 equal to one-third (1/3) of any reimbursement paid to the  
2076 department for the next preceding quarter. After January 1, 1980,  
2077 the balance in the revolving fund shall be maintained at an amount  
2078 not less than two percent (2%) of the covered wages paid during  
2079 the next preceding year. Provided, however, that the department  
2080 shall by regulation establish a procedure to allow reimbursing  
2081 political subdivisions to elect to maintain the balance in the  
2082 revolving fund as required under this paragraph or to annually  
2083 execute a surety bond to be approved by the department in an  
2084 amount not less than two percent (2%) of the covered wages paid  
2085 during the next preceding year.

2086 (g) In the event any political subdivision becomes  
2087 delinquent in payments due under this chapter, upon due notice,  
2088 and upon certification of the delinquency by the department to the  
2089 Department of Finance and Administration, the State Tax  
2090 Commission, the Department of Environmental Quality and the  
2091 Department of Insurance, or any of them, such agencies shall  
2092 direct the issuance of warrants which in the aggregate shall be  
2093 the amount of such delinquency payable to the department and drawn  
2094 upon any funds in the State Treasury which may be available to  
2095 such political subdivision in satisfaction of any such  
2096 delinquency. This remedy shall be in addition to any other  
2097 collection remedies in this chapter or otherwise provided by law.

2098 (h) Payments made by any political subdivision under  
2099 the provisions of this section shall not be deducted or  
2100 deductible, in whole or in part, from the remuneration of  
2101 individuals in the employ of the organization.

2102 (i) Any governmental entity shall not be liable to make  
2103 payments to the unemployment fund with respect to the benefits  
2104 paid to any individual whose base-period wages include wages for  
2105 previously uncovered services as defined in Section 71-5-511,



2106 subsection (e), to the extent that the unemployment compensation  
2107 fund is reimbursed for such benefits pursuant to Section 121 of  
2108 Public Law 94-566.

2109 (j) Any political subdivision of this state may elect  
2110 to make contributions to the unemployment fund instead of making  
2111 reimbursement for benefits paid as provided in subsections (2)(d),  
2112 (e) and (f) of this section. A political subdivision which makes  
2113 this election shall so notify the department, not later than July  
2114 1, 1978; and shall be subject to the provisions of Section  
2115 71-5-351, with regard to the payment of contributions. A  
2116 political subdivision which makes this election shall pay  
2117 contributions equal to two percent (2%) of wages paid by it during  
2118 each calendar quarter it is subject to this chapter. The  
2119 department shall by regulation establish a procedure to allow  
2120 political subdivisions the option periodically to elect either the  
2121 reimbursement or the contribution method of financing unemployment  
2122 compensation coverage.

2123 **SECTION 36.** Section 71-5-451, Mississippi Code of 1972, is  
2124 amended as follows:

2125 71-5-451. There is hereby established as a special fund,  
2126 separate and apart from all public monies or funds of this state,  
2127 an Unemployment Compensation Fund, which shall be administered by  
2128 the department exclusively for:

- 2129 (a) All contributions collected under this chapter;
- 2130 (b) Interest earned upon any monies in the fund;
- 2131 (c) Any property or securities acquired through the use  
2132 of monies belonging to the fund;
- 2133 (d) All earnings of such property or securities;
- 2134 (e) All monies credited to this state's account in the  
2135 Unemployment Trust Fund pursuant to the Social Security Act, 42  
2136 USCS, Section 1104; and
- 2137 (f) By way of reimbursement in accordance with Section  
2138 204 of the Federal-State Extended Unemployment Compensation Act of

2139 1970 (84 Stat. 711). All monies in the fund shall be mingled and  
2140 undivided.

2141 **SECTION 37.** Section 71-5-457, Mississippi Code of 1972, is  
2142 amended as follows:

2143 71-5-457. (1) Except as otherwise provided in subsection  
2144 (5), money credited to the account of this state in the  
2145 Unemployment Trust Fund by the Secretary of the Treasury of the  
2146 United States of America pursuant to the Social Security Act, 42  
2147 USCS Section 1103, may be requisitioned and used for the payment  
2148 of expenses incurred for the administration of this law pursuant  
2149 to a specific appropriation by the Legislature, provided that the  
2150 expenses are incurred and the money is requisitioned after the  
2151 enactment of an appropriation law which:

2152 (a) Specifies the purposes for which such money is  
2153 appropriated and the amounts appropriated therefor;

2154 (b) Limits the period within which such money may be  
2155 obligated to a period ending not more than two (2) years after the  
2156 date of the enactment of the appropriation law; and

2157 (c) Limits the amount which may be obligated during a  
2158 twelve-month period beginning on July 1 and ending on the next  
2159 June 30 to an amount which does not exceed the amount by which:

2160 (i) The aggregate of the amounts credited to the  
2161 account of this state pursuant to the Social Security Act, 42 USCS  
2162 Section 1103, during the same twelve-month period and the  
2163 thirty-four (34) preceding twelve-month periods exceeds.

2164 (ii) The aggregate of the amounts obligated  
2165 pursuant to this section and charged against the amounts credited  
2166 to the account of this state during such thirty-five (35)  
2167 twelve-month periods.

2168 For the purposes of this section, amounts obligated during  
2169 any such twelve-month period shall be charged against equivalent  
2170 amounts which were first credited and which are not already so  
2171 charged; except that no amount obligated for administration during

2172 any such twelve-month period may be charged against any amount  
2173 credited during such a twelve-month period earlier than the  
2174 thirty-fourth preceding such period.

2175 (2) Money credited to the account of this state pursuant to  
2176 the Social Security Act, 42 USCS Section 1103, may not be  
2177 withdrawn or used except for the payment of benefits and for the  
2178 payment of expenses for the administration of this law and of  
2179 public employment offices pursuant to this section.

2180 (3) Money appropriated as provided herein for the payment of  
2181 expenses of administration shall be requisitioned as needed for  
2182 the payment of obligations incurred under such appropriation and,  
2183 upon requisition, shall be deposited in the Employment Security  
2184 Administration Fund, from which such payments shall be made.  
2185 Money so deposited shall, until expended, remain a part of the  
2186 Unemployment Compensation Fund and, if it will not be expended,  
2187 shall be returned promptly to the account of this state in the  
2188 Unemployment Trust Fund.

2189 (4) The thirty-five-year limitation provided in this section  
2190 is no longer in force, effective October 1, 1991.

2191 (5) Notwithstanding subsection (1), monies credited with  
2192 respect to federal fiscal years 1999, 2000 and 2001 shall be used  
2193 by the department solely for the administration of the  
2194 unemployment compensation program.

2195 **SECTION 38.** Section 71-5-511, Mississippi Code of 1972, is  
2196 amended as follows:

2197 71-5-511. An unemployed individual shall be eligible to  
2198 receive benefits with respect to any week only if the department  
2199 finds that:

2200 (a) (i) He has registered for work at and thereafter  
2201 has continued to report to an employment office in accordance with  
2202 such regulations as the department may prescribe; except that the  
2203 department may, by regulation, waive or alter either or both of  
2204 the requirements of this subparagraph as to such types of cases or

2205 situations with respect to which it finds that compliance with  
2206 such requirements would be oppressive or would be inconsistent  
2207 with the purposes of this chapter; and

2208                   (ii) He participates in reemployment services,  
2209 such as job search assistance services, if, in accordance with a  
2210 profiling system established by the department, it has been  
2211 determined that he is likely to exhaust regular benefits and needs  
2212 reemployment services, unless the department determines that:

2213                               1. The individual has completed such  
2214 services; or

2215                               2. There is justifiable cause for the  
2216 claimant's failure to participate in such services.

2217                   (b) He has made a claim for benefits in accordance with  
2218 the provisions of Section 71-5-515 and in accordance with such  
2219 regulations as the department may prescribe thereunder.

2220                   (c) He is able to work and is available for work.

2221                   (d) He has been unemployed for a waiting period of one  
2222 (1) week. No week shall be counted as a week of unemployment for  
2223 the purposes of this subsection:

2224                               (i) Unless it occurs within the benefit year which  
2225 includes the week with respect to which he claims payment of  
2226 benefits;

2227                               (ii) If benefits have been paid with respect  
2228 thereto;

2229                               (iii) Unless the individual was eligible for  
2230 benefits with respect thereto, as provided in Sections 71-5-511  
2231 and 71-5-513, except for the requirements of this subsection.

2232                   (e) For weeks beginning on or before July 1, 1982, he  
2233 has, during his base period, been paid wages for insured work  
2234 equal to not less than thirty-six (36) times his weekly benefit  
2235 amount; he has been paid wages for insured work during at least  
2236 two (2) quarters of his base period; and he has, during that  
2237 quarter of his base period in which his total wages were highest,

2238 been paid wages for insured work equal to not less than sixteen  
2239 (16) times the minimum weekly benefit amount. For benefit years  
2240 beginning after July 1, 1982, he has, during his base period, been  
2241 paid wages for insured work equal to not less than forty (40)  
2242 times his weekly benefit amount; he has been paid wages for  
2243 insured work during at least two (2) quarters of his base period,  
2244 and he has, during that quarter of his base period in which his  
2245 total wages were highest, been paid wages for insured work equal  
2246 to not less than twenty-six (26) times the minimum weekly benefit  
2247 amount. For purposes of this subsection, wages shall be counted  
2248 as "wages for insured work" for benefit purposes with respect to  
2249 any benefit year only if such benefit year begins subsequent to  
2250 the date on which the employing unit by which such wages were paid  
2251 has satisfied the conditions of Section 71-5-11, subsection H, or  
2252 Section 71-5-361, subsection (3), with respect to becoming an  
2253 employer.

2254 (f) No individual may receive benefits in a benefit  
2255 year unless, subsequent to the beginning of the next preceding  
2256 benefit year during which he received benefits, he performed  
2257 service in "employment" as defined in Section 71-5-11, subsection  
2258 I, and earned remuneration for such service in an amount equal to  
2259 not less than eight (8) times his weekly benefit amount applicable  
2260 to his said next preceding benefit year.

2261 (g) Benefits based on service in employment defined in  
2262 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,  
2263 subsection (4) shall be payable in the same amount, on the same  
2264 terms, and subject to the same conditions as compensation payable  
2265 on the basis of other service subject to this chapter, except that  
2266 benefits based on service in an instructional, research or  
2267 principal administrative capacity in an institution of higher  
2268 learning (as defined in Section 71-5-11, subsection M) with  
2269 respect to service performed prior to January 1, 1978, shall not  
2270 be paid to an individual for any week of unemployment which begins

2271 during the period between two (2) successive academic years, or  
2272 during a similar period between two (2) regular terms, whether or  
2273 not successive, or during a period of paid sabbatical leave  
2274 provided for in the individual's contract, if the individual has a  
2275 contract or contracts to perform services in any such capacity for  
2276 any institution or institutions of higher learning for both such  
2277 academic years or both such terms.

2278 (h) Benefits based on service in employment defined in  
2279 Section 71-5-11, subsection I(3) and (4), shall be payable in the  
2280 same amount, on the same terms and subject to the same conditions  
2281 as compensation payable on the basis of other service subject to  
2282 this chapter; except that:

2283 (i) With respect to service performed in an  
2284 instructional, research or principal administrative capacity for  
2285 an educational institution, benefits shall not be paid based on  
2286 such services for any week of unemployment commencing during the  
2287 period between two (2) successive academic years, or during a  
2288 similar period between two (2) regular but not successive terms,  
2289 or during a period of paid sabbatical leave provided for in the  
2290 individual's contract, to any individual, if such individual  
2291 performs such services in the first of such academic years or  
2292 terms and if there is a contract or a reasonable assurance that  
2293 such individual will perform services in any such capacity for any  
2294 educational institution in the second of such academic years or  
2295 terms, and provided that Section 71-5-511, subsection (g), shall  
2296 apply with respect to such services prior to January 1, 1978. In  
2297 no event shall benefits be paid unless the individual employee was  
2298 terminated by the employer.

2299 (ii) With respect to services performed in any  
2300 other capacity for an educational institution, benefits shall not  
2301 be paid on the basis of such services to any individual for any  
2302 week which commences during a period between two (2) successive  
2303 academic years or terms, if such individual performs such services

2304 in the first of such academic years or terms and there is a  
2305 reasonable assurance that such individual will perform such  
2306 services in the second of such academic years or terms, except  
2307 that if compensation is denied to any individual under this  
2308 subparagraph and such individual was not offered an opportunity to  
2309 perform such services for the educational institution for the  
2310 second of such academic years or terms, such individual shall be  
2311 entitled to a retroactive payment of compensation for each week  
2312 for which the individual filed a timely claim for compensation and  
2313 for which compensation was denied solely by reason of this clause.  
2314 In no event shall benefits be paid unless the individual employee  
2315 was terminated by the employer.

2316 (iii) With respect to services described in  
2317 subsection (h)(i) and (ii), benefits shall not be payable on the  
2318 basis of services in any such capacities to any individual for any  
2319 week which commences during an established and customary vacation  
2320 period or holiday recess if such individual performs such services  
2321 in the first of such academic years or terms, or in the period  
2322 immediately before such vacation period or holiday recess, and  
2323 there is a reasonable assurance that such individual will perform  
2324 such services in the period immediately following such vacation  
2325 period or holiday recess.

2326 (iv) With respect to any services described in  
2327 subsection (h)(i) and (ii), benefits shall not be payable on the  
2328 basis of services in any such capacities as specified in  
2329 subsection (h)(i), (ii) and (iii) to any individual who performed  
2330 such services in an educational institution while in the employ of  
2331 an educational service agency. For purposes of this subsection,  
2332 the term "educational service agency" means a governmental agency  
2333 or governmental entity which is established and operated  
2334 exclusively for the purpose of providing such services to one or  
2335 more educational institutions.

2336                   (v) With respect to services to which Sections  
2337 71-5-357 and 71-5-359 apply, if such services are provided to or  
2338 on behalf of an educational institution, benefits shall not be  
2339 payable under the same circumstances and subject to the same terms  
2340 and conditions as described in subsection (h)(i), (ii), (iii) and  
2341 (iv).

2342                   (i) Subsequent to December 31, 1977, benefits shall not  
2343 be paid to any individual on the basis of any services  
2344 substantially all of which consist of participating in sports or  
2345 athletic events or training or preparing to so participate, for  
2346 any week which commences during the period between two (2)  
2347 successive sports seasons (or similar periods) if such individual  
2348 performs such services in the first of such seasons (or similar  
2349 periods) and there is a reasonable assurance that such individual  
2350 will perform such services in the later of such seasons (or  
2351 similar periods).

2352                   (j) (i) Subsequent to December 31, 1977, benefits  
2353 shall not be payable on the basis of services performed by an  
2354 alien, unless such alien is an individual who was lawfully  
2355 admitted for permanent residence at the time such services were  
2356 performed, was lawfully present for purposes of performing such  
2357 services, or was permanently residing in the United States under  
2358 color of law at the time such services were performed (including  
2359 an alien who was lawfully present in the United States as a result  
2360 of the application of the provisions of Section 203(a)(7) or  
2361 Section 212(d)(5) of the Immigration and Nationality Act).

2362                   (ii) Any data or information required of  
2363 individuals applying for benefits to determine whether benefits  
2364 are not payable to them because of their alien status shall be  
2365 uniformly required from all applicants for benefits.

2366                   (iii) In the case of an individual whose  
2367 application for benefits would otherwise be approved, no  
2368 determination that benefits to such individual are not payable



2369 because of his alien status shall be made, except upon a  
2370 preponderance of the evidence.

2371 (k) An individual shall be deemed prima facie  
2372 unavailable for work, and therefore ineligible to receive  
2373 benefits, during any period which, with respect to his employment  
2374 status, is found by the department to be a holiday or vacation  
2375 period.

2376 **SECTION 39.** Section 71-5-513, Mississippi Code of 1972, is  
2377 amended as follows:

2378 71-5-513. A. An individual shall be disqualified for  
2379 benefits:

2380 (1) (a) For the week, or fraction thereof, which  
2381 immediately follows the day on which he left work voluntarily  
2382 without good cause, if so found by the department, and for each  
2383 week thereafter until he has earned remuneration for personal  
2384 services performed for an employer, as in this chapter defined,  
2385 equal to not less than eight (8) times his weekly benefit amount,  
2386 as determined in each case, provided that marital, filial and  
2387 domestic circumstances and obligations shall not be deemed good  
2388 cause within the meaning of this subsection. Pregnancy shall not  
2389 be deemed to be a marital, filial or domestic circumstance for the  
2390 purpose of this subsection.

2391 (b) For the week, or fraction thereof, which  
2392 immediately follows the day on which he was discharged for  
2393 misconduct connected with his work, if so found by the department,  
2394 and for each week thereafter until he has earned remuneration for  
2395 personal services performed for an employer, as in this chapter  
2396 defined, equal to not less than eight (8) times his weekly benefit  
2397 amount, as determined in each case.

2398 (c) The burden of proof of good cause for leaving  
2399 work shall be on the claimant, and the burden of proof of  
2400 misconduct shall be on the employer.

2401           (2) For the week, or fraction thereof, with respect to  
2402 which he willfully makes a false statement, a false representation  
2403 of fact, or willfully fails to disclose a material fact for the  
2404 purpose of obtaining or increasing benefits under the provisions  
2405 of this law, if so found by the department, and such individual's  
2406 maximum benefit allowance shall be reduced by the amount of  
2407 benefits so paid to him during any such week of disqualification;  
2408 and additional disqualification shall be imposed for a period not  
2409 exceeding fifty-two (52) weeks, the length of such period of  
2410 disqualification and the time when such period begins to be  
2411 determined by the department, in its discretion, according to the  
2412 circumstances in each case.

2413           (3) If the department finds that he has failed, without  
2414 good cause, either to apply for available suitable work when so  
2415 directed by the employment office or the department, to accept  
2416 suitable work when offered him, or to return to his customary  
2417 self-employment (if any) when so directed by the department, such  
2418 disqualification shall continue for the week in which such failure  
2419 occurred and for not more than the twelve (12) weeks which  
2420 immediately follow such week, as determined by the department  
2421 according to the circumstances in each case.

2422           (a) In determining whether or not any work is  
2423 suitable for an individual, the department shall consider among  
2424 other factors the degree of risk involved to his health, safety  
2425 and morals, his physical fitness and prior training, his  
2426 experience and prior earnings, his length of unemployment and  
2427 prospects for securing local work in his customary occupation, and  
2428 the distance of the available work from his residence; provided,  
2429 however, that offered employment paying the minimum wage or  
2430 higher, if such minimum or higher wage is that prevailing for his  
2431 customary occupation or similar work in the locality, shall be  
2432 deemed to be suitable employment after benefits have been paid to  
2433 the individual for a period of eight (8) weeks.

2434 (b) Notwithstanding any other provisions of this  
2435 chapter, no work shall be deemed suitable and benefits shall not  
2436 be denied under this chapter to any otherwise eligible individual  
2437 for refusing to accept new work under any of the following  
2438 conditions:

2439 (i) If the position offered is vacant due  
2440 directly to a strike, lockout or other labor dispute;

2441 (ii) If the wages, hours or other conditions  
2442 of the work offered are substantially less favorable to the  
2443 individual than those prevailing for similar work in the locality;

2444 (iii) If as a condition of being employed the  
2445 individual would be required to join a company union or to resign  
2446 from or refrain from joining any bona fide labor organization.

2447 (4) For any week with respect to which the department  
2448 finds that his total unemployment is due to a stoppage of work  
2449 which exists because of a labor dispute at a factory,  
2450 establishment or other premises at which he is or was last  
2451 employed; provided, that this subsection shall not apply if it is  
2452 shown to the satisfaction of the department:

2453 (a) He is unemployed due to a stoppage of work  
2454 occasioned by an unjustified lockout, provided such lockout was  
2455 not occasioned or brought about by such individual acting alone or  
2456 with other workers in concert; or

2457 (b) He is not participating in or directly  
2458 interested in the labor dispute which caused the stoppage of work;  
2459 and

2460 (c) He does not belong to a grade or class of  
2461 workers of which, immediately before the commencement of stoppage,  
2462 there were members employed at the premises at which the stoppage  
2463 occurs, any of whom are participating in or directly interested in  
2464 the dispute.

2465 Provided, that if in any case separate branches of work which  
2466 are commonly conducted as separate businesses in separate premises

2467 are conducted in separate departments of the same premises, each  
2468 such department shall, for the purposes of this subsection, be  
2469 deemed to be a separate factory, establishment or other premises.

2470 (5) For any week with respect to which he has received  
2471 or is seeking unemployment compensation under an unemployment  
2472 compensation law of another state or of the United States.

2473 Provided, that if the appropriate agency of such other state or of  
2474 the United States finally determines that he is not entitled to  
2475 such unemployment compensation benefits, this disqualification  
2476 shall not apply. Nothing in this subsection contained shall be  
2477 construed to include within its terms any law of the United States  
2478 providing unemployment compensation or allowances for honorably  
2479 discharged members of the Armed Forces.

2480 (6) For any week with respect to which he is receiving  
2481 or has received remuneration in the form of payments under any  
2482 governmental or private retirement or pension plan, system or  
2483 policy which a base-period employer is maintaining or contributing  
2484 to or has maintained or contributed to on behalf of the  
2485 individual; provided, that if the amount payable with respect to  
2486 any week is less than the benefits which would otherwise be due  
2487 under Section 71-5-501, he shall be entitled to receive for such  
2488 week, if otherwise eligible, benefits reduced by the amount of  
2489 such remuneration. However, on or after the first Sunday  
2490 immediately following July 1, 2001, no social security payments,  
2491 to which the employee has made contributions, shall be deducted  
2492 from unemployment benefits paid for any period of unemployment  
2493 beginning on or after the first Sunday following July 1, 2001.  
2494 This one hundred percent (100%) exclusion shall not apply to any  
2495 other governmental or private retirement or pension plan, system  
2496 or policy. If benefits payable under this section, after being  
2497 reduced by the amount of such remuneration, are not a multiple of  
2498 One Dollar (\$1.00), they shall be adjusted to the next lower  
2499 multiple of One Dollar (\$1.00).

2500           (7) For any week with respect to which he is receiving  
2501 or has received remuneration in the form of a back pay award, or  
2502 other compensation allocable to any week, whether by settlement or  
2503 otherwise. Any benefits previously paid for weeks of unemployment  
2504 with respect to which back pay awards, or other such compensation,  
2505 are made shall constitute an overpayment and such amounts shall be  
2506 deducted from the award by the employer prior to payment to the  
2507 employee, and shall be transmitted promptly to the department by  
2508 the employer for application against the overpayment and credit to  
2509 the claimant's maximum benefit amount and prompt deposit into the  
2510 fund; provided, however, the removal of any charges made against  
2511 the employer as a result of such previously paid benefits shall be  
2512 applied to the calendar year and the calendar quarter in which the  
2513 overpayment is transmitted to the department, and no attempt shall  
2514 be made to relate such a credit to the period to which the award  
2515 applies. Any amount of overpayment so deducted by the employer  
2516 and not transmitted to the department shall be subject to the same  
2517 procedures for collection as is provided for contributions by  
2518 Sections 71-5-363 through 71-5-381. Any amount of overpayment not  
2519 deducted by the employer shall be established as an overpayment  
2520 against the claimant and collected as provided above. It is the  
2521 purpose of this paragraph to assure equity in the situations to  
2522 which it applies, and it shall be construed accordingly.

2523           B. Notwithstanding any other provision in this chapter, no  
2524 otherwise eligible individual shall be denied benefits for any  
2525 week because he is in training with the approval of the  
2526 department; nor shall such individual be denied benefits with  
2527 respect to any week in which he is in training with the approval  
2528 of the department by reason of the application of provisions in  
2529 Section 71-5-511, subsection (c), relating to availability for  
2530 work, or the provisions of subsection A(3) of this section,  
2531 relating to failure to apply for, or a refusal to accept, suitable  
2532 work.

2533 C. Notwithstanding any other provisions of this chapter, no  
2534 otherwise eligible individual shall be denied benefits for any  
2535 week because he or she is in training approved under Section  
2536 236(a)(1) of the Trade Act of 1974, nor shall such individual be  
2537 denied benefits by reason of leaving work to enter such training,  
2538 provided the work left is not suitable employment, or because of  
2539 the application to any such week in training of provisions in this  
2540 law (or any applicable federal unemployment compensation law),  
2541 relating to availability for work, active search for work or  
2542 refusal to accept work.

2543 For purposes of this section, the term "suitable employment"  
2544 means with respect to an individual, work of a substantially equal  
2545 or higher skill level than the individual's past adversely  
2546 affected employment (as defined for purposes of the Trade Act of  
2547 1974), and wages for such work at not less than eighty percent  
2548 (80%) of the individual's average weekly wage as determined for  
2549 the purposes of the Trade Act of 1974.

2550 **SECTION 40.** Section 71-5-517, Mississippi Code of 1972, is  
2551 amended as follows:

2552 71-5-517. An examiner designated by the department shall  
2553 take the claim. An initial determination thereon shall be made  
2554 promptly and shall include a determination with respect to whether  
2555 or not benefits are payable, the week with respect to which  
2556 benefits shall commence, the weekly benefit amount payable and the  
2557 maximum duration of benefits. In any case in which the payment or  
2558 denial of benefits will be determined by the provisions of  
2559 subsection A(4) of Section 71-5-513, the examiner shall promptly  
2560 transmit all the evidence with respect to that subsection to the  
2561 department, which, on the basis of evidence so submitted and such  
2562 additional evidence as it may require, shall make an initial  
2563 determination with respect thereto. An initial determination may  
2564 for good cause be reconsidered. The claimant, his most recent  
2565 employing unit and all employers whose experience-rating record

2566 would be charged with benefits pursuant to such determination  
2567 shall be promptly notified of such initial determination or any  
2568 amended initial determination and the reason therefor. Benefits  
2569 shall be denied or, if the claimant is otherwise eligible,  
2570 promptly paid in accordance with the initial determination or  
2571 amended initial determination. The jurisdiction of the department  
2572 over benefit claims which have not been appealed shall be  
2573 continuous. The claimant or any party to the initial  
2574 determination or amended initial determination may file an appeal  
2575 from such initial determination or amended initial determination  
2576 within fourteen (14) days after notification thereof, or after the  
2577 date such notification was mailed to his last known address.

2578       Notwithstanding any other provision of this section, benefits  
2579 shall be paid promptly in accordance with a determination or  
2580 redetermination, or the decision of an appeal tribunal, the board  
2581 of review or a reviewing court upon the issuance of such  
2582 determination, redetermination or decision in favor of the  
2583 claimant (regardless of the pendency of the period to apply for  
2584 reconsideration, file an appeal, or petition for judicial review,  
2585 as the case may be, or the pendency of any such application,  
2586 filing or petition), unless and until such determination,  
2587 redetermination or decision has been modified or reversed by a  
2588 subsequent redetermination or decision, in which event benefits  
2589 shall be paid or denied in accordance with such modifying or  
2590 reversing redetermination or decision. Any benefits finally  
2591 determined to have been erroneously paid shall be set up as an  
2592 overpayment to the claimant and must be liquidated before any  
2593 future benefits can be paid to the claimant. If, subsequent to  
2594 such initial determination or amended initial determination,  
2595 benefits with respect to any week for which a claim has been filed  
2596 are denied for reasons other than matters included in the initial  
2597 determination or amended initial determination, the claimant shall  
2598 be promptly notified of the denial and the reason therefor and may

2599 appeal therefrom in accordance with the procedure herein described  
2600 for appeals from initial determination or amended initial  
2601 determination.

2602         **SECTION 41.** Section 71-5-519, Mississippi Code of 1972, is  
2603 amended as follows:

2604         71-5-519. Unless such appeal is withdrawn, an appeal  
2605 tribunal appointed by the director, after affording the parties  
2606 reasonable opportunity for fair hearing, shall affirm, modify or  
2607 reverse the findings of fact and initial determination or amended  
2608 initial determination. The parties shall be duly notified of such  
2609 tribunal's decision, together with its reasons therefor, which  
2610 shall be deemed to be the final decision of the Executive Director  
2611 of the Department of Employment Security unless, within fourteen  
2612 (14) days after the date of notification or mailing of such  
2613 decision, further appeal is initiated pursuant to Section  
2614 71-5-523.

2615         **SECTION 42.** Section 71-5-523, Mississippi Code of 1972, is  
2616 amended as follows:

2617         71-5-523. The executive director may on his own motion  
2618 affirm, modify or set aside any decision of an appeal tribunal on  
2619 the basis of the evidence previously submitted in such case, or  
2620 direct the taking of additional evidence, or may permit any of the  
2621 parties to such decision to initiate further appeals before it.  
2622 The executive director shall permit such further appeal by any of  
2623 the parties to a decision of an appeal tribunal which is not  
2624 unanimous, and by the examiner whose decision has been overruled  
2625 or modified by an appeal tribunal. The executive director may  
2626 remove to himself or transfer to another appeal tribunal the  
2627 proceedings on any claim pending before an appeal tribunal. Any  
2628 proceedings so removed to the executive director shall be  
2629 heard \* \* \* in accordance with the requirements of Section  
2630 71-5-519 and within fifteen (15) days after notice of appeal has  
2631 been received by the director. No notice of appeal shall be



2632 deemed to be received by the said director, within the meaning of  
2633 this section, until all prior appeals pending before the board of  
2634 review have been heard. The director shall, within four (4) days  
2635 after his decision, so notify the parties to any proceeding of his  
2636 findings and decision. \* \* \*

2637 **SECTION 43.** Section 71-5-525, Mississippi Code of 1972, is  
2638 amended as follows:

2639 71-5-525. The manner in which appealed claims shall be  
2640 presented and the conduct of hearings and appeals shall be in  
2641 accordance with regulations prescribed by the Executive Director  
2642 of the Department of Employment Security for determining the  
2643 rights of the parties, whether or not such regulations conform to  
2644 common law or statutory rules of evidence and other technical  
2645 rules of procedure. A full and complete record shall be kept of  
2646 all proceedings in connection with an appealed claim. The  
2647 department's entire file relative to the appealed claim shall be a  
2648 part of such record and shall be considered as evidence. All  
2649 testimony at any hearing upon an appealed claim shall be recorded,  
2650 but need not be transcribed unless the claim is further appealed.

2651 **SECTION 44.** Section 71-5-529, Mississippi Code of 1972, is  
2652 amended as follows:

2653 71-5-529. Any decision of the Executive Director of the  
2654 Department of Employment Security, in the absence of an appeal  
2655 therefrom as herein provided, shall become final ten (10) days  
2656 after the date of notification or mailing thereof; and judicial  
2657 review thereof shall be permitted only after any party claiming to  
2658 be aggrieved thereby has exhausted his administrative remedies as  
2659 provided by this chapter. The department shall be deemed to be a  
2660 party to any judicial action involving any such decision, and may  
2661 be represented in any such judicial action by any qualified  
2662 attorney employed by the department and designated by it for that  
2663 purpose or, at the department's request, by the Attorney General.

2664           **SECTION 45.** Section 71-5-531, Mississippi Code of 1972, is  
2665 amended as follows:

2666           71-5-531. Within ten (10) days after the decision of the  
2667 Executive Director of the Department of Employment Security has  
2668 become final, any party aggrieved thereby may secure judicial  
2669 review thereof by commencing an action, in the circuit court of  
2670 the county in which the plaintiff resides, against the department  
2671 for the review of such decision, in which action any other party  
2672 to the proceeding before the executive director shall be made a  
2673 defendant. In cases wherein the plaintiff is not a resident of  
2674 the State of Mississippi, such action may be filed in the circuit  
2675 court of the county in which the employer resides, the county in  
2676 which the cause of action arose, or in the county of employment.  
2677 In such action, a petition which need not be verified, but which  
2678 shall state the grounds upon which a review is sought, shall be  
2679 served upon the department or upon such person as the department  
2680 may designate, and such service shall be deemed completed service  
2681 on all parties; but there shall be left with the party so served  
2682 as many copies of the petition as there are defendants, and the  
2683 department shall forthwith mail one (1) such copy to each such  
2684 defendant. With its answer, the department shall certify and file  
2685 with said court all documents and papers and a transcript of all  
2686 testimony taken in the matter, together with the executive  
2687 director's findings of fact and decision therein. The department  
2688 may also, in its discretion, certify to such court questions of  
2689 law involved in any decision. In any judicial proceedings under  
2690 this section, the findings of the executive director as to the  
2691 facts, if supported by evidence and in the absence of fraud, shall  
2692 be conclusive, and the jurisdiction of said court shall be  
2693 confined to questions of law. Such actions, and the questions so  
2694 certified, shall be heard in a summary manner and shall be given  
2695 precedence over all other civil cases. An appeal may be taken  
2696 from the decision of the circuit court of the county in which the

2697 plaintiff resides to the Supreme Court of Mississippi, in the same  
2698 manner, but not inconsistent with the provisions of this chapter,  
2699 as is provided in civil cases. It shall not be necessary, in any  
2700 judicial proceeding under this section, to enter exceptions to the  
2701 rulings of the Board of Review, and no bond shall be required for  
2702 entering such appeal. Upon the final determination of such  
2703 judicial proceeding, the executive director shall enter an order  
2704 in accordance with such determination. A petition for judicial  
2705 review shall not act as a supersedeas or stay unless the executive  
2706 director shall so order.

2707         **SECTION 46.** Section 71-5-541, Mississippi Code of 1972, is  
2708 amended as follows:

2709         71-5-541. A. (1) In the administration of this chapter,  
2710 the department shall cooperate with the Department of Labor to the  
2711 fullest extent consistent with the provisions of this chapter and  
2712 shall take such action, through the adoption of appropriate rules,  
2713 regulations, administrative methods and standards, as may be  
2714 necessary to secure to this state and its citizens all advantages  
2715 available under the provisions of the Social Security Act that  
2716 relate to unemployment compensation, the Federal Unemployment Tax  
2717 Act, the Wagner-Peyser Act and the Federal-State Extended  
2718 Unemployment Compensation Act of 1970, all as amended.

2719                 (2) In the administration of the provisions of this  
2720 section, which are enacted to conform with the requirements of the  
2721 Federal-State Extended Unemployment Compensation Act of 1970, as  
2722 amended, the department shall take such actions as may be  
2723 necessary:

2724                         (a) To ensure that the provisions are so  
2725 interpreted and applied as to meet the requirements of such  
2726 federal act as interpreted by the U.S. Department of Labor; and

2727                         (b) To secure to this state the full reimbursement  
2728 of the federal share of extended benefits paid under this chapter  
2729 that are reimbursable under the federal act; and also

2730 (c) To limit the amount of extended benefits paid  
2731 as may be necessary so that the reimbursement of the federal share  
2732 of extended benefits paid shall remain at one-half (1/2) of the  
2733 total extended benefits paid.

2734 B. As used in this section, unless the context clearly  
2735 requires otherwise:

2736 (1) "Extended benefit period" means a period which:

2737 (a) Begins with the third week after a week for  
2738 which there is a state "on" indicator; and

2739 (b) Ends with either of the following weeks,  
2740 whichever occurs later:

2741 (i) The third week after the first week for  
2742 which there is a state "off" indicator; or

2743 (ii) The thirteenth consecutive week of such  
2744 period.

2745 No extended benefit period may begin by reason of a state  
2746 "on" indicator before the fourteenth week following the end of a  
2747 prior extended benefit period which was in effect with respect to  
2748 this state.

2749 (2) For weeks beginning after September 25, 1982, there  
2750 is a "state 'on' indicator" for a week if the rate of insured  
2751 unemployment under this chapter for the period consisting of such  
2752 week and the immediately preceding twelve (12) weeks:

2753 (a) Equalled or exceeded one hundred twenty percent  
2754 (120%) of the average of such rates for the corresponding period  
2755 of thirteen (13) weeks ending in each of the preceding two (2)  
2756 calendar years; and

2757 (b) Equalled or exceeded five percent (5%).

2758 Provided that the determination of whether there has been a  
2759 state "on" or "off" indicator beginning or ending any extended  
2760 benefit period shall be made under this subsection as if (i)  
2761 paragraph (2) did not contain subparagraph (a) thereof, and (ii)  
2762 the figure "5" contained in subparagraph (b) thereof were "6";

2763 except that, notwithstanding any such provision of this  
2764 subsection, any week for which there would otherwise be a "state  
2765 'on' indicator" shall continue to be such week and shall not be  
2766 determined to be a week for which there is a "state 'off'  
2767 indicator."

2768 (3) There is a "state 'off' indicator" for a week if,  
2769 for the period consisting of such week and the immediately  
2770 preceding twelve (12) weeks, either subparagraph (a) or (b) of  
2771 paragraph (2) was not satisfied.

2772 (4) "Rate of insured unemployment," for purposes of  
2773 paragraphs (2) and (3) of this subsection, means the percentage  
2774 derived by dividing:

2775 (a) The average number of continued weeks claimed  
2776 for regular state compensation in this state for weeks of  
2777 unemployment with respect to the most recent period of thirteen  
2778 (13) consecutive weeks, as determined by the department on the  
2779 basis of its reports to the U.S. Secretary of Labor; by

2780 (b) The average monthly employment covered under  
2781 this chapter for the first four (4) of the most recent six (6)  
2782 completed calendar quarters ending before the end of such period  
2783 of thirteen (13) weeks.

2784 (5) "Regular benefits" means benefits payable to an  
2785 individual under this chapter or under any other state law  
2786 (including benefits payable to federal civilian employees and to  
2787 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than  
2788 extended benefits.

2789 (6) "Extended benefits" means benefits (including  
2790 benefits payable to federal civilian employees and to  
2791 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an  
2792 individual under the provisions of this section for weeks of  
2793 unemployment in his eligibility period.

2794 (7) "Eligibility period" of an individual means the  
2795 period consisting of the weeks in his benefit year which begin in

2796 an extended benefit period and, if his benefit year ends within  
2797 such extended benefit period, any weeks thereafter which begin in  
2798 such period.

2799 (8) "Exhaustee" means an individual who, with respect  
2800 to any week of unemployment in his eligibility period:

2801 (a) Has received, prior to such week, all of the  
2802 regular benefits that were available to him under this chapter or  
2803 any other state law (including dependents' allowances and benefits  
2804 payable to federal civilian employees and ex-servicemen under 5  
2805 USCS Section 8501-8525) in his current benefit year that includes  
2806 such week;

2807 For the purposes of this subparagraph, an individual shall be  
2808 deemed to have received all of the regular benefits that were  
2809 available to him although, as a result of a pending appeal with  
2810 respect to wages that were not considered in the original monetary  
2811 determination in his benefit year, he may subsequently be  
2812 determined to be entitled to added regular benefits; or

2813 (b) Has no, or insufficient, wages on the basis of  
2814 which he could establish a new benefit year that would include  
2815 such week, his benefit year having expired prior to such week; and

2816 (c) (i) Has no right to unemployment benefits or  
2817 allowances, as the case may be, under the Railroad Unemployment  
2818 Insurance Act, the Trade Expansion Act of 1962, the Automotive  
2819 Products Trade Act of 1965, and such other federal laws as are  
2820 specified in regulations issued by the U.S. Secretary of Labor;  
2821 and

2822 (ii) Has not received and is not seeking  
2823 unemployment benefits under the Unemployment Compensation Law of  
2824 the Virgin Islands or of Canada; but if he is seeking such  
2825 benefits and the appropriate agency finally determines that he is  
2826 not entitled to benefits under such law, he is considered an  
2827 exhaustee; provided, that the reference in this subsection to the  
2828 Virgin Islands shall be inapplicable effective on the day on which

2829 the United States Secretary of Labor approves under Section  
2830 3304(a) of the Internal Revenue Code of 1954, an unemployment  
2831 compensation law submitted to the Secretary by the Virgin Islands  
2832 for approval.

2833 (9) "State law" means the unemployment insurance law of  
2834 any state, approved by the U.S. Secretary of Labor under Section  
2835 3304 of the Internal Revenue Code of 1954 (26 USCS Section 3304).

2836 C. Except when the result would be inconsistent with the  
2837 other provisions of this section, as provided in the regulations  
2838 of the department, the provisions of this chapter which apply to  
2839 claims for, or the payment of, regular benefits shall apply to  
2840 claims for, and the payment of, extended benefits.

2841 D. An individual shall be eligible to receive extended  
2842 benefits with respect to any week of unemployment in his  
2843 eligibility period only if the department finds that with respect  
2844 to such week:

2845 (1) He is an "exhaustee" as defined in subsection B(8)  
2846 of this section.

2847 (2) He has satisfied the requirements of this chapter  
2848 for the receipt of regular benefits that are applicable to  
2849 individuals claiming extended benefits, including not being  
2850 subject to a disqualification for the receipt of benefits.

2851 (3) For a week beginning after September 25, 1982, he  
2852 has, during his base period, been paid wages for insured work  
2853 equal to not less than forty (40) times his weekly benefit amount;  
2854 he has been paid wages for insured work during at least two (2)  
2855 quarters of his base period, and he has, during that quarter of  
2856 his base period in which his total wages were highest, been paid  
2857 wages for insured work equal to not less than twenty-six (26)  
2858 times the minimum weekly benefit amount.

2859 E. The weekly extended benefit amount payable to an  
2860 individual for a week of total unemployment in his eligibility  
2861 period shall be an amount equal to the weekly benefit amount

2862 payable to him during his applicable benefit year; provided,  
2863 however, that benefits paid to individuals during eligibility  
2864 periods beginning before October 1, 1983, shall be computed to the  
2865 next higher multiple of One Dollar (\$1.00), if not a multiple of  
2866 One Dollar (\$1.00); and benefits paid to individuals during  
2867 eligibility periods beginning on or after October 1, 1983, shall  
2868 be computed to the next lower multiple of One Dollar (\$1.00), if  
2869 not a multiple of One Dollar (\$1.00). Provided further, that in  
2870 no event shall the weekly extended benefit amount payable to an  
2871 individual be more than two (2) times the amount of the  
2872 reimbursement of the federal share of extended benefits paid.

2873 F. (1) The total extended benefit amount payable to any  
2874 eligible individual with respect to his applicable benefit year  
2875 shall be the least of the following amounts:

2876 (a) Fifty percent (50%) of the total amount of  
2877 regular benefits which were payable to him under this chapter in  
2878 his applicable benefit year; provided, however, that benefits paid  
2879 to individuals during eligibility periods beginning before October  
2880 1, 1983, shall be computed to the next higher multiple of One  
2881 Dollar (\$1.00), if not a multiple of One Dollar (\$1.00), and  
2882 benefits paid to individuals during eligibility periods beginning  
2883 on or after October 1, 1983, shall be computed to the next lower  
2884 multiple of One Dollar (\$1.00), if not a multiple of One Dollar  
2885 (\$1.00); or

2886 (b) Thirteen (13) times his weekly benefit amount  
2887 which was payable to him under this chapter for a week of total  
2888 unemployment in the applicable benefit year.

2889 (2) The total extended benefits otherwise payable to an  
2890 individual who is filing an interstate claim under the interstate  
2891 benefit payment plan shall not exceed two (2) weeks whenever an  
2892 extended benefit period is not in effect for such week in the  
2893 state where the claim is filed.



2894           (3) Provided further, that in no event shall the total  
2895 extended benefit amount payable to any eligible individual with  
2896 respect to his applicable benefit year be more than two (2) times  
2897 the amount of the reimbursement of the federal share of extended  
2898 benefits paid.

2899           G. (1) Whenever an extended benefit period is to become  
2900 effective in this state as a result of a state "on" indicator, or  
2901 an extended benefit period is to be terminated in this state as a  
2902 result of state "off" indicators, the department shall make an  
2903 appropriate public announcement.

2904           (2) Computations required by the provisions of  
2905 subsection B(4) shall be made by the department, in accordance  
2906 with regulations prescribed by the U.S. Secretary of Labor.

2907           H. Extended benefits paid under the provisions of this  
2908 section which are not reimbursable from federal funds shall be  
2909 charged to the experience-rating record of base period employers.

2910           I. (1) Notwithstanding the provisions of subsections C and  
2911 D of this section, an individual shall be disqualified for receipt  
2912 of extended benefits if the department finds that during any week  
2913 of his eligibility period:

2914                   (a) He has failed either to apply for or to accept  
2915 an offer of suitable work (as defined under paragraph (3)) to  
2916 which he was referred by the department; or

2917                   (b) He has failed to furnish tangible evidence  
2918 that he has actively engaged in a systematic and sustained effort  
2919 to find work, unless such individual is not actively engaged in  
2920 seeking work because such individual is:

2921                           (i) Before any court of the United States or  
2922 any state pursuant to a lawfully issued summons to appear for jury  
2923 duty;

2924                           (ii) Hospitalized for treatment of an  
2925 emergency or a life-threatening condition.

2926           The entitlement to benefits of any individual who is  
2927 determined not to be actively engaged in seeking work in any week  
2928 for the foregoing reasons shall be decided pursuant to the able  
2929 and available requirements in Section 71-5-511 without regard to  
2930 the disqualification provisions otherwise applicable under Section  
2931 71-5-541. The conditions prescribed in clauses (i) and (ii) of  
2932 this subparagraph (b) must be applied in the same manner to  
2933 individuals filing claims for regular benefits.

2934           (2) Such disqualification shall begin with the week in  
2935 which such failure occurred and shall continue until he has been  
2936 employed in each of eight (8) subsequent weeks (whether or not  
2937 consecutive) and has earned remuneration for personal services  
2938 performed for an employer, as in this chapter defined, equal to  
2939 not less than eight (8) times his weekly extended benefit amount.

2940           (3) For the purpose of subparagraph (a) of paragraph  
2941 (1) the term "suitable work" means any work which is within the  
2942 individual's capabilities to perform, if:

2943           (a) The gross average weekly remuneration payable  
2944 for the work exceeds the sum of the individual's weekly extended  
2945 benefit amount plus the amount, if any, of supplemental  
2946 unemployment benefits (as defined in Section 501(c)(17)(D) of the  
2947 Internal Revenue Code of 1954) payable to such individual for such  
2948 week;

2949           (b) The wages payable for the work equal the  
2950 higher of the minimum wages provided by Section 6(a)(1) of the  
2951 Fair Labor Standards Act of 1938 (without regard to any  
2952 exemption), or the state or local minimum wage; and

2953           (c) The position was offered to the individual in  
2954 writing or was listed with the state employment service; and

2955           (d) Such work otherwise meets the definition of  
2956 "suitable work" for regular benefits contained in Section  
2957 71-5-513A(4) to the extent that such criteria of suitability are  
2958 not inconsistent with the provisions of this paragraph (3); and

2959                   (e) The individual cannot furnish satisfactory  
2960 evidence to the department that his prospects for obtaining work  
2961 in his customary occupation within a reasonably short period are  
2962 good. If such evidence is deemed satisfactory for this purpose,  
2963 the determination of whether any work is suitable with respect to  
2964 such individual shall be made in accordance with the definition of  
2965 suitable work contained in Section 71-5-513A(4) without regard to  
2966 the definition specified by this paragraph (3).

2967                   (4) Notwithstanding any provisions of subsection I to  
2968 the contrary, no work shall be deemed to be suitable work for an  
2969 individual which does not accord with the labor standard  
2970 provisions set forth herein under Section 71-5-513A(4).

2971                   (5) The employment service shall refer any claimant  
2972 entitled to extended benefits under this section to any suitable  
2973 work which meets the criteria prescribed in paragraph (3).

2974                   (6) An individual shall be disqualified for extended  
2975 benefits for the week, or fraction thereof, which immediately  
2976 follows the day on which he left work voluntarily without good  
2977 cause (as defined in Section 71-5-513A(1)), was discharged for  
2978 misconduct connected with his work, or refused suitable work  
2979 (except as provided in subsection I of this section), and for each  
2980 week thereafter until he has earned remuneration for personal  
2981 services performed for an employer, as in this chapter defined,  
2982 equal to not less than eight (8) times his weekly benefit amount,  
2983 as determined in each case.

2984                   (7) The provisions of paragraphs I(1) through (6) of  
2985 this section shall not apply to claims for weeks of unemployment  
2986 beginning after March 6, 1993, and before January 1, 1995, and  
2987 during that period the provisions of this chapter applicable to  
2988 claims for regular compensation shall apply.

2989                   J. Notwithstanding any other provisions of this chapter, if  
2990 the benefit year of any individual ends within an extended benefit  
2991 period, the remaining balance of extended benefits that such

2992 individual would, but for this section, be entitled to receive in  
2993 that extended benefit period, with respect to weeks of  
2994 unemployment beginning after the end of the benefit year, shall be  
2995 reduced (but not below zero) by the product of the number of weeks  
2996 for which the individual received any amounts as trade  
2997 readjustment allowances within that benefit year, multiplied by  
2998 the individual's weekly benefit amount for extended benefits.

2999       **SECTION 47.** Section 73-30-25, Mississippi Code of 1972, is  
3000 amended as follows:

3001       73-30-25. It is not the intent of this chapter to regulate  
3002 against members of other duly regulated professions in this state  
3003 who do counseling in the normal course of the practice of their  
3004 own profession. This chapter does not apply to:

3005           (a) Any person registered, certified or licensed by the  
3006 state to practice any other occupation or profession while  
3007 rendering counseling services in the performance of the occupation  
3008 or profession for which he is registered, certified or licensed;

3009           (b) Certified school counselors when they are  
3010 practicing counseling within the scope of their employment;

3011           (c) Certified vocational counselors when they are  
3012 practicing vocational counseling within the scope of their  
3013 employment;

3014           (d) Counselors in post-secondary institutions when they  
3015 are practicing within the scope of their employment;

3016           (e) Student interns or trainees in counseling pursuing  
3017 a course of study in counseling in a regionally or nationally  
3018 accredited institution of higher learning or training institution  
3019 if activities and services constitute a part of the supervised  
3020 course of study, provided that such persons be designated a  
3021 counselor intern;

3022           (f) Professionals employed by regionally or nationally  
3023 accredited post-secondary institutions as counselor educators when

3024 they are practicing counseling within the scope of their  
3025 employment;

3026 (g) Professionals registered, certified or licensed by  
3027 a recognized state or national professional association that has a  
3028 published code of ethics and requires adherence to same;

3029 (h) Duly ordained ministers or clergy while functioning  
3030 in their ministerial capacity and duly accredited Christian  
3031 Science practitioners;

3032 (i) Professional employees of regional mental health  
3033 centers, state mental hospitals, vocational rehabilitation  
3034 institutions, youth court counselors and employees of the  
3035 Mississippi Department of Employment Security or other  
3036 governmental agency so long as they practice within the scope of  
3037 their employment;

3038 (j) Professional employees of alcohol or drug abuse  
3039 centers or treatment facilities, whether privately or publicly  
3040 funded, so long as they practice within the scope of their  
3041 employment;

3042 (k) Private employment counselors;

3043 (l) Any nonresident temporarily employed in this state  
3044 to render counseling services for not more than thirty (30) days  
3045 in any year, if in the opinion of the board the person would  
3046 qualify for a license under this chapter and if the person holds  
3047 any license required for counselors in his home state or country;  
3048 and

3049 (m) Any social workers holding a master's degree in  
3050 social work from a school accredited by the Council on Social Work  
3051 Education and who do counseling in the normal course of the  
3052 practice of their own profession.

3053 **SECTION 48.** Section 43-1-30, Mississippi Code of 1972, is  
3054 amended as follows:

3055 43-1-30. (1) There is hereby created the Mississippi TANF  
3056 Implementation Council. It shall serve as the independent, single

3057 state advisory and review council for assuring Mississippi's  
3058 compliance with the federal Personal Responsibility and Work  
3059 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as  
3060 amended. The council shall further cooperation between  
3061 government, education and the private sector in meeting the needs  
3062 of the TANF program. It shall also further cooperation between  
3063 the business and labor communities, education and training  
3064 delivery systems, and between businesses in developing highly  
3065 skilled workers for high skill, high paying jobs in Mississippi.

3066 (2) The council shall be comprised of thirteen (13) public  
3067 members and certain ex officio nonvoting members. All public  
3068 members of the council shall be appointed as follows by the  
3069 Governor:

3070 Ten (10) members shall be representatives from business and  
3071 industry, provided that no fewer than five (5) members are from  
3072 the manufacturing and industry sector who are also serving as  
3073 members of private industry councils established within the state,  
3074 and one (1) member may be a representative of a nonprofit  
3075 organization. Three (3) members shall be recipients or former  
3076 recipients of TANF assistance appointed from the state at large.

3077 The ex officio nonvoting members of the council shall consist  
3078 of the following, or their designees:

3079 (a) The Executive Director of the Mississippi  
3080 Department of Human Services;

3081 (b) The Executive Director of the Mississippi  
3082 Department of Employment Security;

3083 (c) The Executive Director of the Mississippi  
3084 Development Authority;

3085 (d) The State Superintendent of Education;

3086 (e) The Director of the State Board for Community and  
3087 Junior Colleges;

3088 (f) The Executive Director of the Division of Medicaid;

3089           (g) The Commissioner of the Mississippi Department of  
3090 Corrections; and

3091           (h) The Director of the Mississippi Cooperative  
3092 Extension Service.

3093           (3) The Governor shall designate one (1) public member to  
3094 serve as chairman of the council for a term of two (2) years and  
3095 until a successor as chairman is appointed and qualified.

3096           (4) The term of office for public members appointed by the  
3097 Governor shall be four (4) years and until their successors are  
3098 appointed and qualified.

3099           (5) Any vacancy shall be filled for the unexpired term by  
3100 the Governor in the manner of the original appointment, unless  
3101 otherwise specified in this section.

3102           (6) Public members shall receive a per diem as authorized in  
3103 Section 25-3-69, for each day actually engaged in meetings of the  
3104 council, and shall be reimbursed for mileage and necessary  
3105 expenses incurred in the performance of their duties, as provided  
3106 in Section 25-3-41.

3107           (7) The council shall:

3108           (a) Annually review and recommend policies and programs  
3109 to the Governor and the Legislature that will implement and meet  
3110 federal requirements under the TANF program.

3111           (b) Annually review and recommend policies and programs  
3112 to the Governor and to the Legislature that will enable citizens  
3113 of Mississippi to acquire the skills necessary to maximize their  
3114 economic self-sufficiency.

3115           (c) Review the provision of services and the use of  
3116 funds and resources under the TANF program, and under all  
3117 state-financed job training and job retraining programs, and  
3118 advise the Governor and the Legislature on methods of coordinating  
3119 such provision of services and use of funds and resources  
3120 consistent with the laws and regulations governing such programs.

3121           (d) Assist in developing outcome and output measures to  
3122 measure the success of the Department of Human Services' efforts  
3123 in implementing the TANF program. These recommendations shall be  
3124 made to the Department of Human Services at such times as required  
3125 in the event that the department implements new programs to comply  
3126 with the TANF program requirements.

3127           (e) Collaborate with the Department of Economic and  
3128 Community development, local planning and development districts  
3129 and local industrial development boards, and shall develop an  
3130 economic development plan for the creation of manufacturing jobs  
3131 in each of the counties in the state that has an unemployment rate  
3132 of ten percent (10%) or more, which shall include, but not be  
3133 limited to, procedures for business development, entrepreneurship  
3134 and financial and technical assistance.

3135           (8) A majority of the members of the council shall  
3136 constitute a quorum for the conduct of meetings and all actions of  
3137 the council shall be by a majority of the members present at a  
3138 meeting.

3139           (9) The council shall adopt rules and regulations as it  
3140 deems necessary to carry out its responsibilities under this  
3141 section and under applicable federal human resources programs.

3142           (10) The council may make and enter into contracts and  
3143 interagency agreements as may be necessary and proper.

3144           (11) The council is authorized to commit and expend monies  
3145 appropriated to it by the Legislature for its authorized purposes.  
3146 The council is authorized to solicit, accept and expend public and  
3147 private gifts, grants, awards and contributions related to  
3148 furtherance of its statutory duties.

3149           (12) Funds for the operations of the council shall be  
3150 derived from federal funds for the operation of state councils  
3151 pursuant to applicable federal human resources programs and from  
3152 such other monies appropriated to it by the Legislature.



3153           **SECTION 49.** Section 43-17-5, Mississippi Code of 1972, is  
3154 amended as follows:

3155           43-17-5. (1) The amount of Temporary Assistance for Needy  
3156 Families (TANF) benefits which may be granted for any dependent  
3157 child and a needy caretaker relative shall be determined by the  
3158 county department with due regard to the resources and necessary  
3159 expenditures of the family and the conditions existing in each  
3160 case, and in accordance with the rules and regulations made by the  
3161 Department of Human Services which shall not be less than the  
3162 Standard of Need in effect for 1988, and shall be sufficient when  
3163 added to all other income (except that any income specified in the  
3164 federal Social Security Act, as amended, may be disregarded) and  
3165 support available to the child to provide such child with a  
3166 reasonable subsistence compatible with decency and health. The  
3167 first family member in the dependent child's budget may receive an  
3168 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;  
3169 the second family member in the dependent child's budget may  
3170 receive an amount not to exceed Thirty-six Dollars (\$36.00) per  
3171 month; and each additional family member in the dependent child's  
3172 budget an amount not to exceed Twenty-four Dollars (\$24.00) per  
3173 month. The maximum for any individual family member in the  
3174 dependent child's budget may be exceeded for foster or medical  
3175 care or in cases of mentally retarded or physically handicapped  
3176 children. TANF benefits granted shall be specifically limited  
3177 only (a) to children existing or conceived at the time the  
3178 caretaker relative initially applies and qualifies for such  
3179 assistance, unless this limitation is specifically waived by the  
3180 department, or (b) to a child born following a twelve (12)  
3181 consecutive month period of discontinued benefits by the caretaker  
3182 relative.

3183           (2) TANF cash benefits in Mississippi shall be provided by  
3184 monthly checks mailed to the recipient family until such time as

3185 an on-line electronic benefits transfer system for TANF benefit  
3186 payments is implemented pursuant to Section 43-1-28.

3187 (3) The Department of Human Services shall deny TANF  
3188 benefits to the following categories of individuals, except for  
3189 individuals and families specifically exempt or excluded for good  
3190 cause as allowed by federal statute or regulation:

3191 (a) Families without a minor child residing with the  
3192 custodial parent or other adult caretaker relative of the child;

3193 (b) Families which include an adult who has received  
3194 TANF assistance for sixty (60) months after the commencement of  
3195 the Mississippi TANF program, whether or not such period of time  
3196 is consecutive;

3197 (c) Families not assigning to the state any rights a  
3198 family member may have, on behalf of the family member or of any  
3199 other person for whom the family member has applied for or is  
3200 receiving such assistance, to support from any other person, as  
3201 required by law;

3202 (d) Families who fail to cooperate in establishing  
3203 paternity or obtaining child support, as required by law;

3204 (e) Any individual who has not attained eighteen (18)  
3205 years of age, is not married to the head of household, has a minor  
3206 child at least twelve (12) weeks of age in his or her care, and  
3207 has not successfully completed a high school education or its  
3208 equivalent, if such individual does not participate in educational  
3209 activities directed toward the attainment of a high school diploma  
3210 or its equivalent, or an alternative educational or training  
3211 program approved by the department;

3212 (f) Any individual who has not attained eighteen (18)  
3213 years of age, is not married, has a minor child in his or her  
3214 care, and does not reside in a place or residence maintained by a  
3215 parent, legal guardian or other adult relative or the individual  
3216 as such parent's, guardian's or adult relative's own home;

3217 (g) Any minor child who has been, or is expected by a  
3218 parent or other caretaker relative of the child to be, absent from  
3219 the home for a period of more than thirty (30) days;

3220 (h) Any individual who is a parent or other caretaker  
3221 relative of a minor child who fails to notify the department of  
3222 the absence of the minor child from the home for the thirty-day  
3223 period specified in paragraph (g), by the end of the five-day  
3224 period that begins with the date that it becomes clear to the  
3225 individual that the minor child will be absent for the thirty-day  
3226 period;

3227 (i) Any individual who fails to comply with the  
3228 provisions of the Employability Development Plan signed by the  
3229 individual which prescribe those activities designed to help the  
3230 individual become and remain employed, or to participate  
3231 satisfactorily in the assigned work activity, as authorized under  
3232 subsections (6)(c) and (d);

3233 (j) A parent or caretaker relative who has not engaged  
3234 in an allowable work activity once the department determines the  
3235 parent or caretaker relative is ready to engage in work, or once  
3236 the parent or caretaker relative has received TANF assistance  
3237 under the program for twenty-four (24) months, whether or not  
3238 consecutive, whichever is earlier;

3239 (k) Any individual who is fleeing to avoid prosecution,  
3240 or custody or confinement after conviction, under the laws of the  
3241 jurisdiction from which the individual flees, for a crime, or an  
3242 attempt to commit a crime, which is a felony under the laws of the  
3243 place from which the individual flees, or who is violating a  
3244 condition of probation or parole imposed under federal or state  
3245 law;

3246 (l) Aliens who are not qualified under federal law;

3247 (m) For a period of ten (10) years following  
3248 conviction, individuals convicted in federal or state court of  
3249 having made a fraudulent statement or representation with respect

3250 to the individual's place of residence in order to receive TANF,  
3251 food stamps or Supplemental Security Income (SSI) assistance under  
3252 Title XVI or Title XIX simultaneously from two (2) or more states;  
3253 and

3254 (n) Individuals who are recipients of federal  
3255 Supplemental Security Income (SSI) assistance.

3256 (4) (a) Any person who is otherwise eligible for TANF  
3257 benefits, including custodial and noncustodial parents, shall be  
3258 required to attend school and meet the monthly attendance  
3259 requirement as provided in this subsection if all of the following  
3260 apply:

3261 (i) The person is under age twenty (20);

3262 (ii) The person has not graduated from a public or  
3263 private high school or obtained a GED equivalent;

3264 (iii) The person is physically able to attend  
3265 school and is not excused from attending school; and

3266 (iv) If the person is a parent or caretaker  
3267 relative with whom a dependent child is living, child care is  
3268 available for the child.

3269 The monthly attendance requirement under this subsection  
3270 shall be attendance at the school in which the person is enrolled  
3271 for each day during a month that the school conducts classes in  
3272 which the person is enrolled, with not more than two (2) absences  
3273 during the month for reasons other than the reasons listed in  
3274 paragraph (e)(iv) of this subsection. Persons who fail to meet  
3275 participation requirements in this subsection shall be subject to  
3276 sanctions as provided in paragraph (f) of this subsection.

3277 (b) As used in this subsection, "school" means any one  
3278 (1) of the following:

3279 (i) A school as defined in Section 37-13-91(2);

3280 (ii) A vocational, technical and adult education  
3281 program; or

3282 (iii) A course of study meeting the standards  
3283 established by the State Department of Education for the granting  
3284 of a declaration of equivalency of high school graduation.

3285 (c) If any compulsory-school-age child, as defined in  
3286 Section 37-13-91(2), to which TANF eligibility requirements apply  
3287 is not in compliance with the compulsory school attendance  
3288 requirements of Section 37-13-91(6), the superintendent of schools  
3289 of the school district in which the child is enrolled or eligible  
3290 to attend shall notify the county department of human services of  
3291 the child's noncompliance. The Department of Human Services shall  
3292 review school attendance information as provided under this  
3293 paragraph at all initial eligibility determinations and upon  
3294 subsequent report of unsatisfactory attendance.

3295 (d) The signature of a person on an application for  
3296 TANF benefits constitutes permission for the release of school  
3297 attendance records for that person or for any child residing with  
3298 that person. The department shall request information from the  
3299 child's school district about the child's attendance in the school  
3300 district's most recently completed semester of attendance. If  
3301 information about the child's previous school attendance is not  
3302 available or cannot be verified, the department shall require the  
3303 child to meet the monthly attendance requirement for one (1)  
3304 semester or until the information is obtained. The department  
3305 shall use the attendance information provided by a school district  
3306 to verify attendance for a child. The department shall review  
3307 with the parent or caretaker relative a child's claim that he or  
3308 she has a good cause for not attending school.

3309 A school district shall provide information to the department  
3310 about the attendance of a child who is enrolled in a public school  
3311 in the district within five (5) working days of the receipt of a  
3312 written request for such information from the department. The  
3313 school district shall define how many hours of attendance count as  
3314 a full day and shall provide that information, upon request, to

3315 the department. In reporting attendance, the school district may  
3316 add partial days' absence together to constitute a full day's  
3317 absence.

3318 (e) A child who is required to attend school to meet  
3319 the requirements under this subsection shall comply except when  
3320 there is good cause, which shall be demonstrated by any of the  
3321 following circumstances:

3322 (i) The minor parent is the caretaker of a child  
3323 less than twelve (12) weeks old; or

3324 (ii) The department determines that child care  
3325 services are necessary for the minor parent to attend school and  
3326 there is no child care available; or

3327 (iii) The child is prohibited by the school  
3328 district from attending school and an expulsion is pending. This  
3329 exemption no longer applies once the teenager has been expelled;  
3330 however, a teenager who has been expelled and is making  
3331 satisfactory progress towards obtaining a GED equivalent shall be  
3332 eligible for TANF benefits; or

3333 (iv) The child failed to attend school for one or  
3334 more of the following reasons:

3335 1. Illness, injury or incapacity of the child  
3336 or the minor parent's child;

3337 2. Court-required appearances or temporary  
3338 incarceration;

3339 3. Medical or dental appointments for the  
3340 child or minor parent's child;

3341 4. Death of a close relative;

3342 5. Observance of a religious holiday;

3343 6. Family emergency;

3344 7. Breakdown in transportation;

3345 8. Suspension; or

3346 9. Any other circumstance beyond the control  
3347 of the child, as defined in regulations of the department.

3348 (f) Upon determination that a child has failed without  
3349 good cause to attend school as required, the department shall  
3350 provide written notice to the parent or caretaker relative  
3351 (whoever is the primary recipient of the TANF benefits) that  
3352 specifies:

3353 (i) That the family will be sanctioned in the next  
3354 possible payment month because the child who is required to attend  
3355 school has failed to meet the attendance requirement of this  
3356 subsection;

3357 (ii) The beginning date of the sanction, and the  
3358 child to whom the sanction applies;

3359 (iii) The right of the child's parents or  
3360 caretaker relative (whoever is the primary recipient of the TANF  
3361 benefits) to request a fair hearing under this subsection.

3362 The child's parent or caretaker relative (whoever is the  
3363 primary recipient of the TANF benefits) may request a fair hearing  
3364 on the department's determination that the child has not been  
3365 attending school. If the child's parents or caretaker relative  
3366 does not request a fair hearing under this subsection, or if,  
3367 after a fair hearing has been held, the hearing officer finds that  
3368 the child without good cause has failed to meet the monthly  
3369 attendance requirement, the department shall discontinue or deny  
3370 TANF benefits to the child thirteen (13) years old, or older, in  
3371 the next possible payment month. The department shall discontinue  
3372 or deny twenty-five percent (25%) of the family grant when a child  
3373 six (6) through twelve (12) years of age without good cause has  
3374 failed to meet the monthly attendance requirement. Both the child  
3375 and family sanction may apply when children in both age groups  
3376 fail to meet the attendance requirement without good cause. A  
3377 sanction applied under this subsection shall be effective for one  
3378 (1) month for each month that the child failed to meet the monthly  
3379 attendance requirement. In the case of a dropout, the sanction  
3380 shall remain in force until the parent or caretaker relative

3381 provides written proof from the school district that the child has  
3382 reenrolled and met the monthly attendance requirement for one (1)  
3383 calendar month. Any month in which school is in session for at  
3384 least ten (10) days during the month may be used to meet the  
3385 attendance requirement under this subsection. This includes  
3386 attendance at summer school. The sanction shall be removed the  
3387 next possible payment month.

3388 (5) All parents or caretaker relatives shall have their  
3389 dependent children receive vaccinations and booster vaccinations  
3390 against those diseases specified by the State Health Officer  
3391 pursuant to Section 41-23-37 in accordance with the vaccination  
3392 and booster vaccination schedule prescribed by the State Health  
3393 Officer for children of that age, in order for the parents or  
3394 caretaker relatives to be eligible or remain eligible to receive  
3395 TANF benefits. Proof of having received such vaccinations and  
3396 booster vaccinations shall be given by presenting the certificates  
3397 of vaccination issued by any health care provider licensed to  
3398 administer vaccinations, and submitted on forms specified by the  
3399 State Board of Health. If the parents without good cause do not  
3400 have their dependent children receive the vaccinations and booster  
3401 vaccinations as required by this subsection and they fail to  
3402 comply after thirty (30) days' notice, the department shall  
3403 sanction the family's TANF benefits by twenty-five percent (25%)  
3404 for the next payment month and each subsequent payment month until  
3405 the requirements of this subsection are met.

3406 (6) (a) If the parent or caretaker relative applying for  
3407 TANF assistance is an employable person, as determined by the  
3408 Department of Human Services, the person shall be required to  
3409 engage in an allowable work activity once the department  
3410 determines the parent or caretaker relative is ready to engage in  
3411 work, or once the parent or caretaker relative has received TANF  
3412 assistance under the program for twenty-four (24) months, whether  
3413 or not consecutive, whichever is earlier. No TANF benefits shall



3414 be given to any person to whom this section applies who fails  
3415 without good cause to comply with the Employability Development  
3416 Plan prepared by the department for the person, or who has refused  
3417 to accept a referral or offer of employment, training or education  
3418 in which he or she is able to engage, subject to the penalties  
3419 prescribed in subsection (6)(e). A person shall be deemed to have  
3420 refused to accept a referral or offer of employment, training or  
3421 education if he or she:

3422                   (i) Willfully fails to report for an interview  
3423 with respect to employment when requested to do so by the  
3424 department; or

3425                   (ii) Willfully fails to report to the department  
3426 the result of a referral to employment; or

3427                   (iii) Willfully fails to report for allowable work  
3428 activities as prescribed in subsections (6)(c) and (d).

3429                   (b) The Department of Human Services shall operate a  
3430 statewide work program for TANF recipients to provide work  
3431 activities and supportive services to enable families to become  
3432 self-sufficient and improve their competitive position in the work  
3433 force in accordance with the requirements of the federal Personal  
3434 Responsibility and Work Opportunity Reconciliation Act of 1996  
3435 (Public Law 104-193), as amended, and the regulations promulgated  
3436 thereunder. All adults who are not specifically exempt shall be  
3437 referred by the department for allowable work activities. An  
3438 adult may be exempt from the mandatory work activity requirement  
3439 for the following reasons:

3440                   (i) Incapacity;

3441                   (ii) Temporary illness or injury, verified by  
3442 physician's certificate;

3443                   (iii) Is in the third trimester of pregnancy,  
3444 verified by physician's certificate;

3445 (iv) Caretaker of a child under twelve (12)  
3446 months, for not more than twelve (12) months of the sixty-month  
3447 maximum benefit period;

3448 (v) Caretaker of an ill or incapacitated person,  
3449 as verified by physician's certificate;

3450 (vi) Age, if over sixty (60) or under eighteen  
3451 (18) years of age;

3452 (vii) Receiving treatment for substance abuse, if  
3453 the person is in compliance with the substance abuse treatment  
3454 plan;

3455 (viii) In a two-parent family, the caretaker of a  
3456 severely disabled child, as verified by a physician's certificate;  
3457 or

3458 (ix) History of having been a victim of domestic  
3459 violence, which has been reported as required by state law and is  
3460 substantiated by police reports or court records, and being at  
3461 risk of further domestic violence, shall be exempt for a period as  
3462 deemed necessary by the department but not to exceed a total of  
3463 twelve (12) months, which need not be consecutive, in the  
3464 sixty-month maximum benefit period. For the purposes of this  
3465 subparagraph (ix), "domestic violence" means that an individual  
3466 has been subjected to:

3467 1. Physical acts that resulted in, or  
3468 threatened to result in, physical injury to the individual;

3469 2. Sexual abuse;

3470 3. Sexual activity involving a dependent  
3471 child;

3472 4. Being forced as the caretaker relative of  
3473 a dependent child to engage in nonconsensual sexual acts or  
3474 activities;

3475 5. Threats of, or attempts at, physical or  
3476 sexual abuse;

3477 6. Mental abuse; or

3478 7. Neglect or deprivation of medical care.

3479 (c) For all families, all adults who are not  
3480 specifically exempt shall be required to participate in work  
3481 activities for at least the minimum average number of hours per  
3482 week specified by federal law or regulation, not fewer than twenty  
3483 (20) hours per week (thirty-five (35) hours per week for  
3484 two-parent families) of which are attributable to the following  
3485 allowable work activities:

- 3486 (i) Unsubsidized employment;
- 3487 (ii) Subsidized private employment;
- 3488 (iii) Subsidized public employment;
- 3489 (iv) Work experience (including work associated  
3490 with the refurbishing of publicly assisted housing), if sufficient  
3491 private employment is not available;
- 3492 (v) On-the-job training;
- 3493 (vi) Job search and job readiness assistance  
3494 consistent with federal TANF regulations;
- 3495 (vii) Community service programs;
- 3496 (viii) Vocational educational training (not to  
3497 exceed twelve (12) months with respect to any individual);
- 3498 (ix) The provision of child care services to an  
3499 individual who is participating in a community service program;
- 3500 (x) Satisfactory attendance at high school or in a  
3501 course of study leading to a high school equivalency certificate,  
3502 for heads of household under age twenty (20) who have not  
3503 completed high school or received such certificate;
- 3504 (xi) Education directly related to employment, for  
3505 heads of household under age twenty (20) who have not completed  
3506 high school or received such equivalency certificate.

3507 (d) The following are allowable work activities which  
3508 may be attributable to hours in excess of the minimum specified in  
3509 subsection (6)(c):

- 3510 (i) Job skills training directly related to  
3511 employment;
- 3512 (ii) Education directly related to employment for  
3513 individuals who have not completed high school or received a high  
3514 school equivalency certificate;
- 3515 (iii) Satisfactory attendance at high school or in  
3516 a course of study leading to a high school equivalency, for  
3517 individuals who have not completed high school or received such  
3518 equivalency certificate;
- 3519 (iv) Job search and job readiness assistance  
3520 consistent with federal TANF regulations.

3521 (e) If any adult or caretaker relative refuses to  
3522 participate in allowable work activity as required under this  
3523 subsection (6), the following full family TANF benefit penalty  
3524 will apply, subject to due process to include notification,  
3525 conciliation and a hearing if requested by the recipient:

3526 (i) For the first violation, the department shall  
3527 terminate the TANF assistance otherwise payable to the family for  
3528 a two-month period or until the person has complied with the  
3529 required work activity, whichever is longer;

3530 (ii) For the second violation, the department  
3531 shall terminate the TANF assistance otherwise payable to the  
3532 family for a six-month period or until the person has complied  
3533 with the required work activity, whichever is longer;

3534 (iii) For the third violation, the department  
3535 shall terminate the TANF assistance otherwise payable to the  
3536 family for a twelve-month period or until the person has complied  
3537 with the required work activity, whichever is longer;

3538 (iv) For the fourth violation, the person shall be  
3539 permanently disqualified.

3540 For a two-parent family, unless prohibited by state or  
3541 federal law, Medicaid assistance shall be terminated only for the  
3542 person whose failure to participate in allowable work activity

3543 caused the family's TANF assistance to be sanctioned under this  
3544 subsection (6)(e), unless an individual is pregnant, but shall not  
3545 be terminated for any other person in the family who is meeting  
3546 that person's applicable work requirement or who is not required  
3547 to work. Minor children shall continue to be eligible for  
3548 Medicaid benefits regardless of the disqualification of their  
3549 parent or caretaker relative for TANF assistance under this  
3550 subsection (6), unless prohibited by state or federal law.

3551       (f) Any person enrolled in a two-year or four-year  
3552 college program who meets the eligibility requirements to receive  
3553 TANF benefits, and who is meeting the applicable work requirements  
3554 and all other applicable requirements of the TANF program, shall  
3555 continue to be eligible for TANF benefits while enrolled in the  
3556 college program for as long as the person meets the requirements  
3557 of the TANF program, unless prohibited by federal law.

3558       (g) No adult in a work activity required under this  
3559 subsection (6) shall be employed or assigned (i) when any other  
3560 individual is on layoff from the same or any substantially  
3561 equivalent job within six (6) months before the date of the TANF  
3562 recipient's employment or assignment; or (ii) if the employer has  
3563 terminated the employment of any regular employee or otherwise  
3564 caused an involuntary reduction of its work force in order to fill  
3565 the vacancy so created with an adult receiving TANF assistance.  
3566 The Mississippi Department of Employment Security, established  
3567 under Section 71-5-101, shall appoint one or more impartial  
3568 hearing officers to hear and decide claims by employees of  
3569 violations of this paragraph (f). The hearing officer shall hear  
3570 all the evidence with respect to any claim made hereunder and such  
3571 additional evidence as he may require and shall make a  
3572 determination and the reason therefor. The claimant shall be  
3573 promptly notified of the decision of the hearing officer and the  
3574 reason therefor. Within ten (10) days after the decision of the  
3575 hearing officer has become final, any party aggrieved thereby may

3576 secure judicial review thereof by commencing an action, in the  
3577 circuit court of the county in which the claimant resides, against  
3578 the department for the review of such decision, in which action  
3579 any other party to the proceeding before the hearing officer shall  
3580 be made a defendant. Any such appeal shall be on the record which  
3581 shall be certified to the court by the department in the manner  
3582 provided in Section 71-5-531, and the jurisdiction of the court  
3583 shall be confined to questions of law which shall render its  
3584 decision as provided in that section.

3585 (7) The Department of Human Services may provide child care  
3586 for eligible participants who require such care so that they may  
3587 accept employment or remain employed. The department may also  
3588 provide child care for those participating in the TANF program  
3589 when it is determined that they are satisfactorily involved in  
3590 education, training or other allowable work activities. The  
3591 department may contract with Head Start agencies to provide child  
3592 care services to TANF recipients. The department may also arrange  
3593 for child care by use of contract or vouchers, provide vouchers in  
3594 advance to a caretaker relative, reimburse a child care provider,  
3595 or use any other arrangement deemed appropriate by the department,  
3596 and may establish different reimbursement rates for child care  
3597 services depending on the category of the facility or home. Any  
3598 center-based or group home child care facility under this  
3599 subsection shall be licensed by the State Department of Health  
3600 pursuant to law. When child care is being provided in the child's  
3601 own home, in the home of a relative of the child, or in any other  
3602 unlicensed setting, the provision of such child care may be  
3603 monitored on a random basis by the Department of Human Services or  
3604 the State Department of Health. Transitional child care  
3605 assistance may be continued if it is necessary for parents to  
3606 maintain employment once support has ended, unless prohibited  
3607 under state or federal law. Transitional child care assistance  
3608 may be provided for up to twenty-four (24) months after the last

3609 month during which the family was eligible for TANF assistance, if  
3610 federal funds are available for such child care assistance.

3611 (8) The Department of Human Services may provide  
3612 transportation or provide reasonable reimbursement for  
3613 transportation expenses that are necessary for individuals to be  
3614 able to participate in allowable work activity under the TANF  
3615 program.

3616 (9) Medicaid assistance shall be provided to a family of  
3617 TANF program participants for up to twenty-four (24) consecutive  
3618 calendar months following the month in which the participating  
3619 family would be ineligible for TANF benefits because of increased  
3620 income, expiration of earned income disregards, or increased hours  
3621 of employment of the caretaker relative; however, Medicaid  
3622 assistance for more than twelve (12) months may be provided only  
3623 if a federal waiver is obtained to provide such assistance for  
3624 more than twelve (12) months and federal and state funds are  
3625 available to provide such assistance.

3626 (10) The department shall require applicants for and  
3627 recipients of public assistance from the department to sign a  
3628 personal responsibility contract that will require the applicant  
3629 or recipient to acknowledge his or her responsibilities to the  
3630 state.

3631 (11) The department shall enter into an agreement with the  
3632 State Personnel Board and other state agencies that will allow  
3633 those TANF participants who qualify for vacant jobs within state  
3634 agencies to be placed in state jobs. State agencies participating  
3635 in the TANF work program shall receive any and all benefits  
3636 received by employers in the private sector for hiring TANF  
3637 recipients. This subsection (11) shall be effective only if the  
3638 state obtains any necessary federal waiver or approval and if  
3639 federal funds are available therefor.

3640 (12) No new TANF program requirement or restriction  
3641 affecting a person's eligibility for TANF assistance, or allowable

3642 work activity, which is not mandated by federal law or regulation  
3643 may be implemented by the Department of Human Services after the  
3644 effective date of this act, unless such is specifically authorized  
3645 by an amendment to this section by the Legislature.

3646         **SECTION 50.** Section 43-19-45, Mississippi Code of 1972, is  
3647 amended as follows:

3648         43-19-45. (1) The Child Support Unit shall establish a  
3649 state parent locator service for the purpose of locating absent  
3650 and nonsupporting parents and alleged parents, which will utilize  
3651 all appropriate public and private locator sources. In order to  
3652 carry out the responsibilities imposed under Sections 43-19-31  
3653 through 43-19-53, the Child Support Unit may secure by  
3654 administrative subpoena from the customer records of public  
3655 utilities and cable television companies the names and addresses  
3656 of individuals and the names and addresses of employers of such  
3657 individuals that would enable the location of parents or alleged  
3658 parents who have a duty to provide support and maintenance for  
3659 their children. The Child Support Unit may also administratively  
3660 subpoena any and all financial information, including account  
3661 numbers, names and social security numbers of record for assets,  
3662 accounts, and account balances from any individual, financial  
3663 institution, business or other entity, public or private, needed  
3664 to establish, modify or enforce a support order. No entity  
3665 complying with an administrative subpoena to supply the requested  
3666 information of whatever nature shall be liable in any civil action  
3667 or proceeding on account of such compliance. Full faith and  
3668 credit shall be given to all uniform administrative subpoenas  
3669 issued by other state child support units. The recipient of an  
3670 administrative subpoena shall supply said Child Support Unit,  
3671 other state and federal IV-D agencies, its attorneys,  
3672 investigators, probation officers, county or district attorneys in  
3673 this state, all information relative to the location, employment,  
3674 employment related benefits including, but not limited to,



3675 availability of medical insurance, income and property of such  
3676 parents and alleged parents and with all information on hand  
3677 relative to the location and prosecution of any person who has, by  
3678 means of a false statement or misrepresentation or by  
3679 impersonation or other fraudulent device, obtained Temporary  
3680 Assistance for Needy Families (TANF) to which he or she was not  
3681 entitled, notwithstanding any provision of law making such  
3682 information confidential. The Mississippi Department of  
3683 Information Technology Services and any other agency in this state  
3684 using the facilities of the Mississippi Department of Information  
3685 Technology Services are directed to permit the Child Support Unit  
3686 access to their files, inclusive of those maintained for other  
3687 state agencies, for the purpose of locating absent and  
3688 nonsupporting parents and alleged parents, except to the extent  
3689 that any such access would violate any valid federal statute or  
3690 regulation issued pursuant thereto. The Child Support Unit, other  
3691 state and federal IV-D agencies, its attorneys, investigators,  
3692 probation officers, or county or district attorneys, shall use  
3693 such information only for the purpose of investigating or  
3694 enforcing the support liability of such absent parents or alleged  
3695 parents or for the prosecution of other persons mentioned herein.  
3696 Neither the Child Support Unit nor said authorities shall use the  
3697 information, or disclose it, for any other purpose. All records  
3698 maintained pursuant to the provisions of Sections 43-19-31 through  
3699 43-19-53 shall be confidential and shall be available only to the  
3700 Child Support Unit, other state and federal IV-D agencies, the  
3701 attorneys, investigators and other staff employed or under  
3702 contract under Sections 43-19-31 through 43-19-53, district or  
3703 county attorneys, probation departments, child support units in  
3704 other states, and courts having jurisdiction in paternity, support  
3705 or abandonment proceedings. The Child Support Unit may release to  
3706 the public the name, photo, last known address, arrearage amount  
3707 and other necessary information of a parent who has a judgment

3708 against him for child support and is currently in arrears in the  
3709 payment of this support. Such release may be included in a "Most  
3710 Wanted List" or other media in order to solicit assistance.

3711 (2) The Child Support Unit shall have the authority to  
3712 secure information from the records of the Mississippi Department  
3713 of Employment Security that may be necessary to locate absent and  
3714 nonsupporting parents and alleged parents under the provisions of  
3715 Sections 43-19-31 through 43-19-53. Upon request of the Child  
3716 Support Unit, all departments, boards, bureaus and agencies of the  
3717 state shall provide to the Child Support Unit verification of  
3718 employment or payment and the address and social security number  
3719 of any person designated as an absent or nonsupporting parent or  
3720 alleged parent. In addition, upon request of the Child Support  
3721 Unit, the Mississippi Department of Employment Security, or any  
3722 private employer or payor of any income to a person designated as  
3723 an absent or nonsupporting parent or alleged parent, shall provide  
3724 to the Child Support Unit verification of employment or payment  
3725 and the address and social security number of the person so  
3726 designated. Full faith and credit shall be given to such notices  
3727 issued by child support units in other states. All such records  
3728 and information shall be confidential and shall not be used for  
3729 any purposes other than those specified by Sections 43-19-31  
3730 through 43-19-53. The violation of the provisions of this  
3731 subsection shall be unlawful and any person convicted of violating  
3732 the provisions of this subsection shall be guilty of a misdemeanor  
3733 and shall pay a fine of not more than Two Hundred Dollars  
3734 (\$200.00).

3735 (3) Federal and state IV-D agencies shall have access to the  
3736 state parent locator service and any system used by the Child  
3737 Support Unit to locate an individual for purposes relating to  
3738 motor vehicles or law enforcement. No employer or other source of  
3739 income who complies with this section shall be liable in any civil

3740 action or proceeding brought by the obligor or obligee on account  
3741 of such compliance.

3742         **SECTION 51.** Section 43-19-46, Mississippi Code of 1972, is  
3743 amended as follows:

3744         43-19-46. (1) Each employer, as defined in Section  
3745 93-11-101, Mississippi Code of 1972, doing business in Mississippi  
3746 shall report to the Directory of New Hires within the Mississippi  
3747 Department of Human Services:

3748             (a) The hiring of any person who resides or works in  
3749 this state to whom the employer anticipates paying wages; and

3750             (b) The hiring or return to work of any employee who  
3751 was laid off, furloughed, separated, granted leave without pay or  
3752 was terminated from employment.

3753         (2) Employers shall report, by mailing or by other means  
3754 authorized by the Department of Human Services, a copy of the  
3755 employee's W-4 form or its equivalent which will result in timely  
3756 reporting. Each employer shall submit reports within fifteen (15)  
3757 days of the hiring, rehiring or return to work of the employee.  
3758 The report shall contain:

3759             (a) The employee's name, address, Social Security  
3760 number and the date of birth;

3761             (b) The employer's name, address, and federal and state  
3762 withholding tax identification numbers; and

3763             (c) The date upon which the employee began or resumed  
3764 employment, or is scheduled to begin or otherwise resume  
3765 employment.

3766         (3) The department shall retain the information, which shall  
3767 be forwarded to the federal registry of new hires.

3768         (4) The Department of Human Services may operate the  
3769 program, may enter into a mutual agreement with the Mississippi  
3770 Department of Employment Security or the State Tax Commission, or  
3771 both, for the operation of the Directory of New Hires Program, or  
3772 the Department of Human Services may contract for such service, in

3773 which case the department shall maintain administrative control of  
3774 the program.

3775 (5) In cases in which an employer fails to report  
3776 information, as required by this section, an administratively  
3777 levied civil penalty in an amount not to exceed Five Hundred  
3778 Dollars (\$500.00) shall apply if the failure is the result of a  
3779 conspiracy between the employer and employee to not supply the  
3780 required report or to supply a false or incomplete report. The  
3781 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).  
3782 Appeal shall be as provided in Section 43-19-58.

3783 **SECTION 52.** Section 57-62-5, Mississippi Code of 1972, is  
3784 amended as follows:

3785 57-62-5. As used in this chapter, the following words and  
3786 phrases shall have the meanings ascribed in this section unless  
3787 the context clearly indicates otherwise:

3788 (a) "Qualified business or industry" means any  
3789 corporation, limited liability company, partnership, sole  
3790 proprietorship, business trust or other legal entity and subunits  
3791 or affiliates thereof, pursuant to rules and regulations of the  
3792 MDA, which provides an average annual salary, excluding benefits  
3793 which are not subject to Mississippi income taxes, of at least one  
3794 hundred twenty-five percent (125%) of the most recently published  
3795 state average annual wage or the most recently published average  
3796 annual wage of the county in which the qualified business or  
3797 industry is located as determined by the Mississippi Department of  
3798 Employment Security, whichever is the lesser. An establishment  
3799 shall not be considered to be a qualified business or industry  
3800 unless it offers, or will offer within one hundred eighty (180)  
3801 days of the date it receives the first incentive payment pursuant  
3802 to the provisions of this chapter, a basic health benefits plan to  
3803 the individuals it employs in new direct jobs in this state which  
3804 is approved by the MDA. Qualified business or industry does not  
3805 include retail business or gaming business;

3806           (b) "New direct job" means full-time employment in this  
3807 state in a qualified business or industry that has qualified to  
3808 receive an incentive payment pursuant to this chapter, which  
3809 employment did not exist in this state before the date of approval  
3810 by the MDA of the application of the qualified business or  
3811 industry pursuant to the provisions of this chapter. "New direct  
3812 job" shall include full-time employment in this state of employees  
3813 who are employed by an entity other than the establishment that  
3814 has qualified to receive an incentive payment and who are leased  
3815 to the qualified business or industry, if such employment did not  
3816 exist in this state before the date of approval by the MDA of the  
3817 application of the establishment;

3818           (c) "Full-time job" means a job of at least thirty-five  
3819 (35) hours per week;

3820           (d) "Estimated direct state benefits" means the tax  
3821 revenues projected by the MDA to accrue to the state as a result  
3822 of the qualified business or industry;

3823           (e) "Estimated direct state costs" means the costs  
3824 projected by the MDA to accrue to the state as a result of the  
3825 qualified business or industry;

3826           (f) "Estimated net direct state benefits" means the  
3827 estimated direct state benefits less the estimated direct state  
3828 costs;

3829           (g) "Net benefit rate" means the estimated net direct  
3830 state benefits computed as a percentage of gross payroll, provided  
3831 that:

3832                   (i) Except as otherwise provided in this paragraph  
3833 (g), the net benefit rate may be variable and shall not exceed  
3834 four percent (4%) of the gross payroll; and shall be set in the  
3835 sole discretion of the MDA;

3836                   (ii) In no event shall incentive payments,  
3837 cumulatively, exceed the estimated net direct state benefits;

3838 (h) "Gross payroll" means wages for new direct jobs of  
3839 the qualified business or industry; and

3840 (i) "MDA" means the Mississippi Development Authority.

3841 **SECTION 53.** Section 57-62-9, Mississippi Code of 1972, is  
3842 amended as follows:

3843 57-62-9. (1) Except as otherwise provided in this section,  
3844 a qualified business or industry that meets the qualifications  
3845 specified in the Mississippi Advantage Jobs Act may receive  
3846 quarterly incentive payments for a period not to exceed ten (10)  
3847 years from the State Tax Commission pursuant to the provisions of  
3848 the Mississippi Advantage Jobs Act in an amount which shall be  
3849 equal to the net benefit rate multiplied by the actual gross  
3850 payroll of new direct jobs for a calendar quarter as verified by  
3851 the Mississippi Department of Employment Security, but not to  
3852 exceed the amount of money previously paid into the fund by the  
3853 employer. A qualified business or industry that is a project as  
3854 defined in Section 57-75-5(f)(iv)1 may elect the date upon which  
3855 the ten-year period will begin. Such date may not be later than  
3856 sixty (60) months after the date the business or industry applied  
3857 for incentive payments.

3858 (2) (a) A qualified business or industry that is a project  
3859 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
3860 receive incentive payments for an additional period not to exceed  
3861 five (5) years beyond the expiration date of the initial ten-year  
3862 period if:

3863 (i) The qualified business or industry creates at  
3864 least three thousand (3,000) new direct jobs within five (5) years  
3865 after the date the business or industry commences commercial  
3866 production;

3867 (ii) Within five (5) years after the date the  
3868 business or industry commences commercial production, the average  
3869 annual wage of the jobs is at least one hundred fifty percent  
3870 (150%) of the most recently published state average annual wage or

3871 the most recently published average annual wage of the county in  
3872 which the qualified business or industry is located as determined  
3873 by the Mississippi Department of Employment Security, whichever is  
3874 the lesser. The criteria for the average annual wage requirement  
3875 shall be based upon the state average annual wage or the average  
3876 annual wage of the county whichever is appropriate, at the time of  
3877 creation of the minimum number of jobs, and the threshold  
3878 established at that time will remain constant for the duration of  
3879 the additional period; and

3880 (iii) The qualified business or industry meets and  
3881 maintains the job and wage requirements of subparagraphs (i) and  
3882 (ii) of this paragraph (a) for four (4) consecutive calendar  
3883 quarters.

3884 (b) A qualified business or industry that is a project  
3885 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
3886 incentive payments for the additional period provided in paragraph  
3887 (a) of this subsection (2) may apply to the MDA to receive  
3888 incentive payments for an additional period not to exceed ten (10)  
3889 years beyond the expiration date of the additional period provided  
3890 in paragraph (a) of this subsection (2) if:

3891 (i) The qualified business or industry creates at  
3892 least four thousand (4,000) new direct jobs after qualifying for  
3893 the additional incentive period provided in paragraph (a) of this  
3894 subsection (2) but before the expiration of the additional period.  
3895 For purposes of determining whether the business or industry meets  
3896 the minimum jobs requirement of this subparagraph (i), the number  
3897 of jobs the business or industry created in order to meet the  
3898 minimum jobs requirement of paragraph (a) of this subsection (2)  
3899 shall be subtracted from the minimum jobs requirement of this  
3900 subparagraph (i);

3901 (ii) The average annual wage of the jobs is at  
3902 least one hundred fifty percent (150%) of the most recently  
3903 published state average annual wage or the most recently published

3904 average annual wage of the county in which the qualified business  
3905 or industry is located as determined by the Mississippi Department  
3906 of Employment Security, whichever is the lesser. The criteria for  
3907 the average annual wage requirement shall be based upon the state  
3908 average annual wage or the average annual wage of the county  
3909 whichever is appropriate, at the time of creation of the minimum  
3910 number of jobs, and the threshold established at that time will  
3911 remain constant for the duration of the additional period; and

3912 (iii) The qualified business or industry meets and  
3913 maintains the job and wage requirements of subparagraphs (i) and  
3914 (ii) of this paragraph (b) for four (4) consecutive calendar  
3915 quarters.

3916 (3) In order to receive incentive payments, an establishment  
3917 shall apply to the MDA. The application shall be on a form  
3918 prescribed by the MDA and shall contain such information as may be  
3919 required by the MDA to determine if the applicant is qualified.

3920 (4) In order to qualify to receive such payments, the  
3921 establishment applying shall be required to:

3922 (a) Be engaged in a qualified business or industry;

3923 (b) Provide an average salary, excluding benefits which  
3924 are not subject to Mississippi income taxes, of at least one  
3925 hundred twenty-five percent (125%) of the most recently published  
3926 state average annual wage or the most recently published average  
3927 annual wage of the county in which the qualified business or  
3928 industry is located as determined by the Mississippi Department of  
3929 Employment Security, whichever is the lesser. The criteria for  
3930 this requirement shall be based upon the state average annual wage  
3931 or the average annual wage of the county whichever is appropriate,  
3932 at the time of application, and the threshold established upon  
3933 application will remain constant for the duration of the project;

3934 (c) The business or industry must create and maintain a  
3935 minimum of ten (10) full-time jobs in counties that have an  
3936 average unemployment rate over the previous twelve-month period



3937 which is at least one hundred fifty percent (150%) of the most  
3938 recently published state unemployment rate, as determined by the  
3939 Mississippi Department of Employment Security or in Tier Three  
3940 counties as determined under Section 57-73-21. In all other  
3941 counties, the business or industry must create and maintain a  
3942 minimum of twenty-five (25) full-time jobs. The criteria for this  
3943 requirement shall be based on the designation of the county at the  
3944 time of the application. The threshold established upon the  
3945 application will remain constant for the duration of the project.  
3946 The business or industry must meet its job creation commitment  
3947 within twenty-four (24) months of the application approval.  
3948 However, if the qualified business or industry is applying for  
3949 incentive payments for an additional period under subsection (2)  
3950 of this section, the business or industry must comply with the  
3951 applicable job and wage requirements of subsection (2) of this  
3952 section.

3953 (5) The MDA shall determine if the applicant is qualified to  
3954 receive incentive payments. If the applicant is determined to be  
3955 qualified by the MDA, the MDA shall conduct a cost/benefit  
3956 analysis to determine the estimated net direct state benefits and  
3957 the net benefit rate applicable for a period not to exceed ten  
3958 (10) years and to estimate the amount of gross payroll for the  
3959 period. If the applicant is determined to be qualified to receive  
3960 incentive payments for an additional period under subsection (2)  
3961 of this section, the MDA shall conduct a cost/benefit analysis to  
3962 determine the estimated net direct state benefits and the net  
3963 benefit rate applicable for the appropriate additional period and  
3964 to estimate the amount of gross payroll for the additional period.  
3965 In conducting such cost/benefit analysis, the MDA shall consider  
3966 quantitative factors, such as the anticipated level of new tax  
3967 revenues to the state along with the cost to the state of the  
3968 qualified business or industry, and such other criteria as deemed  
3969 appropriate by the MDA, including the adequacy of retirement

3970 benefits that the business or industry provides to individuals it  
3971 employs in new direct jobs in this state. In no event shall  
3972 incentive payments, cumulatively, exceed the estimated net direct  
3973 state benefits. Once the qualified business or industry is  
3974 approved by the MDA, an agreement shall be deemed to exist between  
3975 the qualified business or industry and the State of Mississippi,  
3976 requiring the continued incentive payment to be made as long as  
3977 the qualified business or industry retains its eligibility.

3978 (6) Upon approval of such an application, the MDA shall  
3979 notify the State Tax Commission and shall provide it with a copy  
3980 of the approved application and the estimated net direct state  
3981 benefits. The State Tax Commission may require the qualified  
3982 business or industry to submit such additional information as may  
3983 be necessary to administer the provisions of this chapter. The  
3984 qualified business or industry shall report to the State Tax  
3985 Commission periodically to show its continued eligibility for  
3986 incentive payments. The qualified business or industry may be  
3987 audited by the State Tax Commission to verify such eligibility.

3988 **SECTION 54.** Section 57-75-5, Mississippi Code of 1972, is  
3989 amended as follows:

3990 57-75-5. Words and phrases used in this chapter shall have  
3991 meanings as follows, unless the context clearly indicates a  
3992 different meaning:

3993 (a) "Act" means the Mississippi Major Economic Impact  
3994 Act as originally enacted or as hereafter amended.

3995 (b) "Authority" means the Mississippi Major Economic  
3996 Impact Authority created pursuant to the act.

3997 (c) "Bonds" means general obligation bonds, interim  
3998 notes and other evidences of debt of the State of Mississippi  
3999 issued pursuant to this chapter.

4000 (d) "Facility related to the project" means and  
4001 includes any of the following, as the same may pertain to the  
4002 project within the project area: (i) facilities to provide

4003 potable and industrial water supply systems, sewage and waste  
4004 disposal systems and water, natural gas and electric transmission  
4005 systems to the site of the project; (ii) airports, airfields and  
4006 air terminals; (iii) rail lines; (iv) port facilities; (v)  
4007 highways, streets and other roadways; (vi) public school  
4008 buildings, classrooms and instructional facilities, training  
4009 facilities and equipment, including any functionally related  
4010 facilities; (vii) parks, outdoor recreation facilities and  
4011 athletic facilities; (viii) auditoriums, pavilions, campgrounds,  
4012 art centers, cultural centers, folklore centers and other public  
4013 facilities; (ix) health care facilities, public or private; and  
4014 (x) fire protection facilities, equipment and elevated water  
4015 tanks.

4016 (e) "Person" means any natural person, corporation,  
4017 association, partnership, receiver, trustee, guardian, executor,  
4018 administrator, fiduciary, governmental unit, public agency,  
4019 political subdivision, or any other group acting as a unit, and  
4020 the plural as well as the singular.

4021 (f) "Project" means:

4022 (i) Any industrial, commercial, research and  
4023 development, warehousing, distribution, transportation,  
4024 processing, mining, United States government or tourism enterprise  
4025 together with all real property required for construction,  
4026 maintenance and operation of the enterprise with an initial  
4027 capital investment of not less than Three Hundred Million Dollars  
4028 (\$300,000,000.00) from private or United States government sources  
4029 together with all buildings, and other supporting land and  
4030 facilities, structures or improvements of whatever kind required  
4031 or useful for construction, maintenance and operation of the  
4032 enterprise; or with an initial capital investment of not less than  
4033 One Hundred Fifty Million Dollars (\$150,000,000.00) from private  
4034 or United States government sources together with all buildings  
4035 and other supporting land and facilities, structures or

4036 improvements of whatever kind required or useful for construction,  
4037 maintenance and operation of the enterprise and which creates at  
4038 least one thousand (1,000) net new full-time jobs; or which  
4039 creates at least one thousand (1,000) net new full-time jobs which  
4040 provides an average salary, excluding benefits which are not  
4041 subject to Mississippi income taxation, of at least one hundred  
4042 twenty-five percent (125%) of the most recently published average  
4043 annual wage of the state as determined by the Mississippi  
4044 Employment Security Commission. "Project" shall include any  
4045 addition to or expansion of an existing enterprise if such  
4046 addition or expansion has an initial capital investment of not  
4047 less than Three Hundred Million Dollars (\$300,000,000.00) from  
4048 private or United States government sources, or has an initial  
4049 capital investment of not less than One Hundred Fifty Million  
4050 Dollars (\$150,000,000.00) from private or United States government  
4051 sources together with all buildings and other supporting land and  
4052 facilities, structures or improvements of whatever kind required  
4053 or useful for construction, maintenance and operation of the  
4054 enterprise and which creates at least one thousand (1,000) net new  
4055 full-time jobs; or which creates at least one thousand (1,000) net  
4056 new full-time jobs which provides an average salary, excluding  
4057 benefits which are not subject to Mississippi income taxation, of  
4058 at least one hundred twenty-five percent (125%) of the most  
4059 recently published average annual wage of the state as determined  
4060 by the Mississippi Department of Employment Security. "Project"  
4061 shall also include any ancillary development or business resulting  
4062 from the enterprise, of which the authority is notified, within  
4063 three (3) years from the date that the enterprise entered into  
4064 commercial production, that the project area has been selected as  
4065 the site for the ancillary development or business.

4066 (ii) Any major capital project designed to  
4067 improve, expand or otherwise enhance any active duty United States  
4068 Air Force or Navy training bases or naval stations, their support

4069 areas or their military operations, upon designation by the  
4070 authority that any such base was or is at risk to be recommended  
4071 for closure or realignment pursuant to the Defense Base Closure  
4072 and Realignment Act of 1990; or any major development project  
4073 determined by the authority to be necessary to acquire base  
4074 properties and to provide employment opportunities through  
4075 construction of projects as defined in Section 57-3-5, which shall  
4076 be located on or provide direct support service or access to such  
4077 military installation property as such property exists on July 1,  
4078 1993, in the event of closure or reduction of military operations  
4079 at the installation. From and after July 1, 1997, projects  
4080 described in this subparagraph (ii) shall not be considered to be  
4081 within the meaning of the term "project" for purposes of this  
4082 section, unless such projects are commenced before July 1, 1997,  
4083 and shall not be eligible for any funding provided under the  
4084 Mississippi Major Economic Impact Act.

4085                   (iii) Any enterprise to be maintained, improved or  
4086 constructed in Tishomingo County by or for a National Aeronautics  
4087 and Space Administration facility in such county.

4088                   (iv) 1. Any major capital project with an initial  
4089 capital investment from private sources of not less than Seven  
4090 Hundred Fifty Million Dollars (\$750,000,000.00) which will create  
4091 at least three thousand (3,000) jobs meeting criteria established  
4092 by the Mississippi Development Authority.

4093                   2. "Project" shall also include any ancillary  
4094 development or business resulting from an enterprise operating a  
4095 project as defined in item 1 of this paragraph (f)(iv), of which  
4096 the authority is notified, within three (3) years from the date  
4097 that the enterprise entered into commercial production, that the  
4098 state has been selected as the site for the ancillary development  
4099 or business.

4100                   (v) Any manufacturing, processing or industrial  
4101 project determined by the authority, in its sole discretion, to

4102 contribute uniquely and significantly to the economic growth and  
4103 development of the state, and which meets the following criteria:

4104           1. The project shall create at least two  
4105 thousand (2,000) net new full-time jobs meeting criteria  
4106 established by the authority, which criteria shall include, but  
4107 not be limited to, the requirement that such jobs must be held by  
4108 persons eligible for employment in the United States under  
4109 applicable state and federal law.

4110           2. The project and any facility related to  
4111 the project shall include a total investment from private sources  
4112 of not less than Sixty Million Dollars (\$60,000,000.00), or from  
4113 any combination of sources of not less than Eighty Million Dollars  
4114 (\$80,000,000.00).

4115           (vi) Any real property owned or controlled by the  
4116 National Aeronautics and Space Administration, the United States  
4117 government, or any agency thereof, which is legally conveyed to  
4118 the State of Mississippi or to the State of Mississippi for the  
4119 benefit of the Mississippi Major Economic Impact Authority, its  
4120 successors and assigns pursuant to Section 212 of Public Law  
4121 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4122           (vii) Any major capital project related to the  
4123 establishment, improvement, expansion and/or other enhancement of  
4124 any active duty military installation and having a minimum capital  
4125 investment from any source or combination of sources other than  
4126 the State of Mississippi of at least Forty Million Dollars  
4127 (\$40,000,000.00), and which will create at least four hundred  
4128 (400) military installation related full-time jobs, which jobs may  
4129 be military jobs, civilian jobs or a combination of military and  
4130 civilian jobs. The authority shall require that binding  
4131 commitments be entered into requiring that the minimum  
4132 requirements for the project provided for in this subparagraph  
4133 shall be met not later than July 1, 2008.

4134 (viii) Any major capital project with an initial  
4135 capital investment from any source or combination of sources of  
4136 not less than Ten Million Dollars (\$10,000,000.00) which will  
4137 create at least eighty (80) full-time jobs which provide an  
4138 average annual salary, excluding benefits which are not subject to  
4139 Mississippi income taxes, of at least one hundred thirty-five  
4140 percent (135%) of the most recently published average annual wage  
4141 of the state or the most recently published average annual wage of  
4142 the county in which the project is located as determined by the  
4143 Mississippi Employment Security Commission, whichever is the  
4144 lesser. The authority shall require that binding commitments be  
4145 entered into requiring that:

4146 1. The minimum requirements for the project  
4147 provided for in this subparagraph shall be met, and

4148 2. That if such commitments are not met, all  
4149 or a portion of the funds provided by the state for the project as  
4150 determined by the authority shall be repaid.

4151 (ix) Any regional retail shopping mall with an  
4152 initial capital investment from private sources in excess of One  
4153 Hundred Fifty Million Dollars (\$150,000,000.00), with a square  
4154 footage in excess of eight hundred thousand (800,000) square feet,  
4155 which will create at least seven hundred (700) full-time jobs with  
4156 an average hourly wage of Eleven Dollars (\$11.00) per hour. The  
4157 authority shall require that binding commitments be entered into  
4158 requiring that:

4159 1. The minimum requirements for the project  
4160 provided for in this subparagraph shall be met, and

4161 2. That if such commitments are not met, all  
4162 or a portion of the funds provided by the state for the project as  
4163 determined by the authority shall be repaid.

4164 (x) Any major capital project with an initial  
4165 capital investment from any source or combination of sources of  
4166 not less than Seventy-five Million Dollars (\$75,000,000.00) which

4167 will create at least one hundred twenty-five (125) full-time jobs  
4168 which provide an average annual salary, excluding benefits which  
4169 are not subject to Mississippi income taxes, of at least one  
4170 hundred thirty-five percent (135%) of the most recently published  
4171 average annual wage of the state or the most recently published  
4172 average annual wage of the county in which the project is located  
4173 as determined by the Mississippi Department of Employment  
4174 Security, whichever is the greater. The authority shall require  
4175 that binding commitments be entered into requiring that:

4176 1. The minimum requirements for the project  
4177 provided for in this subparagraph shall be met; and

4178 2. That if such commitments are not met, all  
4179 or a portion of the funds provided by the state for the project as  
4180 determined by the authority shall be repaid.

4181 (xi) Any potential major capital project that the  
4182 authority has determined is feasible to recruit.

4183 (g) "Project area" means the project site, together  
4184 with any area or territory within the state lying within  
4185 sixty-five (65) miles of any portion of the project site whether  
4186 or not such area or territory be contiguous; provided, however,  
4187 that for the project defined in paragraph (f)(iv) of this section  
4188 the term "project area" means any area or territory within the  
4189 state. The project area shall also include all territory within a  
4190 county if any portion of such county lies within sixty-five (65)  
4191 miles of any portion of the project site. "Project site" means  
4192 the real property on which the principal facilities of the  
4193 enterprise will operate.

4194 (h) "Public agency" means:

4195 (i) Any department, board, commission, institution  
4196 or other agency or instrumentality of the state;

4197 (ii) Any city, town, county, political  
4198 subdivision, school district or other district created or existing  
4199 under the laws of the state or any public agency of any such city,



4200 town, county, political subdivision or district or any other  
4201 public entity created or existing under local and private  
4202 legislation;

4203 (iii) Any department, commission, agency or  
4204 instrumentality of the United States of America; and

4205 (iv) Any other state of the United States of  
4206 America which may be cooperating with respect to location of the  
4207 project within the state, or any agency thereof.

4208 (i) "State" means State of Mississippi.

4209 (j) "Fee-in-lieu" means a negotiated fee to be paid by  
4210 the project in lieu of any franchise taxes imposed on the project  
4211 by Chapter 13, Title 27, Mississippi Code of 1972. The  
4212 fee-in-lieu shall not be less than Twenty-five Thousand Dollars  
4213 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an  
4214 enterprise operating an existing project defined in Section  
4215 57-75-5(f)(iv)1; however, a fee-in-lieu shall not be negotiated  
4216 for other existing enterprises that fall within the definition of  
4217 the term "project."

4218 **SECTION 55.** Section 57-80-7, Mississippi Code of 1972, is  
4219 amended as follows:

4220 57-80-7. (1) From and after December 31, 2000, and until  
4221 December 31, 2005, the following counties may apply to the MDA for  
4222 the issuance of a certificate of public convenience and necessity:

4223 (a) Any county of this state which has an annualized  
4224 unemployment rate that is at least two hundred percent (200%) of  
4225 the state's unemployment rate as of December 31 of any year from  
4226 2000 through 2005, as determined by the Mississippi Department of  
4227 Employment Security's most recently published data;

4228 (b) Any county of this state in which thirty percent  
4229 (30%) or more of the population of the county is at or below the  
4230 federal poverty level according to the official data compiled by  
4231 the United States Census Bureau as of August 30, 2000, for  
4232 counties that apply before December 31, 2002, or the most recent

4233 official data compiled by the United States Census Bureau for  
4234 counties that apply from and after December 31, 2002; or

4235 (c) Any county of this state having an eligible  
4236 supervisors district.

4237 (2) The application, at a minimum, must contain (a) the  
4238 Mississippi Department of Employment Security's most recently  
4239 published figures that reflect the annualized unemployment rate of  
4240 the applying county as of December 31 or the most recent official  
4241 data by the United States Census Bureau required by subsection (1)  
4242 of this section, as the case may be, and (b) an order or  
4243 resolution of the county consenting to the designation of the  
4244 county as a growth and prosperity county.

4245 (3) Any municipality of a designated growth and prosperity  
4246 county or within an eligible supervisors district and not more  
4247 than eight (8) miles from the boundary of the county that meets  
4248 the criteria of subsection (1)(b) of this section may by order or  
4249 resolution of the municipality consent to participation in the  
4250 Growth and Prosperity Program.

4251 (4) No incentive or tax exemption shall be given under this  
4252 chapter without the consent of the affected county or  
4253 municipality.

4254 **SECTION 56.** Section 69-2-5, Mississippi Code of 1972, is  
4255 amended as follows:

4256 69-2-5. (1) The Mississippi Cooperative Extension Service  
4257 shall act as a clearinghouse for the dissemination of information  
4258 regarding programs and services which may be available to help  
4259 those persons and businesses which have been adversely affected by  
4260 the present emergency in the agricultural community. The  
4261 Cooperative Extension Service shall develop a plan of assistance  
4262 which shall identify all programs and services available within  
4263 the state which can be of assistance to those affected by the  
4264 present emergency. The Department of Agriculture and Commerce,  
4265 the Department of Finance and Administration, Department of Human

4266 Services, Department of Mental Health, State Department of Health,  
4267 Board of Trustees of State Institutions of Higher Learning, State  
4268 Board for Community and Junior Colleges, Research and Development  
4269 Center, Mississippi Development Authority, Department of  
4270 Employment Security, Office of the Governor, Board of Vocational  
4271 and Technical Education, Mississippi Authority for Educational  
4272 Television, and other agencies of the state which have programs  
4273 and services that can be of assistance to those affected by the  
4274 present emergency, shall provide information regarding their  
4275 programs and services to the Cooperative Extension Service for use  
4276 in the clearinghouse. The types of programs and services shall  
4277 include, but not be limited to, financial counseling, farm and  
4278 small business management, employment services, labor market  
4279 information, job re-training, vocational and technical training,  
4280 food stamp programs, personal counseling, health services, and  
4281 free or low cost legal services. The clearinghouse shall provide  
4282 a single contact point to provide program information and referral  
4283 services to individuals interested or needing services from state  
4284 funded assistance programs affecting agriculture, horticulture,  
4285 aquaculture and other agribusinesses or related industries. Such  
4286 assistance information shall identify all monies available under  
4287 the Small Business Financing Act, the Business Investment Act, the  
4288 Emerging Crop Fund legislation and any other sources which may be  
4289 used singularly or combined, to provide a comprehensive financing  
4290 package. The provisions of this section in establishing a single  
4291 contact point for information and referral services shall not be  
4292 construed to authorize the hiring of additional personnel.

4293 (2) The Cooperative Extension Service may accept monetary or  
4294 in-kind contributions, gifts and grants for the establishment or  
4295 operation of the clearinghouse.

4296 (3) The Cooperative Extension Service shall establish a  
4297 method for the dissemination of information to those who can be  
4298 benefited by the existing programs and services of the state.

4299 (4) The Cooperative Extension Service shall file an annual  
4300 report with the Governor, Lieutenant Governor and Speaker of the  
4301 House of Representatives regarding the efforts which have been  
4302 made in the clearinghouse operation. The report shall also  
4303 recommend any additional measures, including legislation, which  
4304 may be needed or desired in providing programs and benefits to  
4305 those affected by the agricultural emergency.

4306 **SECTION 57.** Section 7-1-355, Mississippi Code of 1972, is  
4307 amended as follows:

4308 7-1-355. (1) The Mississippi Development Authority is \* \* \*  
4309 designated as the sole administrator of all programs for which the  
4310 state is the prime sponsor under Title 1(B) of Public Law 105-220,  
4311 Workforce Investment Act of 1998, and the regulations promulgated  
4312 thereunder, and may take all necessary action to secure to this  
4313 state the benefits of such legislation. The Mississippi  
4314 Development Authority is empowered to receive and disburse funds  
4315 for such programs which become available to it from any source.

4316 (2) The Mississippi Development Authority shall establish  
4317 guidelines on the amount and/or percentage of indirect and/or  
4318 administrative expenses by the local fiscal agent or the Workforce  
4319 Development Center operator. The Mississippi Development  
4320 Authority shall develop an accountability system and make an  
4321 annual report to the Legislature before December 31 of each year  
4322 on Workforce Investment Act activities. The report shall include,  
4323 but is not limited to, the following:

4324 (a) The total number of individuals served through the  
4325 Workforce Development Centers and the percentage and number of  
4326 individuals for which a quarterly follow-up is provided;

4327 (b) The number of individuals who receive core services  
4328 by each center;

4329 (c) The number of individuals who receive intensive  
4330 services by each center;

4331           (d) The number of Workforce Investment Act vouchers  
4332 issued by the Workforce Development Centers, including:  
4333           (i) A list of schools and colleges to which these  
4334 vouchers were issued and the average cost per school of the  
4335 vouchers; and  
4336           (ii) A list of the types of programs for which  
4337 these vouchers were issued;  
4338           (e) The number of individuals placed in a job through  
4339 Workforce Development Centers;  
4340           (f) The monies and the amount retained for  
4341 administrative and other costs received from Workforce Investment  
4342 Act funds for each agency or organization that Workforce  
4343 Investment Act funds flow through as a percentage and actual  
4344 dollar amount of all Workforce Investment funds received.

4345           **SECTION 58.** Sections 37-151-69, 37-151-71 and 37-151-73,  
4346 Mississippi Code of 1972, which authorize a Mississippi Workforce  
4347 Development Council, local district councils and one-stop career  
4348 centers, are hereby repealed.

4349           **SECTION 59.** Sections 71-5-103 and 71-5-105, Mississippi Code  
4350 of 1972, which provide for the organization and compensation of  
4351 members of the Mississippi Employment Security Commission, are  
4352 hereby repealed.

4353           **SECTION 60.** This act shall take effect and be in force from  
4354 and after July 1, 2004; provided, however, that Section 4 of this  
4355 act shall take effect and be in force from and after its passage.